

The Honorable Elaine L. Chao
July 14, 2017
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Assignment authority to help shape policy in this area prior to the publication of proposed rulemakings.

Finally, section 1309 of the Fixing America's Surface Transportation Act (FAST Act, Pub. L. No. 114-94)^{iv} creates a new program that would allow states with NEPA Assignment to conduct environmental reviews and make approvals for projects under state environmental laws (e.g., the California Environmental Quality Act (CEQA) in California) and regulations instead of NEPA. Participation in this program includes a two-year statute of limitations; however, the existing statute of limitations for the Federal Highway Administration's (FHWA) NEPA transportation projects is 150 days. The extended two-year statute of limitations for this program increases risks for timely project delivery. If the intent of FAST Act section 1309 is to substitute state law for NEPA, the statute of limitations should be reduced to the same statute of limitations as the applicable state law substituting for NEPA.

Moreover, just as Caltrans has found that some federal agencies have not acknowledged Caltrans as the NEPA federal lead agency under its current assigned authorities, similarly, this could also occur under the FAST Act section 1309 program with agencies not adopting a document prepared pursuant to state environmental laws (and consistent with federal law) when issuing federal permits, agreements, or decisions. If the intent of FAST Act section 1309 is to substitute state law for NEPA, the law should be clarified so that other federal agencies must adopt a document prepared pursuant to state laws (and consistent with federal law) as the NEPA document.

For additional information, please contact Giles Giovinazzi, Federal Transportation Liaison Caltrans, and the California High-Speed Rail Authority at (916) 214-6144 or by email sent to giles.giovinazzi@dot.ca.gov

Sincerely,



MALCOLM DOUGHERTY
Director

Enclosure

^{iv} 23 U.S.C. § 330.