

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 10-11, 2008

Reference No.: 3.10
Information Item

From: CINDY McKIM
Chief Financial Officer

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Subject: **CLOSE-OUT REPORT UNDER AB 1012 "USE IT OR LOSE IT" PROVISION FOR FEDERAL FISCAL YEAR 2006 UNOBLIGATED CMAQ AND RSTP FUNDS**

SUMMARY:

Congestion Mitigation and Air Quality (CMAQ) Program funds and Regional Surface Transportation Program (RSTP) funds apportioned from the federal government are available for use by local agencies for four years. Assembly Bill (AB) 1012 (Chapter 783 of the Statutes of 1999) states that CMAQ and RSTP funds that are not obligated within the first three years of federal eligibility are subject to reprogramming by the California Transportation Commission (Commission) in the fourth year in order to prevent the funds from being lost to the State. The Department of Transportation (Department) is responsible for monitoring and reporting unobligated balances. Moreover, at the beginning of the third year, the Department provides notification to the local agencies of the unobligated CMAQ and RSTP balances that have one year remaining under the AB 1012 guidelines, prior to being subject to reprogramming.

The annual notice to regional agencies under AB 1012 "Use It or Lose It" provisions for Federal Fiscal Year (FFY) 2006 (October 1, 2005 - September 30, 2006) funds was released on November 19, 2007. Under the provisions of AB 1012, CMAQ and RSTP funds subject to reprogramming on November 1, 2008, totaled approximately \$77 million, based on September 30, 2007 balances. At that time, 11 agencies had CMAQ balances subject to reprogramming and five agencies had RSTP balances subject to reprogramming.

Based on September 30, 2008 balances, the total amount of funds subject to reprogramming under AB 1012 is approximately \$621,193. This is a reduction of \$76.5 million from the initial notification sent out in November 2007 based on the September 30, 2007 balances. The amount subject to reprogramming by the Commission is in the CMAQ program.

One of the agencies with a balance subject to reprogramming was the Mariposa County Public Works Department (Mariposa). However, Mariposa recently submitted a request for authorization (RFA) for a project totaling \$160,000; this RFA was approved on November 13, 2008, making Mariposa's remaining balance of \$69,166 no longer available for reprogramming (see Attachment 2).

The Tahoe Metropolitan Planning Organization also has a CMAQ balance subject to reprogramming and has requested a concurrent waiver to the “Use It or Lose It” provision under AB 1012. (See related item Waiver 08-43.)

Since September 2007, the number of agencies with CMAQ balances subject to reprogramming has decreased from eleven to two, and the number of agencies with RSTP balances subject to reprogramming has decreased from five to zero.

BACKGROUND:

The State annually receives CMAQ and RSTP funds from Federal Highway Administration (FHWA). The regions receive a share of these apportionments to fund local projects.

The Intermodal Surface Transportation Efficiency Act (ISTEA) was enacted in 1991 and was in effect for six years. During that time, local agencies were able to obligate only 87 percent of their federal funding. The next Transportation Act, known as the Transportation Equity Act for the 21st Century (TEA-21), was signed into law in 1998. During the first two years of TEA-21, local agencies’ obligation of federal funds dropped to a low of 41 percent. As a result, by October 1999, local agencies had accumulated a \$1.2 billion backlog in federal apportionments and \$854 million in Obligation Authority (OA).

AB 1012 was enacted October 10, 1999, with a goal of improving the delivery of transportation projects and addressing the backlog of local agencies’ federal apportionments and OA. Local agencies have successfully met and exceeded this goal. Beginning in FFY 2000, and continuing through FFY 2008, local agencies have been able to obligate a minimum of 100 percent of the OA made available to them.

As a condition of AB 1012, the Department is required to notify the regions, on an annual basis, of the level of apportionments received that are subject to reprogramming.

Attachments

Apportionment Status Report
CMAQ and RSTP
(as of September 30, 2008)

Reference No.: 3.10
Attachment 1

AB 1012
Balances entering the 3rd Year
(from FFY 2006)*
Region Report Summary

*Also referred to as Cycle 9

Region	CMAQ	CMAQ Amount	RSTP	RSTP Amount
	Unobligated 9/30/2008 Delivery Balance ¹	Subject to AB 1012 Reprogramming 11/01/2008 ²	Unobligated 9/30/2008 Delivery Balance ¹	Subject to AB 1012 Reprogramming 11/01/2008 ²
Butte	2,995,820	-	(8,839)	-
Fresno	9,443,439	-	14,720,577	-
Kern	9,095,184	-	5,996,313	-
Kings	2,421,395	-	(5,633)	-
Los Angeles	81,662,543	-	83,514,192	-
Madera	1,399,217	-	(5,353)	-
Merced	1,230,614	-	(9,161)	-
Monterey	366,037	-	1,159,703	-
Orange	44,158,978	-	20,834,227	-
Riverside ⁶	22,604,780	-	33,974,646	-
Sacramento (SACOG) ^{3,4,5,6}	(292,277)	-	(115,408)	-
San Benito ³	(14,961)	-	(2,316)	-
San Bernardino	46,232,061	-	23,391,838	-
San Diego	8,232,148	-	(5,791,507)	-
S.F. Bay Area (MTC)	32,942,188	-	(12,717,023)	-
San Joaquin	8,712,853	-	4,101,657	-
San Luis Obispo	-	-	927,523	-
Santa Barbara ⁴	(0)	-	(17,374)	-
Santa Cruz	586,638	-	(11,120)	-
Stanislaus	8,562,404	-	3,515,233	-
Tahoe	1,770,285	552,027	(2,008)	-
Tulare	340,734	-	(16,012)	-
Ventura	7,791,426	-	12,805,256	-
Rural Counties & SCAG ⁵	\$2,160,913	69,166	\$2,023,219	-
TOTAL	292,402,419	621,193	188,262,630	\$0

Balances now include:

- * Sept 2008--Difference between Actual Apportionments received in March 08 vs. Revised Actual Apportionments received in September 08 for FFY 2008.
- * Mar 2008--Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2008.
- * Mar 2008--RSTP Exchange for FFY 2008 effective March 27, 2008.
- * Mar 2008--Recission amounts for each region as required by Notice N 4510.673 on March 4, 2008.
- * Jan 2008--NEPA Delegation contribution for FFY 2008.
- * Nov 2007--Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2007.

Footnotes:

¹ Indicates all apportionments not yet obligated.

² Totals reflect balances in the third year.

^{3,4,5,6} Includes adjustments made through MOU agreements between regions (San Benito, Santa Barbara, Imperial & Riverside) and SACOG

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.

Apportionment Status Report
CMAQ and RSTP
(as of September 30, 2008)

Reference No.: 3.10
Attachment 2

AB 1012
Balances entering the 3rd Year
(from FFY 2006)*
Rural Report Summary

*Also referred to as Cycle 9

Region	CMAQ Unobligated 9/30/2008 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2008 ²	RSTP Unobligated 9/30/2008 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2008 ²
Rural County Information:				
Del Norte	-	-	(1,196)	-
Humboldt	-	-	(5,504)	-
Lake	-	-	(2,537)	-
Mendocino	-	-	(3,753)	-
Lassen	-	-	-	-
Modoc	-	-	-	-
Plumas ⁶	-	-	(2,779)	-
Shasta	-	-	(7,103)	-
Siskiyou	-	-	-	-
Tehama	-	-	(2,438)	-
Trinity	-	-	-	-
Colusa	-	-	(818)	-
El Dorado	-	-	(4,545)	-
Glenn	-	-	(1,151)	-
Nevada ³	612,230	-	(4,004)	-
Placer ⁴	-	-	(2,729)	-
Sierra	-	-	-	-
Inyo	-	-	-	-
Mono	-	-	-	-
Alpine	-	-	-	-
Amador ^{3,7}	157,802	-	(1,527)	-
Calaveras ^{3,7}	239,680	-	(1,764)	-
Mariposa ³	382,956	69,166	(746)	-
Tuolumne ^{3,7}	553,432	-	(2,371)	-
Imperial (SCAG) ^{3,5}	214,813	-	2,068,183	-
Rural Combined Totals:	\$2,160,913	69,166	\$2,023,218	-

Balances now include:

- * Sept 2008--Difference between Actual Apportionments received in March 08 vs. Revised Actual Apportionments received in September 2008 for FFY 2008.
- * Mar 2008--Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2008.
- * Mar 2008--RSTP Exchange for FFY 2008 effective March 27, 2008.
- * Mar 2008--Recission amounts for each region as required by Notice N 4510.673 on March 4, 2008.
- * Jan 2008--NEPA Delegation contribution for FFY 2008-Imperial (SCAG) only.
- * Nov 2007--Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2007.

Negative balances reflective of the March RSTP exchange done based on the Actual apportionments received in March 2008. (Revised Actuals received in September 2008 are lower than those received in March).

Footnotes:

- ¹ Indicates all apportionments not yet obligated.
 - ² Totals reflect balances in the third year.
 - ³ Beginning in FFY 2006, these rural regions are now receiving CMAQ apportionments.
 - ⁴ Balances for Placer County have been reconciled to correct negative balances shown due to a coding error.
 - ⁵ Balances for Imperial adjusted to reflect a payback from SACOG per MOU.
 - ⁶ RSTP Exchange for FFY 2007 was calculated on the Estimate vs Actual RSTP apportionment. Because the Actual apportionment was lower than the Estimate, the RSTP exchange from Plumas was higher than it should have been. The RSTP exchange for FFY 2008 absorbed some of the negative balance and the exchange for FFY 2009 should absorb the remaining balance.
 - ⁷ MOU was entered into between Amador, Calaveras & Tuolumne-balances adjusted accordingly. (MOU spans five FFYs).
- Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.