

## **SAFETEA-LU Section 6004 MOU Renewal**

### **Notable Changes**

(Effective June 7, 2010)

#### **Scope of the State's CE responsibilities further defined or clarified:**

- The MOU assignment applies only to projects using Federal-aid Highway Program funding or other funding administered by FHWA, or projects requiring approval by FHWA-California Division Office. [Section I(A)]
- The State assumes the obligation to fulfill assigned environmental responsibilities on any proposed projects meeting the CE criteria in Stipulation I(B) that were determined to be CEs prior to the June 7, 2007 MOU but have not been completed ("proposed projects"). [Section II(A)]

#### **Determination and Documentation:**

- The MOU updates the determination statement requirements for documenting the CE findings to include individual and cumulative impacts as defined by NEPA. (The determination statement now matches the statement on the CE Form.) [Section IV(B.5)]
- The project file will include documentation of unusual circumstances considered and any appropriate environmental studies used to determine if the CE classification is proper. [Section IV(B.6)]

#### **State Performance Requirements:**

- The State shall provide a list to FHWA of CE determinations approved during the previous six months on a semi-annual basis (previously submitted quarterly). [Section IV(F.1)]
- FHWA shall provide the State with a reasonable notice of not less than 24 hours when requesting access to the State's project records. [Section IV(F.3)]
- The State assumes sole NEPA responsibility and liability for any subsequent substantive action it takes on a proposed project which FHWA determined to be a CE prior to June 7, 2007. [Section IV(G)]

#### **Litigation:**

- The MOU contains added provisions for coordinating with FHWA and the U.S. Department of Justice in the event the State and/or FHWA is named as a party in litigation brought in connection with the State's execution of responsibilities under the MOU. [Section IV(H)]

#### **State Certification and Acceptance of Jurisdiction:**

- The sunset date for the waiver of the State's sovereign immunity has been updated to December 31, 2011. [Section V(B)]

#### **Amendments and Administrative Modifications**

The State and/or FHWA may request that the MOU be amended or modified to reflect non-substantive changes. Public notice and comment are not required for these types of modifications. [Section VIII(A)]

#### **FHWA Involvement**

FHWA will make a reasonable effort to give the State 24 hours notice prior to attending any coordination or consultation meetings between the State and other Federal agencies for projects assumed under the MOU. [Section XI(A)]