

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 10-11, 2008

Reference No.: 3.16  
Information Item

From: CINDY McKIM  
Chief Financial Officer

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Subject: **NOTIFICATION OF AB 1012 “USE IT OR LOSE IT” PROVISION FOR FEDERAL FISCAL YEAR 2007 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 AB 1012 “Use It or Lose It” provisions for Federal Fiscal Year (FFY) 2007 (October 1, 2006 - September 30, 2007) funds was released on November 12, 2008. Based on September 2008 balances, the total FFY 2007 funds subject to reprogramming under the provisions of AB 1012 are approximately \$58 million. This includes \$29.3 million of CMAQ (51 percent) and \$28.5 million of RSTP (49 percent). 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.

## **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 for 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

Obligational 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.

In order to expend apportionments, local agencies require OA. FHWA has not yet released the total OA level for FFY 2009. The Department has received OA, under a Continuing Resolution for 157 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 2009 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 October 1, 2008)

Reference No.: 3.16  
Attachment 1

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

\*Also referred to as Cycle 10

Region	CMAQ Unobligated 10/1/2008 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2009 <sup>2</sup>	RSTP Unobligated 10/1/2008 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2009 <sup>2</sup>
Butte	5,197,839	734,535	2,271,225	-
Fresno	20,270,284	-	23,692,730	5,286,981
Kern	16,876,041	1,104,908	13,421,550	-
Kings	3,895,885	907,220	1,447,229	-
Los Angeles	214,452,101	-	190,333,900	-
Madera	2,867,209	-	1,375,326	-
Merced	3,715,574	-	2,353,758	-
Monterey	366,037	-	5,668,432	-
Orange	84,095,147	3,147,948	52,818,331	-
Riverside <sup>6</sup>	48,619,038	-	51,336,201	15,739,756
Sacramento (SACOG) <sup>3,4,5,6</sup>	25,216,294	-	19,217,053	-
San Benito <sup>3</sup>	(14,961)	-	595,096	-
San Bernardino	72,475,078	19,282,726	42,597,355	3,221,266
San Diego	38,390,837	-	25,786,419	-
S.F. Bay Area (MTC)	104,342,063	-	63,412,968	-
San Joaquin	16,906,121	299,067	10,426,572	-
San Luis Obispo	-	-	3,695,873	-
Santa Barbara <sup>4</sup>	(0)	-	4,464,252	-
Santa Cruz	586,638	186,652	2,857,345	-
Stanislaus	14,798,871	2,158,083	8,531,608	-
Tahoe	2,371,298	1,153,093	515,939	-
Tulare	4,564,897	-	4,114,062	-
Ventura	15,294,070	86,852	21,265,470	3,917,861
Rural Counties and SCAG <sup>5</sup>	\$5,733,603	254,992	\$17,514,062	388,385
<b>TOTAL</b>	<b>701,019,964</b>	<b>29,316,076</b>	<b>569,712,756</b>	<b>\$28,554,249</b>

**Balances now include:**

\* Oct 2008--Advanced/Estimated Apportionments for CMAQ and RSTP for FFY 2009.  
(Includes only FFY 2009 Advanced Apportionments for RSTP and CMAQ; does not include any obligation made in October.)

**Footnotes:**

<sup>1</sup> Indicates all apportionments not yet obligated.

<sup>2</sup> Totals reflect balances in the third year.

<sup>3,4,5,6</sup> Includes adjustments made through MOU agreements between regions (San Benito, Santa Barbara, Imperial and 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 October 1, 2008)

Reference No.: 3.16  
Attachment 2

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

\*Also referred to as Cycle 10

Region	CMAQ Unobligated 10/1/2008 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2009 <sup>2</sup>	RSTP Unobligated 10/1/2008 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2009 <sup>2</sup>
<b>Rural County Information:</b>				
Del Norte	-	-	307,498	-
Humboldt	-	-	1,414,330	-
Lake	-	-	651,829	-
Mendocino	-	-	964,347	-
Lassen	-	-	404,187	-
Modoc	-	-	296,412	-
Plumas <sup>4</sup>	-	-	235,616	-
Shasta	-	-	1,825,019	-
Siskiyou	-	-	654,875	-
Tehama	-	-	626,454	-
Trinity	-	-	251,902	-
Colusa	-	-	210,207	-
El Dorado	-	-	1,167,622	-
Glenn	-	-	295,715	-
Nevada <sup>3</sup>	1,455,215	-	1,028,826	-
Placer	-	-	701,308	-
Sierra	-	-	131,204	-
Inyo	-	-	673,483	-
Mono	-	-	229,725	-
Alpine	-	-	131,208	-
Amador <sup>3,5</sup>	487,401	-	392,379	-
Calaveras <sup>3,5</sup>	641,243	-	453,348	-
Mariposa <sup>3</sup>	537,761	223,985	191,493	-
Tuolumne <sup>3,5</sup>	1,062,167	31,007	609,259	-
Imperial (SCAG) <sup>3</sup>	1,549,816	-	3,665,814	388,385
<b>Rural Combined Totals:</b>	<b>\$5,733,603</b>	<b>254,992</b>	<b>\$17,514,062</b>	<b>388,385</b>

**Balances now include:**

\* Oct 2008--Advanced/Estimated Apportionments for CMAQ and RSTP for FFY 2009.  
(Includes only FFY 2009 Advanced Apportionments for RSTP and CMAQ; does not include any obligation made in October.)

**Footnotes:**

<sup>1</sup> Indicates all apportionments not yet obligated.

<sup>2</sup> Totals reflect balances in the third year.

<sup>3</sup> Beginning in FFY 2006, these rural regions are now receiving CMAQ apportionments.

<sup>4</sup> RSTP Exchange for FFY 2007 was calculated on the Estimate vs Actual apportionments. Because the Actual apportionment was lower than the Estimate, the RSTP exchange for Plumas was higher than it should have been. The RSTP exchanges for FFY 2008 absorbed some of the negative balance and the exchange for FFY 2009 should absorb the remainder of it.

<sup>5</sup> MOU entered into between Amador, Calaveras and 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 a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.