

## Memorandum

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To: ENVIRONMENTAL DISTRICT DEPUTY DIRECTORS  
DIVISION ENVIRONMENTAL BRANCH/OFFICE CHIEFS

Date: October 1, 2012

File: NEPA Assignment

From: JAY NORVELL  
Chief  
Division of Environmental Analysis

Subject: **Assignment of Responsibilities under the Surface Transportation Project Delivery Program (NEPA Assignment)**

I am pleased to announce that Caltrans and the Federal Highway Administration (FHWA) entered into a Memorandum of Understanding (NEPA Assignment MOU), effective October 1, 2012, for Caltrans' participation in the Surface Transportation Project Delivery Program, pursuant to, 23 USC 327, as amended by Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21).

California participated in the "Surface Transportation Project Delivery Pilot Program" (Pilot Program) pursuant to 23 USC 327, for more than five years, beginning July 1, 2007, and ending September 30, 2012. The United States Department of Transportation, acting through the FHWA, took into consideration Caltrans' original application and performance in the Pilot Program and approved Caltrans' participation in the Surface Transportation Project Delivery Program through the NEPA Assignment MOU<sup>1</sup>.

Under the NEPA Assignment MOU, Caltrans will continue to assume FHWA responsibilities under NEPA and other federal environmental laws in the same manner as under the Pilot Program with these minor changes:

- Caltrans may use federal funds for attorneys' fees attributable to program activities;
- Caltrans will perform under revised auditing and monitoring requirements:
  - FHWA audits are no longer required;
  - Caltrans will provide FHWA with self-assessment reviews once a year;
  - Caltrans will provide FHWA with approval and decision reports once every six months;
- The program is renewable for a term of not more than five years, and
- Under certain conditions, States may terminate their participation in the program.

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<sup>1</sup> The MOU which authorizes Caltrans' NEPA Assignment Program incorporates, by reference, Caltrans' May 21, 2007 Pilot Program Application, terms and conditions of the Pilot Program MOU and its amendments. The MOU terminates 18 months from the effective date of FHWA regulations developed to clarify amendments to 23 USC 327 or on January 1, 2017.

In the five years since initiation of the Pilot Program, Caltrans simplified and expedited the environmental process for transportation projects while ensuring the same level of protection for environmental resources and completing NEPA approvals on nearly 400 projects. The requirements of the program were rigorous:

- FHWA audits twice a year and then annually,
- State legislative reporting and review,
- implementation of expanded staff training,
- scrupulous quality assurance/quality control processes
- development and use of a robust filing system

The effort improved environmental document efficiency, consistency and accountability. Caltrans was responsible for complying with all applicable federal environmental laws and with FHWA environmental regulations, policies, and guidance, and was legally responsible and liable for the environmental decisions made on related projects. The Pilot Program did not change federal environmental protection standards.

Caltrans tracked median NEPA environmental processing time frames over the Pilot Program’s duration and compared these to median processing time frames from before, which indicated significant time savings; as presented in the chart below.

<b>NEPA Environmental Document Processing Milestones<sup>2</sup></b>	<b>Pre- Pilot Program Median Duration in Months</b>	<b>Pilot Program Median Duration in Months</b>	<b>Median Time Savings Realized in Months</b>
Begin Environmental Studies to Environmental Assessment or Finding Of No Significant Impact Approval	52.2	38.8	13.4
Notice of Intent to Final Environmental Impact Statement Approval	134.9	40.2	94.7

<sup>2</sup>For Environmental Documents prepared by Caltrans, consultants and local agencies from July 1, 2007 through July 1, 2012

Under NEPA Assignment, the Division of Environmental Analysis has revised its environmental policies and procedures and updated the Caltrans Standard Environmental Reference (SER), including Chapter 38, NEPA Assignment. The information in SER is policy and shall be followed by all Districts/Regions. We continue to take our responsibilities under the NEPA Assignment MOU seriously and to execute them responsibly and successfully. Where we identify needed improvement, we will provide corrections quickly and effectively. Where we identify excellent practices in the Districts/Regions we will share them around the state to expand our success.

California is the only state in the nation to complete the Pilot Program and be assigned these historic responsibilities. The successful completion of the Pilot Program is a reflection of the quality, breadth, and depth of our excellent environmental staff.

Thank you for your contributions that have made this assignment possible and will ensure its continued success. If you have any questions regarding this policy memorandum, please call Dale Jones, NEPA Assignment Manager, at (916) 653-5157 or Wendy Waldron, NEPA Program Statewide Coordinator, at (805) 542-4656.

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