NEPA PROCESS OVERVIEW FOR FHWA OR CALTRANS (as Assigned) ACTIONS*

Does the action require federal funding, approval, or permit, or encroach upon federal lands?

Yes

Is Caltrans the federal lead agency? (See the NEPA Lead Agency Sidebar to make this determination.)

No

See the ‘NEPA CE Determination Decision Tree’ for additional considerations and decisions in SER Chapter 30.

Yes

Does the action meet the criteria for a 23 CFR 326 CE? (23 CFR 771.117 [c] and [d] and 23 USC 326 CE Assignment MOU Appendix A.)

No

Yes

Project requires a NEPA EA. See SER Chapter 31 to determine whether there are significant environmental impacts. The Headquarters Environmental Coordinator must concur with the Class of Action.

Does the Environmental Assessment indicate there would be a significant environmental impact?

No

Prepare a Finding of No Significant Impact (FONSI).

Yes

Prepare a DEIS. (See Review and Approval Process for DEIS in SER Chapter 37.)

Circulate the DEIS to the public.

Prepare a FEIS. (See Review and Approval Process for FEIS in SER Chapter 37.)

Project approved by FHWA or the Department as assigned, via a Record of Decision.

Prepare a Notice of Intent.

Perform scoping, consultation, and coordination.

Prepare a Notice of Proposed Action.

Circulate the Notice of Proposed Action to the public.

Prepare an FONSI.

Project approved by FHWA or the Department as assigned, via a Record of Decision.

STOP: NEPA does not apply.

STOP: If neither the Department nor FHWA is the federal lead agency, Caltrans will prepare a CEQA-only determination for the project and may prepare the NEPA documentation for review and approval by the permitting agency as part of their permitting process.

No

Is the project a “Class I” Action (23 CFR 771.115)? The Headquarters Environmental Coordinator must concur with the Class of Action.

No

Project requires preparation of an Environmental Impact Statement (EIS). Use the 23 USC 139 Efficient Environmental Review Process. (See SER Chapter 32.)

Yes

Does the action meet the criteria for a 23 USC 237 CE?

No

Yes

Project requires a NEPA EA. See SER Chapter 31 to determine whether there are significant environmental impacts. The Headquarters Environmental Coordinator must concur with the Class of Action.

Does the Environmental Assessment indicate there would be a significant environmental impact?

No

Prepare a Finding of No Significant Impact (FONSI).

Yes

Prepare a DEIS. (See Review and Approval Process for DEIS in SER Chapter 37.)

Circulate the DEIS to the public.

Prepare a FEIS. (See Review and Approval Process for FEIS in SER Chapter 37.)

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STOP: NEPA does not apply.

STOP: If neither the Department nor FHWA is the federal lead agency, Caltrans will prepare a CEQA-only determination for the project and may prepare the NEPA documentation for review and approval by the permitting agency as part of their permitting process.

No

NEPA Lead Agency Sidebar

- If the project requires FHWA funding or approval and the project is not excluded from the 23 USC 326 CE Assignment MOU OR the 23 USC 327 NEPA Assignment MOU (http://www.dot.ca.gov/ser/mou.htm), then the Department is the federal lead agency.
- If the project requires FHWA funding or approval and the project is excluded from the 23 USC 326 CE Assignment MOU AND the 23 USC 327 NEPA Assignment MOU*, then FHWA is the federal lead agency.
- If the project does not have FHWA funding, and the project does not require FHWA approval, but does require a federal permit or approval (USACE, USFWS, etc.), then the federal agency granting that federal permit or approval is the federal lead agency and will approve the NEPA documentation as part of the permitting or approval process.
- For more details, please see the “Lead Agency Decision Tree for FHWA or Caltrans (as Assigned) Actions” flowchart in Chapter 38 of the SER.

*23 USC 327 NEPA ASSIGNMENT MOU EXCLUSION CRITERIA
- Highway projects that are designated under EO 13274.
- Federal Lands highway projects unless such projects will be designed and constructed by Caltrans.
- Highway projects funded under 49 USC, Chapter 53 (FTA Projects).
- Multi-state and international highway projects.
- Projects specifically excluded from NEPA Assignment.

U.S. Coast Guard, United States Army Corps of Engineers, etc., have separate regulations for compliance with NEPA.