State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

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To: DISTRICT DIRECTORS
DEPUTY DISTRICT DIRECTORS, Project Management
DEPUTY DISTRICT DIRECTORS, Design
DEPUTY DISTRICT DIRECTORS, Environmental
DEPUTY DISTRICT DIRECTORS, Right of Way
PROJECT DELIVERY DIVISION CHIEFS

Date: January 18, 2008

File: NEPA Delegation

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Chief Engineer

Subject: NEPA Delegation: Timing of Final Design in Relation to NEPA Approval

Where Caltrans is the implementing agency and federal funds or approvals may be needed, final design activities, property acquisition (with the exception of hardship and protective buying, as defined in 23 CFR 771.117(d)), purchase of construction materials or rolling stock, or project construction shall not proceed prior to PA&ED.

Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned and Caltrans assumed FHWA's National Environmental Policy Act (NEPA) responsibilities for most highway projects in the State, pursuant to SAFETEA-LU Section 6005, the *Surface Transportation Project Delivery Pilot Program* (Pilot Program, also known as "NEPA Delegation"). As it fulfills these responsibilities, Caltrans must comply with all FHWA environmental regulations, policy, and formal guidance.

Attached are FHWA's regulations on the timing of NEPA decisions and design definitions.

FHWA Regulations Pertaining to Design and NEPA Approval

23 CFR §771.113 Timing of Administration activities

a. The Administration in cooperation with the applicant will perform the work necessary to complete a FONSI or an EIS and comply with other related environmental laws and regulations to the maximum extent possible during the NEPA process. This work includes environmental studies, related engineering studies, agency coordination and public involvement. However, final design activities, property acquisition (with the exception of hardship and protective buying, as defined in §771.117(d), purchase of construction materials or rolling stock, or project construction shall not proceed until the following have been completed:

    1. i. The action has been classified as a categorical exclusion (CE), or
       ii. A FONSI has been approved, or
       iii. A final EIS has been approved and available for the prescribed period of time and a record of decision has been signed

23 CFR §636.103 What are the definitions of terms used in this Part?

Final design means any design activities following preliminary design and expressly includes the preparation of final construction plans and detailed specifications for the performance of construction work.

Preliminary design defines the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of material, and other work needed to establish parameters for the final design. Prior to completion of the NEPA review process, any such preliminary engineering and other activities and analyses must not materially affect the objective consideration of alternatives in the NEPA review process.