

Memorandum

Making Conservation a California Way of Life

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

Date: April 24, 2018

File: NEPA Assignment

From: PHILIP J. STOLARSKI
Division Chief
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Subject: CALTRANS RESUMES PARTICIPATION IN THE NEPA ASSIGNMENT PROGRAM

Effective March 30, 2017, the Federal Highway Administration (FHWA) lifted the suspension on Caltrans' participation in the NEPA Assignment Program and authorized Caltrans to resume its assumption of NEPA responsibilities under the 23 USC 326 and 23 USC 327 Memoranda of Understanding (MOUs) with FHWA. On March 29, 2017, Governor Brown signed AB 28 (Frazier) into law, adding Section 820.1 back to the California Streets and Highways Code, and reinstating California's waiver of immunity and consent to the jurisdiction of federal courts for Caltrans' actions under the NEPA Assignment Program.

Under the May 31, 2016 23 USC 326 MOU and December 23, 2016 23 USC 327 MOU, Caltrans will continue to assume FHWA responsibilities under NEPA and other federal environmental laws in the same manner as under the previous MOUs with the following minor changes:

- 23 USC 326 and 23 USC 327 MOUs
 - Caltrans will annually submit to FHWA a list of NEPA approvals and Section 4(f) determinations that Caltrans approved during the previous 12 months; this reporting requirement was previously semiannually.
 - Under certain conditions, Caltrans may terminate its participation in the program.
- 23 USC 327 MOU
 - FHWA will no longer audit Caltrans. Instead, FHWA expects to complete two monitoring reviews of Caltrans during the term of the 5-year MOU. FHWA or Caltrans may prepare the monitoring review reports.
 - Caltrans will perform annual monitoring of its quality assurance/quality control processes and submit annual reports to FHWA.

The information in the Standard Environmental Reference (SER), including Chapter 38 of Volume 1, continues to identify Caltrans' policies under the NEPA Assignment Program and shall be followed by all Districts/Regions. We continue to take our responsibilities under the NEPA Assignment MOUs seriously and to execute them responsibly and successfully. Where we identify needed improvements, 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 successes. The success of the NEPA Assignment 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 Tammy Massengale, GNEIS Office Chief, at (916) 653-5157.

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