

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: September 22-23, 2010

Reference No.: 3.7
Information Item

From: NORMA ORTEGA
Chief Financial Officer

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Subject: **QUARTERLY REPORT ON AB 1012 "USE IT OR LOSE IT" PROVISION FOR FEDERAL FISCAL YEAR 2008 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 California Department of Transportation (Department) is responsible for monitoring and reporting unobligated balances. 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 regions have consistently used their apportionment balances prior to the reprogramming deadlines and very few time extensions are requested.

The annual notice to regional agencies under AB 1012 "Use It or Lose It" provisions for Federal Fiscal Year (FFY) 2008 funds (October 1, 2007 through September 30, 2008) was sent out on November 19, 2009. In September 2009, based on the available information, there were no FFY 2008 funds identified as subject to reprogramming under the provisions of AB 1012. As of June 30, 2010, the AB 1012 balance report now shows no funds are subject to reprogramming.

When the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted on August 10, 2005, it contained a provision that authorized the Federal Highway Administration (FHWA) to rescind unobligated balances at the conclusion of the Act. This provision, in conjunction with later provisions included in the Energy Independence and Security Act of 2007, resulted in a nationwide \$8.7 billion rescission of unobligated balances on September 30, 2009.

The State of California's share of the September 30, 2009, nationwide \$8.7 billion rescission was approximately \$795.6 million and of this amount approximately \$507 million was rescinded from the local agencies. The rescinded amounts were applied to federally funded programs

under the SAFETEA-LU.

In April 2010, FHWA issued Notice N4510.724 restoring the full \$8.7 billion previously rescinded on September 30, 2009. This restoration increased the local agencies unobligated apportionment balances. However, per FHWA Notice N4510.724 the restored funds would be FFY 2010 funds. Since AB 1012 applies to funds entering the third year, there was not an immediate increase in AB 1012 funds subject to reprogramming for FFY 2008.

However, in August 2010, FHWA distributed Notice N4510.729 informing the States of a \$2.2 billion rescission of unobligated balances of apportioned contract authority. Not all funds are eligible for the rescission. Local Assistance share of this rescission is approximately \$80 million. Apportionment balances for the Regions will be adjusted to reflect the rescission after September 30, 2010.

BACKGROUND:

The State annually receives CMAQ and RSTP funds from the FHWA. The regions receive a share of these apportionments to fund local projects.

The Intermodal Surface Transportation Efficiency Act 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 21st 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. Since the enactment of AB 1012, the balances subject to reprogramming have steadily decreased, and overall delivery has improved each year with few agencies asking for extension requests at the end of the year.

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. Revised regional obligation plans were due July 2, 2010. 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 require the Department to ensure sufficient OA is available to meet the needs of the regional agencies for projects contained in the submitted obligation plans. As of August 2010, most regions have submitted their obligation plans to the Department. Based on the review of the obligation plans the local agencies should be able to use their FFY 2010 OA.

In order to expend apportionments, local agencies require OA. The local OA for FFY 2010 is approximately \$1.1 billion. The available OA will help local agencies to expend apportionments available to them.

Attachments

Apportionment Status Report
CMAQ and RSTP
(as of June 30, 2010)

Reference No.: 3.7
Attachment 1

AB 1012
Balances entering the 3rd Year
(from FFY 2008)
Regional Report Summary

Previously referred to as Cycle 11

Region	CMAQ Unobligated 6/30/2010 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2010 ²	RSTP Unobligated 6/30/2010 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2010 ²
Butte	\$4,084,581	-	\$324,017	-
Fresno	\$15,094,662	-	\$21,139,634	-
Kern	\$15,400,361	-	\$7,267,254	-
Kings	\$3,331,895	-	\$205,883	-
Los Angeles	\$151,578,180	-	\$107,032,579	-
Madera	\$2,357,852	-	\$195,111	-
Merced	\$1,545,299	-	\$334,139	-
Monterey	\$167,270	-	\$1,853,378	-
Orange	\$91,539,820	-	\$88,965,856	-
Riverside ⁶	\$59,034,858	-	\$44,437,390	-
Sacramento (SACOG) ^{3,4,5,6}	\$6,525,623	-	\$21,129,453	-
San Benito ³	\$0	-	\$500,643	-
San Bernardino	\$32,740,264	-	\$23,141,871	-
San Diego	\$39,902,619	-	\$39,496,877	-
S.F. Bay Area (MTC)	\$40,631,486	-	\$27,832,833	-
San Joaquin	\$12,561,739	-	\$10,006,231	-
San Luis Obispo	\$0	-	\$1,353,438	-
Santa Barbara ⁴	\$0	-	\$0	-
Santa Cruz	\$0	-	\$430,197	-
Stanislaus	\$13,789,248	-	\$8,736,070	-
Tahoe	\$2,471,190	-	\$72,784	-
Tulare	\$5,074,327	-	\$585,002	-
Ventura	\$16,720,116	-	\$25,308,603	-
Rural Counties & SCAG ⁵	\$3,663,326	-	\$4,651,946	-
TOTAL	\$518,214,717	-	\$435,001,188	-

Balances now include:

June 2010 -- Release of Actual Apportionments and Restoration of September 30, 2009 apportionments for CMAQ and RSTP for FFY 2009-10

Footnotes:

¹ Indicates all apportionments not yet obligated.

² Totals reflect balances in the third year.

^{3,4,5,6} Includes adjustments made through Memorandum of Understanding 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 June 30, 2010)

Reference No.: 3.7
Attachment 2

AB 1012
Balances entering the 3rd Year
(from FFY 2008)
Rural Report Summary

Previously referred to as Cycle 11

Region	CMAQ Unobligated 6/30/2010 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2010 ²	RSTP Unobligated 6/30/2010 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2010 ²
Rural County Information:				
Del Norte	-	-	\$46,297	-
Humboldt	-	-	\$212,940	-
Lake	-	-	\$98,138	-
Mendocino	-	-	\$145,191	-
Lassen	-	-	\$39,080	-
Modoc	-	-	\$0	-
Plumas	-	-	\$32,684	-
Shasta	-	-	\$274,771	-
Siskiyou	-	-	\$0	-
Tehama	-	-	\$94,318	-
Trinity	-	-	\$0	-
Colusa	-	-	\$31,648	-
El Dorado	-	-	\$175,795	-
Glenn	-	-	\$44,522	-
Nevada ³	\$844,804	-	\$148,033	-
Placer	-	-	\$105,588	-
Sierra	-	-	\$0	-
Inyo	-	-	\$0	-
Mono	-	-	\$0	-
Alpine	-	-	\$0	-
Amador ^{3,4}	\$261,513	-	\$56,391	-
Calaveras ^{3,4}	\$250,317	-	\$64,985	-
Mariposa ³	\$392,797	-	\$27,570	-
Tuolumne ^{3,4}	\$690,904	-	\$87,588	-
Imperial (SCAG) ³	\$1,222,992	-	\$2,966,407	-
Rural Combined Totals:	\$3,663,326	-	\$4,651,946	-

Balances now include:

June 2010 -- Release of Actual Apportionments and Restoration of September 30, 2009 apportionments for CMAQ and RSTP for FFY 2009-10

Footnotes:

¹ Indicates all apportionments not yet obligated.

² Totals reflect balances in the third year.

³ Beginning in FFY 2006, these rural regions are now receiving CMAQ apportionments.

⁴ Memorandum of Understanding (MOU) was entered into between Amador, Calaveras & 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.