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

**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 the 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.**

Stopping rules:
- 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, 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 the federal permit or approval is the federal lead agency and will approve the NEPA documentation as part of the permitting or approval process.

**Flowchart Description**
- **Does the action require federal funding, approval, or permit, or encroach upon federal lands?**
  - No: STOP: NEPA does not apply.
  - Yes: Proceed further.
- **Is Caltrans the federal lead agency?** (See the NEPA Lead Agency sidebar to make this determination.)
  - No: Proceed further.
  - Yes: 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.
- **Does the action meet the criteria for a 23 USC 326 CE?** (23 CFR 771.117 [c] and [d] and 23 USC 326 CE Assignment MOU Appendix A.)
  - Yes: Preparatory steps.
  - No: Proceed further.
- **Prepare a Notice of Intent.**
- **Perform scoping, consultation, and coordination.**
- **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 Statute of Limitations Notice.**
- **Does the action meet the criteria for a 23 USC 327 CE?**
  - Yes: Preparatory steps.
  - No: Proceed further.
- **Is the project a “Class I” Action (23 CFR 771.115)? The Headquarters Environmental Coordinator must concur with the Class of Action.**
  - Yes: Preparatory steps.
  - No: Proceed further.
- **Project requires preparation of an Environmental Impact Statement (EIS). Use the 23 USC 139 Efficient Environmental Review Process. (See SER Chapter 32.)**
  - Yes: Preparatory steps.
  - No: Proceed further.
- **Prepare a Finding of No Significant Impact (FONSI).**
- **Does the Environmental Assessment indicate there would be a significant environmental impact?**
  - Yes: Prepare a DEIS. (See Review and Approval Process for DEIS in SER Chapter 37.)
  - No: Proceed further.
- **Prepare a NEPA CE Determination Decision Tree for additional considerations and decisions in SER Chapter 30.**
- **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.**
- **STOP:** 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, then the Department is the federal lead agency.
- **STOP:** 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.
- **STOP:** NEPA does not apply.