

# Memorandum

To: CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: January 19-20, 2011

Reference No.: 3.9  
Information Item

From: NORMA ORTEGA  
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 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 the local agencies (Regions) 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 Regions of the unobligated CMAQ and RSTP balances that have one year remaining under the AB 1012 guidelines, prior to being subject to reprogramming. Historically, the Regions have consistently used their apportionment balances prior to the reprogramming deadlines and very few time extensions are requested.

When the Safe, Accountable, Flexible, and 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\$8.7 billion rescission was approximately \$795.6 million and of this amount approximately \$507 million was rescinded from the Regions. The rescinded amounts were applied to federally funded programs under the SAFETEA-LU.

In April 2010, FHWA issued Notice N4510.724 restoring the full \$8.7 billion previously rescinded on September 30, 2009.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 Regions' 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.

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. The Local Assistance share of this rescission is approximately \$80 million. Apportionment balances for the Regions will be adjusted to reflect the rescission based on September 30, 2010 balances.

### **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 was enacted in 1991 and was in effect for six years. During that time, the Regions 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, the Regions' obligation of federal funds dropped to a low of 41 percent. As a result, by October 1999, the Regions 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 the Regions' 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 Regions 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 Regions are required to submit, by April 1, 2011, obligation plans for CMAQ and RSTP balances older than two years. These obligation plans aid the Department when working with the Regions 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 Regions for projects contained in the submitted obligation plans.

Attachments

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

Reference No.: 3.9  
January 19-20, 2011  
Attachment 1

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

\*Previously referred to as Cycle 11

Region	CMAQ Unobligated 9/30/2010 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming on: 11/01/2010 <sup>2</sup>	RSTP Unobligated 9/30/2010 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming on: 11/01/2010 <sup>2</sup>
Butte	1,286,131	-	324,017	-
Fresno	9,816,828	-	17,216,608	-
Kern	10,409,397	-	6,555,961	-
Kings	(252,105)	-	205,883	-
Los Angeles	(2,667,341)	-	77,688,632	-
Madera	823,505	-	195,111	-
Merced	1,460,299	-	334,139	-
Monterey	167,270	-	1,853,378	-
Orange	37,293,972	-	17,672,663	-
Riverside <sup>6</sup>	47,039,458	-	14,535,342	-
Sacramento (SACOG) <sup>3,4,5,6</sup>	(1,318,515)	-	1,617,729	-
San Benito <sup>3</sup>	-	-	89,597	-
San Bernardino	16,547,944	-	40,394,708	-
San Diego	(1,865,517)	-	221,444	-
S.F. Bay Area (MTC)	(0)	-	11,305,219	-
San Joaquin	4,502,135	-	2,104,943	-
San Luis Obispo	-	-	1,353,438	-
Santa Barbara <sup>4,7</sup>	304,000 <sup>8</sup>	-	(3,314,841)	-
Santa Cruz	-	-	(703,803)	-
Stanislaus	3,323,988	-	4,405,096	-
Tahoe	1,470,190	-	72,784	-
Tulare	164,327	-	585,002	-
Ventura	15,688,967	-	23,181,949	-
Rural Counties & SCAG <sup>5</sup>	\$2,188,927	-	\$4,374,106	-
<b>TOTAL</b>	<b>146,383,860</b>	<b>-</b>	<b>222,269,104</b>	<b>-</b>

**Balances now include:**

\* June 2010 -- Release of Actual FFY 2010 Apportionments; Restoration of September 30, 2009 rescission/apportionments for CMAQ and RSTP for FFY 2009-10; NEPA restoration; and Oversight adjustment.

**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.

<sup>7</sup> Includes June 2010 CMAQ Deobligations of \$202,999.99 and \$100,999.99.

<sup>8</sup> The Santa Barbara CMAQ balance will be reduced by \$304,000 as of the October 2010, AB 1012 balance report per the September CMAQ rescission.

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's accounting system.

There may be a delay between the FHWA authorization and the recording of the transaction in the Department's accounting system.

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

Reference No.: 3.9  
January 19-20, 2011  
Attachment 2

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

\*Previously referred to as Cycle 11

Region	CMAQ Unobligated 9/30/2010 Delivery Balance <sup>1</sup>	CMAQ Amount Subject to AB 1012 Reprogramming on: 11/01/2010 <sup>2</sup>	RSTP Unobligated 9/30/2010 Delivery Balance <sup>1</sup>	RSTP Amount Subject to AB 1012 Reprogramming on: 11/01/2010 <sup>2</sup>
<b>Rural County Information:</b>				
Del Norte	-	-	46,297	-
Humboldt	-	-	212,940	-
Lake	-	-	98,138	-
Mendocino	-	-	145,191	-
Lassen	-	-	39,080	-
Modoc	-	-	(2,365)	-
Plumas <sup>4</sup>	-	-	32,684	-
Shasta	-	-	274,771	-
Siskiyou	-	-	(5,245)	-
Tehama	-	-	94,318	-
Trinity	-	-	(2,029)	-
Colusa	-	-	31,648	-
El Dorado	-	-	175,795	-
Glenn	-	-	44,522	-
Nevada <sup>3</sup>	220,917	-	148,033	-
Placer	-	-	105,588	-
Sierra	-	-	(1,056)	-
Inyo	-	-	(5,258)	-
Mono	-	-	(1,838)	-
Alpine	-	-	(1,050)	-
Amador <sup>3,4</sup>	0	-	56,391	-
Calaveras <sup>3,4</sup>	(683)	-	64,985	-
Mariposa <sup>3</sup>	392,797	-	27,570	-
Tuolumne <sup>3,4</sup>	470,904	-	87,588	-
Imperial (SCAG) <sup>3</sup>	1,104,992	-	2,707,407	-
<b>Rural Combined Totals:</b>	<b>\$2,188,927</b>	<b>-</b>	<b>4,374,106</b>	<b>-</b>

**Balances now include:**

\* June 2010 -- Release of Actual FFY 2010 Apportionments; Restoration of September 30, 2009 rescission/apportionments for CMAQ and RSTP for FFY 2009-10; NEPA restoration; and Oversight adjustment (this adjustment results in some Rural RSTP balances being negative).

**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> 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 accounting system.

There may be a delay between the FHWA authorization and the recording of the transaction in the Department's accounting system.