

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 10-11, 2008

Reference No.: 2.8f.
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Earl R. Seaberg, Jr.
Acting Division Chief
Local Assistance

Subject: **REQUEST FOR WAIVER OF AB 1012 "USE IT OR LOSE IT" PROVISIONS FOR REGIONAL AGENCY APPORTIONED FEDERAL FUNDS WAIVER-08-43**

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) extend the period of availability of Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds subject to reprogramming under the provisions of Assembly Bill (AB) 1012 (Chapter 783 of the Statutes of 1999). The Tahoe Metropolitan Planning Organization (TMPO) is requesting time extensions for their Federal Fiscal Year (FFY) 2006 CMAQ balances, for the time periods shown on the attachment.

ISSUE:

The annual notice to regional agencies under AB 1012 "Use It or Lose It" provisions for FFY 2006 (October 1, 2005 - September 30, 2006) funds was released on November 19, 2007. The deadline for obligating balances subject to reprogramming was November 1, 2008. At this time, TMPO has indicated that they wish to have their CMAQ balances extended and made available for obligation at a later date. Commission approval is required in order for the balance amounts to remain available to the agency.

BACKGROUND:

As of September 30, 2008, the balance subject to reprogramming under the provisions of AB 1012 for FFY 2006 is \$621,193. (See concurrent close-out report for FFY 2005.)

The TMPO is requesting extensions for three projects funded with CMAQ funds totaling \$552,027.

AB 1012 was enacted October 10, 1999, with a goal of improving the delivery of transportation projects. A section of the legislation states that regional agency CMAQ funds and RSTP funds that are not obligated within the first three years of federal eligibility are subject to reprogramming by the Commission in the fourth year.

In past years, the Commission has granted extensions requests submitted by regional agencies for the purpose of extending the availability of funds for remaining balances in CMAQ and RSTP that would otherwise be subject to reprogramming.

Attachment

**AB 1012 Extension Requests
Waiver-08-43**

Reference No.: 2.8f.
December 10-11, 2008
Attachment

Regional Agency	Extension Amount	Number of Months Requested
Local Agency	Fund Type	Extended Deadline
Reason for Project Delay:		
TAHOE REGIONAL PLANNING AGENCY		
VARIOUS AGENCIES – Transit Operating Assistance for El Dorado and Placer Counties within the Tahoe Basin TMC0209	\$102,027 CMAQ	4 months 03/01/09 Support
<p>The Tahoe Metropolitan Planning Organization (TMPO) was notified earlier this year that CMAQ funds were to subject to lapse. The TMPO immediately issued a call for projects to preserve the funds for use within the Tahoe Basin. The Federal Transportation Improvement Program (FTIP) was mended to include the projects received. However, it was recently discovered that the CMAQ funding for TMC0209 was not transferred over into the 2009 Federal Statewide Transportation Improvement Program (FSTIP), which at this time, is expected to be approved by the Federal Highway Administration in mid-November. Therefore, an amendment to include this project will need to be done by January 2009. Once the amendment has been approved, it is expected that the project would be authorized immediately. The lead agency has been working with Department staff to use the funds as soon as possible.</p>		
<p>As a precaution for the future, the TMPO has recently put into place guidelines for CMAQ project selection to fund projects in accordance with AB1012 so that a potential loss of funds does not occur.</p>		
TAHOE METROPOLITAN PLANNING ORGANIZATION		
EL DORADO COUNTY – Sawmill II Bike Path – Class I bike path from Highway 50 in Meyers to Lake Tahoe Blvd. EDC01	\$250,000 CMAQ	3 months 02/01/09 Support
EL DORADO COUNTY – Lake Tahoe Blvd. Class I Bike Path from “D” Street along Lake Tahoe Blvd. to Tahoe Mountain Road. EDC02	\$200,000 CMAQ	3 months 02/01/09 Support
<p>The Tahoe Metropolitan Planning Organization (TMPO) was notified earlier this year that CMAQ funds were to subject to lapse. The TMPO immediately issued a call for projects to preserve the funds for use within the Tahoe Basin. The Federal Transportation Improvement Program (FTIP) was amended to include the projects received. At this time, federal approval of the 2009 Federal Statewide Transportation Improvement Program (FSTIP) is not expected by the Federal Highway Administration until mid-November. The lead agency has been working with Department staff to use the funds as soon as possible, contingent on the timely approval of FSTIP, which includes the FTIP amendment for the TMPO CMAQ projects. TMPO expects to have the funds authorized at or near the beginning of the year-January 2009.</p>		
<p>As a precaution for the future, the TMPO has recently put into place guidelines for CMAQ project selection to fund projects in accordance with AB1012 so that a potential loss of funds does not occur.</p>		