

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 12-13, 2007

Reference No.: 3.6  
Information Item

From: CINDY McKIM  
Chief Financial Officer

Prepared by: Terry Abbott  
Division Chief  
Local Assistance

Subject: **CLOSE-OUT REPORT UNDER AB 1012 "USE IT OR LOSE IT" PROVISION FOR FEDERAL FISCAL YEAR 2005 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 Assembly Bill (AB) 1012 "Use It or Lose It" provisions for Federal Fiscal Year (FFY) 2005 (October 1, 2004 - September 30, 2005) funds was released on November 20, 2006. Under the provisions of AB 1012, CMAQ and RSTP funds subject to reprogramming on November 1, 2007, totaled approximately \$134 million, based on September 30, 2006 balances. At that time, 13 agencies had CMAQ balances subject to reprogramming and 7 agencies had RSTP balances subject to reprogramming.

Based on September 30, 2007 balances, the total amount of funds subject to reprogramming under AB 1012 are approximately \$13.5 million. This is a reduction of \$120.5 million from the initial notification sent out in November 2006, based on the September 30, 2006 balances. Approximately 8 percent of the amount subject to reprogramming by the Commission is in the CMAQ program and 92 percent is in the RSTP. Additionally, the Tahoe Region has recently had an obligation made against their CMAQ balance that is subject to reprogramming in the amount of \$427,562. This amount was submitted to the Federal Highway Administration (FHWA) before November 1, 2007; however, authorization from FHWA was not received until November 5, 2007. This obligation will reduce the remaining balance of CMAQ funding for the Tahoe region.

Since September 2006, the number of agencies with CMAQ balances subject to reprogramming has decreased from 13 to 2, and the number of agencies with RSTP balances subject to reprogramming

has decreased from 7 to 1. The Riverside County Transportation Commission, who has an RSTP balance subject to reprogramming, has requested a waiver to the "Use It or Lose It" provision under AB 1012. The concurrent waiver request is under agenda item 2.8e.

**BACKGROUND:**

The State annually receives CMAQ and RSTP funds from 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 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. Local agencies have successfully met and exceeded this goal. Beginning in FFY 2000, and continuing through FFY 2006, 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, 2007)

Reference No.: 3.6  
Attachment 1

AB 1012  
Balances entering the 3rd Year  
(from FFY 2005)\*  
Region Report Summary

\*Previously referred to as Cycle 8

Region	CMAQ Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2007 <sup>2</sup>	RSTP Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2007 <sup>2</sup>
	Butte	1,082,485	-	-
Fresno	9,819,792	-	13,916,000	-
Kern	14,610,439	79,766	11,687,376	-
Kings	1,544,450	-	0	-
Los Angeles	107,099,614	-	76,427,413	-
Madera	322,602	-	-	-
Merced	1,599,442	-	0	-
Monterey	246,910	-	1,785,347	-
Orange	14,282,039	-	15,189,547	-
Riverside	26,974,243	-	43,902,584	12,563,514
Sacramento (SACOG) <sup>3,4,5</sup>	(1,514,627)	-	(1,068,660)	-
San Benito <sup>3</sup>	77,191	-	-	-
San Bernardino	45,178,385	-	5,504,035	-
San Diego	(7,151,843)	-	4,259,304	-
S.F. Bay Area (MTC)	50,664,191	-	22,285,595	-
San Joaquin	10,522,024	-	1,546,590	-
San Luis Obispo	-	-	1,422,984	-
Santa Barbara <sup>4</sup>	29,816	-	-	-
Santa Cruz	726,089	-	(0)	-
Stanislaus	11,010,249	-	5,865,926	-
Tahoe <sup>6</sup>	2,112,643	956,684	-	-
Tulare	2,767,171	-	-	-
Ventura	6,857,023	-	8,618,492	-
Rural Counties & SCAG <sup>5</sup>	\$3,417,290	-	\$2,923,352	-
TOTAL	\$302,277,619	\$1,036,450	214,265,886	\$12,563,514

**Balances now include:**

- \* FFY 2006-07 Advanced/Estimated Apportionments for CMAQ and RSTP.
- \* Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2003-04, FFY 2004-05 and FFY 2005-06.
- \* Recission amounts for each region as required by PL 110-5 on March 19, 2007.
- \* RSTP Exchange for FFY 2006-07 effective May 31, 2007.
- \* NEPA Delegation contribution for FY 2006-07.
- \* 2nd Recission amounts- CMAQ only- for each region as required by Notice: N 45610.647 on June 20, 2007.

**Footnotes:**

- <sup>1</sup> Indicates all apportionments not yet obligated.
- <sup>2</sup> Totals reflect balance entering into the third year.
- <sup>3,4,5</sup> Includes adjustments made through MOU agreements between regions (San Benito, Santa Barbara & Imperial) and SACOG.
- <sup>3</sup> District 7 (LAMTA): a) Transfer Out (\$8,000,000) H230 to "State" per MOU; b) Transfer In \$8,000,000 H240 from "State" per c) Transfer Out (\$8,000,000) H240 to SACOG per MOU; d) Transfer In \$8,000,000 H400 from SACOG per MOU.
- <sup>4</sup> District 3 (SACOG): a) Transfer Out (\$8,000,000) H400 to LAMTA per MOU; b) Transfer In \$8,000,000 H240 from LAMTA per
- <sup>5</sup> District 5 (Santa Barbara): Transfer Out (\$5,958,993.44) in 320, Q400 & H400 to SACOG per MOU. (Adj. Decreases balance for Santa Barbara and increases balance for SACOG.)
- <sup>6</sup> The Tahoe region recently had an obligation made that will decrease their CMAQ balance. The request for authorization was submitted prior to November 1, 2007; however, FHWA approval for \$427,562 was not received until November 5, 2007. This obligation and decrease in Tahoe's balance will be reflected in the next quarterly report.

Balances are adjusted for projects using the State's Advance Construction process.

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, 2007)

Reference No.: 3.6  
Attachment 2

AB 1012  
Balances entering the 3rd Year  
(from FFY 2005)\*  
Rural Report Summary

\*Previously referred to as Cycle 8

Region	CMAQ Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2007 <sup>2</sup>	RSTP Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2007 <sup>2</sup>
<b>Rural County Information:</b>				
Del Norte	-	-	-	-
Humboldt Lake	-	-	-	-
Mendocino	-	-	-	-
Lassen	-	-	-	-
Modoc	-	-	-	-
Plumas	-	-	-	-
Shasta	-	-	-	-
Siskiyou	-	-	-	-
Tehama	-	-	-	-
Trinity	-	-	-	-
Colusa	-	-	-	-
El Dorado <sup>4</sup>	-	-	-	-
Glenn	-	-	-	-
Nevada <sup>3</sup>	1,421,400	-	-	-
Placer <sup>4</sup>	-	-	-	-
Sierra	-	-	-	-
Inyo	-	-	-	-
Mono	-	-	-	-
Alpine	-	-	-	-
Amador <sup>3</sup>	89,922	-	-	-
Calaveras <sup>3</sup>	668,623	-	-	-
Mariposa <sup>3</sup>	262,027	-	-	-
Tuolumne <sup>3</sup>	829,057	-	-	-
Imperial (SCAG) <sup>3,5</sup>	146,261	-	2,923,352	-
<b>Rural Combined Totals:</b>	<b>\$3,417,290</b>	<b>-</b>	<b>\$2,923,352</b>	<b>-</b>

**Balances now include:**

- \* FFY 2006-07 Advanced/Estimated Apportionments for CMAQ and RSTP.
- \* Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2003-04, FFY 2004-05 and FFY 2005-06.
- \* Recission amounts for each region as required by PL 110-5 on March 19, 2007.
- \* RSTP Exchange for FFY 2006-07 effective May 31, 2007.
- \* 2nd Recission amounts - CMAQ only - for each region as required by Notice: N 45610.647 on June 20, 2007.

**Footnotes:**

- <sup>1</sup> Indicates all apportionments not yet obligated.
- <sup>2</sup> Totals reflect balance entering into the third year.
- <sup>3</sup> Beginning in FFY 2006, these rural regions are now receiving CMAQ apportionments.
- <sup>4</sup> Balances for El Dorado County and Placer County have been reconciled to correct negative balances shown due to a coding error.
- <sup>5</sup> Balances for Imperial adjusted to reflect a payback from SACOG per MOU.

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.