

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: March 11-12, 2009

Reference No.: 3.10  
Information Item

From: CINDY McKIM  
Chief Financial Officer

Prepared by: Denix D. Anbiah  
Division Chief  
Local Assistance

Subject: **QUARTERLY 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 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 funds (October 1, 2006 through September 30, 2007) was sent out on November 14, 2008. As of September 2008, the total FFY 2007 funds subject to reprogramming under the provisions of AB 1012 were approximately \$58 million, including \$29.3 million of CMAQ or 51 percent of the balance subject to reprogramming and \$28.5 million of RSTP funds or 49 percent of the balance subject to reprogramming. 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.

As of December 31, 2008, the balance report shows the total funds subject to reprogramming for FFY 2007 are approximately \$42 million, of which \$21 million is in CMAQ funds and \$21 million is in RSTP funds. CMAQ funds account for 50 percent of the balance subject to reprogramming and RSTP funds account for 50 percent. The number of agencies with CMAQ and RSTP balances subject to reprogramming has changed since the original notification back in November 2008. At that time, there were 11 local agencies with CMAQ balances; as of December 31, 2008, there are only nine. In November 2008 there were five local agencies with RSTP balances; as of December 31, 2008, there are now four. It is possible that agencies have more than one type of fund subject to reprogramming. The balance subject to reprogramming has decreased by \$16 million since the initial notification in November 2008. However, the balances may increase as a result of project

deobligations from the inactive project review process. Beginning in FFY 2006, several rural agencies are receiving CMAQ apportionments and Obligation Authority (OA), and the apportionments for these rural agencies are included in this AB 1012 balance 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 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 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 2007, local agencies have been able to obligate 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 addition, the regional agencies are required to submit obligation plans for CMAQ and RSTP balances older than two years. Regional obligation plans are 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 is a requirement of the Department to ensure sufficient obligational authority 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. FHWA has not yet released the total OA for FFY 2009. The Department has received OA, under a Continuing Resolution for 157 days through March 6, 2009, which is based on the previous years' 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 could and does limit the ability of local agencies to expend apportionments for local projects.

Attachments

Apportionment Status Report  
CMAQ and RSTP  
(as of December 31, 2008)

Reference No.: 3.10  
Attachment 1

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

\*Previously referred to as Cycle 10

Region	CMAQ Unobligated 12/31/2008 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2009 <sup>2</sup>	RSTP Unobligated 12/31/2008 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	18,835,765	-	20,508,985	2,103,236
Kern	15,646,079	-	11,024,238	-
Kings	3,469,111	480,446	1,447,229	-
Los Angeles	214,452,101	-	183,746,669	-
Madera	2,313,627	-	1,375,326	-
Merced	3,715,574	-	2,353,758	-
Monterey	166,037	-	5,668,432	-
Orange	55,427,406	-	53,028,534	-
Riverside <sup>6</sup>	47,834,038	-	47,335,082	11,738,637
Sacramento (SACOG) <sup>3,4,5,6</sup>	24,182,353	-	11,303,418	-
San Benito <sup>3</sup>	(14,961)	-	595,096	-
San Bernardino	68,495,660	15,303,308	42,608,301	3,232,212
San Diego	39,311,436	-	29,140,491	-
S.F. Bay Area (MTC)	97,572,836	-	54,476,794	-
San Joaquin	16,906,121	299,067	8,208,084	-
San Luis Obispo	-	-	3,695,873	-
Santa Barbara <sup>4</sup>	0	-	4,464,253	-
Santa Cruz	(0)	-	2,857,345	-
Stanislaus	14,879,388	2,238,600	8,544,949	-
Tahoe	2,391,448	1,173,243	515,939	-
Tulare	4,529,130	-	4,114,062	-
Ventura	15,452,690	245,472	21,257,926	3,910,317
Rural Counties & SCAG <sup>5</sup>	\$4,945,303	593,652	\$16,551,099	-
<b>TOTAL</b>	<b>655,708,980</b>	<b>21,068,322</b>	<b>537,093,107</b>	<b>\$20,984,402</b>

**Balances now include:**

\* Oct 08--Advanced/Estimated Apportionments for CMAQ & RSTP for FFY 2008-09.

**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 & 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 December 31, 2008)

Reference No.: 3.10  
Attachment 2

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

\*Previously referred to as Cycle 10

Region	CMAQ Unobligated 12/31/2008 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2009 <sup>2</sup>	RSTP Unobligated 12/31/2008 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>	826,417	-	1,028,826	-
Placer	-	-	701,308	-
Sierra	-	-	131,204	-
Inyo	-	-	673,483	-
Mono	-	-	229,725	-
Alpine	-	-	131,208	-
Amador <sup>3,5</sup>	370,803	-	392,379	-
Calaveras <sup>3,5</sup>	259,679	-	453,348	-
Mariposa <sup>3</sup>	378,259	64,483	191,493	-
Tuolumne <sup>3,5</sup>	1,560,329	529,169	609,259	-
Imperial (SCAG) <sup>3</sup>	1,549,816	-	2,702,851	-
<b>Rural Combined Totals:</b>	<b>\$4,945,303</b>	<b>593,652</b>	<b>\$16,551,099</b>	<b>-</b>

**Balances now include:**

\* Oct 08--Advanced/Estimated Apportionments for CMAQ & RSTP for FFY 2008-09.

**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 RSTP apportionment. Because the actual apportionment was lower than the estimate, the RSTP exchange from Plumas was higher than it should have been. The RSTP exchange for FFY 2008 absorbed some of the negative balance and the exchange for FFY 2009 should absorb the remaining balance.

<sup>5</sup> MOU was entered into between Amador, Calaveras & Tuolumne-balances adjusted accordingly. (MOU spans five federal fiscal years.

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.