State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

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Be energy efficient!

To: DEPUTY DISTRICT DIRECTORS
ENVIRONMENTAL

Date: March 3, 2008

File:

From: JAY NORVELL
Chief
Division of Environmental Analysis

Subject: "Blanket" Categorical Exclusion for approval of design exceptions

It has come to our attention that FHWA Headquarters has determined that the approval of design exceptions for highway improvement projects on the National Highway System (NHS) and the Interstate System is a federal administrative action as specified in 23 CFR 771.107 and therefore requires compliance with NEPA. This determination applies to projects on these systems regardless of whether federal-aid highway funding is involved. FHWA has also concluded that design exceptions in and of themselves meet the criteria to be classified as a Categorical Exclusion under 23 CFR 771.117.

Normally, approval of design exceptions is subsumed within the process of developing and approving a federal-aid highway project and would be considered in the project's NEPA documentation. However, many highway improvement projects in California now are funded exclusively with state funds and may not otherwise require NEPA compliance.

We have developed a "blanket" Categorical Exclusion (attached) to account for those situations where the only federal administrative action on the project is the approval of the design exception. We are currently working with the Division of Design to revise their "Fact Sheet Exceptions to Mandatory Design Standards" report requirements to include a reference to the CE. The Fact Sheet is included in the project file and documents that the project conforms to the conditions of the CE. In the interim, districts may use the CE by including a memo in the project file referencing it.

If you have any questions, please do not hesitate to call Kelly Dunlap, Chief, Environmental Management, at 916 651-8164. Thank you.

Attachment

"BLANKET" CATEGORICAL EXCLUSION DETERMINATION
FOR APPROVAL OF DESIGN EXCEPTIONS

Various Locations on the National Highway System in California

Dist.-Co.-Rte. (or Local Agency)	P.M/P.M.	E.A. (State project)	Federal-Aid Project No. (Local project)/ Proj. No.

ACTION DESCRIPTION:

The FHWA requires that design exceptions for projects on the National Highway System, regardless of the source of funding, be analyzed, reviewed and approved by the FHWA. Approval of design exceptions constitutes a federal administrative action as specified in 23 CFR 771.107 and is thus subject to NEPA. The FHWA has concluded that design exceptions by themselves do not result in a change in the scope of a project or typically cause significant environmental impacts. FHWA's experience with design exceptions is that they do not involve unusual circumstances (23 CFR 771.771(b)) or result in any significant environmental impacts, allowing them to be classified as a CE pursuant to 23 CFR 771.117(a).

Under the SAFETEA-LU NEPA Pilot Program (23 CFR 327) MOU and the Memorandum of Understanding Pursuant to Section 6004 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users , Caltrans assumed responsibility for the determination of categorical exclusions.

This form documents the Caltrans' determination that the action of approving a design exception, of itself, on the National Highway System in California meets the criteria for a categorical exclusion under 23 CFR 771.117.

NEPA COMPLIANCE

In accordance with 23 CFR 771.117, and based on an examination of this proposal and supporting information, the State has determined that this action:

- does not individually or cumulatively have a significant impact on the environment as defined by NEPA and is excluded from the requirements to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and
- has considered unusual circumstances pursuant to 23 CFR 771.117(b) (http://www.fhwa.dot.gov/hep/23cfr771.htm - sec.771.117).

In non-attainment or maintenance areas for Federal air quality standards, the action is either exempt from all conformity requirements, or conformity analysis has been completed pursuant to 42 USC 7506(c) and 40 CFR 93.

CALTRANS NEPA DETERMINATION

☐ **Section 6004:** The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to Chapter 3 of Title 23, United States Code, Section 326 and a Memorandum of Understanding (MOU) dated June 7, 2007, executed between the FHWA and the State. The State has determined that the project is a Categorical Exclusion under:

- 23 CFR 771 activity (c)(___)
- 23 CFR 771 activity (d)(___)
- Activity ___ listed in the MOU between FHWA and the State

☒ **Section 6005:** Based on an examination of this proposal and supporting information, the State has determined that the action is a CE under Section 6005 of 23 U.S.C. 327.

Chief, Division of Environmental Analysis — Date: 2/26/2008