

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 12-13, 2007

Reference No.: 3.7  
Information Item

From: CINDY McKIM  
Chief Financial Officer

Prepared by: Terry Abbott  
Division Chief  
Local Assistance

Subject: **NOTIFICATION OF AB 1012 "USE IT OR LOSE IT" PROVISION FOR FEDERAL FISCAL YEAR 2006 UNOBLIGATED CMAQ AND RSTP FUNDS**

## **SUMMARY:**

Congestion Mitigation and Air Quality Improvement Program (CMAQ) and 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) 2006 (October 1, 2005 - September 30, 2006) funds was released on November 19, 2007. Based on September 2007 balances, the total FFY 2006 funds subject to reprogramming under the provisions of AB 1012 are approximately \$77 million. This includes \$39 million of CMAQ (51 percent) and \$38 million (49 percent) of RSTP. The AB 1012 balances assume that all prior year funds subject to reprogramming will be obligated, extended, or reprogrammed, and therefore not included in this report.

The Department's report on the closeout of FFY 2005 funds under the provisions of AB 1012 is under agenda item 3.6.

## **BACKGROUND:**

The State annually receives CMAQ and RSTP funds from the 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 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.

In order to expend apportionments, local agencies require OA. FHWA has not yet released the total OA level for FFY 2007. The Department has received OA, under a Continuing Resolution for 47 days, based on the previous year's total OA amount. At this time, it is not known when the full annual amount of OA for FFY 2007 will become available. The availability of OA limits the ability of local agencies to expend apportionments.

Attachments

Apportionment Status Report  
CMAQ and RSTP  
(as of September 30, 2007)

Reference No.: 3.7  
Attachment 1

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

\*Previously referred to as Cycle 9

Region	CMAQ Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2008 <sup>2</sup>	RSTP Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2008 <sup>2</sup>
Butte	1,082,485	-	-	-
Fresno	9,819,792	-	13,916,000	4,375,645
Kern	14,610,439	7,044,766	11,687,376	3,791,903
Kings	1,544,450	76,701	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	1,919,567	43,902,584	28,502,553
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	19,465,456	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	2,493,095	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	4,853,219	5,865,926	531,867
Tahoe <sup>6</sup>	2,112,643	1,510,771	-	-
Tulare	2,767,171	-	-	-
Ventura	6,857,023	-	8,618,492	-
Rural Counties & SCAG <sup>5</sup>	\$3,417,290	1,305,903	\$2,923,352	1,224,544
<b>TOTAL</b>	<b>\$302,277,619</b>	<b>\$38,669,477</b>	<b>214,265,886</b>	<b>\$38,426,514</b>

**Footnotes:** (Includes FFY 2007 Estimated Apportionments for RSTP & CMAQ.)

<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 SACOC

<sup>6</sup> The Tahoe region recently had an obligation 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.: 3.7  
Attachment 2

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

\*Previously referred to as Cycle 9

Region	CMAQ Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2008 <sup>2</sup>	RSTP Unobligated 9/30/2007 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2008 <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	583,511	-	-
Placer <sup>4</sup>	-	-	-	-
Sierra	-	-	-	-
Inyo	-	-	-	-
Mono	-	-	-	-
Alpine	-	-	-	-
Amador <sup>3</sup>	89,922	-	-	-
Calaveras <sup>3</sup>	668,623	274,482	-	-
Mariposa <sup>3</sup>	262,027	107,567	-	-
Tuolumne <sup>3</sup>	829,057	340,343	-	-
Imperial (SCAG) <sup>3,5</sup>	146,261	-	2,923,352	1,224,544
<b>Rural Combined Totals:</b>	<b>\$3,417,290</b>	<b>1,305,903</b>	<b>\$2,923,352</b>	<b>1,224,544</b>

**Footnotes:** (Includes FFY 2007 Estimated Apportionments for RSTP & CMAQ.)

<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.