

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 9-10, 2009

Reference No.: 3.12  
Information Item

From: NORMA ORTEGA  
Chief Financial Officer (Interim)

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Local Assistance

Subject: **CLOSE-OUT REPORT ON AB 1012 “USE IT OR LOSE IT” PROVISION FOR FEDERAL FISCAL YEAR 2007 UNOBLIGATED CMAQ AND RSTP FUNDS**

## **SUMMARY:**

Congestion Mitigation and Air Quality (CMAQ) Improvement Program 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 by the State.

The California Department of Transportation (Department) is responsible for monitoring and reporting unobligated balances. 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 regions have consistently used their apportionment balances prior to the reprogramming deadlines; very few time extensions are requested.

The annual notice to regional agencies under AB 1012 “Use It or Lose It” provisions for Federal Fiscal Year (FFY) 2007 funds (October 1, 2006 through September 30, 2007) was sent out on November 14, 2008. In September 2008, the total FFY 2007 funds subject to reprogramming under the provisions of AB 1012 was approximately \$58 million, including \$29.3 million in CMAQ funds and \$28.5 million in RSTP funds.

In November 2008, there were 11 local agencies with CMAQ balances subject to reprogramming and five local agencies with RSTP balances subject to reprogramming. In some cases, agencies may have more than one type of funds subject to reprogramming. In addition, the balances may have increased as a result of project deobligations from the inactive project review process.

However, when the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted on August 10, 2005, it contained a provision that authorized the Federal Highway Administration (FHWA) to rescind unobligated balances at the conclusion of the Act. This provision, in conjunction with later provisions included in the Energy Independence and Security Act of 2007 (EISA), resulted in a nationwide \$8.7 billion rescission of unobligated balances on September 30, 2009. Therefore, there are no balances for FFY 2007 subject to reprogramming

for the CMAQ or RSTP program.

It should be noted that the State of California's share of this nationwide \$8.7 billion rescission was approximately \$795.6 million and of this amount approximately \$507.4 was rescinded from the local agencies. The rescinded amounts were applied to all federally funded programs under the SAFETEA-LU Act.

### **BACKGROUND:**

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

The Intermodal Surface Transportation Efficiency Act 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 of the 21<sup>st</sup> 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. Since the enactment of AB 1012, the balances subject to reprogramming have steadily decreased, and overall delivery has improved each year with few agencies asking for extension requests at the end of the year.

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. In addition, the regional agencies are required to submit obligation plans for CMAQ and RSTP balances older than two years. Regional obligation plans were due April 1, 2009. These obligation plans aid the Department when working with the agencies to meet the guidelines for implementation of the timely use of funds provisions of AB 1012, which require the Department to ensure sufficient OA is available to meet the needs of the regional agencies for projects contained in the submitted obligation plans.

In order to expend apportionments, local agencies require OA. The local OA for FFY 2009 is approximately \$1.1 billion. This is an increase of approximately \$30 million more than projected by the Department. The increased availability of OA will help local agencies to expend apportionments available to them.

Attachments

Apportionment Status Report  
 CMAQ and RSTP  
 (as of September 30, 2009)

Reference No.: 3.12  
 Attachment 1

AB 1012  
 Balances entering the 3rd Year  
 (from FFY 2007)\*

Regional Report Summary

\*Previously referred to as Cycle 10

Region	CMAQ Balances		RSTP Balances	
	Subject to Reprogramming by the CTC on: 11/1/2009		Subject to Reprogramming by the CTC on: 11/1/2009	
Butte	-	-	-	-
Fresno	-	-	-	-
Kern	-	-	-	-
Kings	-	-	-	-
Los Angeles	-	-	-	-
Madera	-	-	-	-
Merced	-	-	-	-
Monterey	-	-	-	-
Orange	-	-	-	-
Riverside	-	-	-	-
Sacramento (SACOG)	-	-	-	-
San Benito	-	-	-	-
San Bernardino	-	-	-	-
San Diego	-	-	-	-
S.F. Bay Area (MTC)	-	-	-	-
San Joaquin	-	-	-	-
San Luis Obispo	-	-	-	-
Santa Barbara	-	-	-	-
Santa Cruz	-	-	-	-
Stanislaus	-	-	-	-
Tahoe	-	-	-	-
Tulare	-	-	-	-
Ventura	-	-	-	-
Rural Counties & SCAG	-	-	-	-
<b>TOTAL</b>	<b>\$0</b>		<b>\$0</b>	

**Footnotes:**

\* Balances entered the 3rd year on October 1, 2008, and are subject to reprogramming on November 1,

Apportionment Status Report  
 CMAQ and RSTP  
 (as of September 30, 2009)

Reference No.: 3.12  
 Attachment 2

AB 1012 Balances entering the 3rd Year  
 (from FFY 2007)\*

Rural County Report Summary

\*Previously referred to as Cycle 10

Region	CMAQ Balances		RSTP Balances	
	Subject to Reprogramming by the CTC on: 11/1/2009		Subject to Reprogramming by the CTC on: 11/1/2009	
<b>Rural County Information:</b>				
Del Norte	-		-	
Humboldt	-		-	
Lake	-		-	
Mendocino	-		-	
Lassen	-		-	
Modoc	-		-	
Plumas	-		-	
Shasta	-		-	
Siskiyou	-		-	
Tehama	-		-	
Trinity	-		-	
Colusa	-		-	
El Dorado	-		-	
Glenn	-		-	
Nevada	-		-	
Placer	-		-	
Sierra	-		-	
Inyo	-		-	
Mono	-		-	
Alpine	-		-	
Amador	-		-	
Calaveras	-		-	
Mariposa	-		-	
Tuolumne	-		-	
Imperial (SCAG)	-		-	
<b>Rural Combined Totals:</b>		\$0		\$0

**Footnotes:**

\* Balances entered the 3rd year on October 1, 2008, and are subject to reprogramming on November 1, 2009.