

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

CALIFORNIA DEPARTMENT OF TRANSPORTATION

464 W. 4th Street, 6th Floor, MS 1160

San Bernardino, CA 92401

Re: CEQA Determination on Planning Projects in Active Transportation Program (ATP)

Mr. Sean Yeung,

After much research on the topic of CEQA requirement on the allocation request for SANBAG's Safe Routes to School and Points of Interest Pedestrian ATP planning projects, SANBAG feels strongly that the CEQA determination must be deferred until the planning projects are completed and adopted by the SANBAG Board of Directors.

Definition of a "project" under CEQA – "A project is an activity undertaken by a public agency or a private activity which must receive some discretionary approval (meaning that the agency has the authority to deny the requested permit or approval) from a government agency which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment." <http://resources.ca.gov/ceqa/more/faq.html> SANBAG would conclude that since after the adoption of the plans, implementation of the plans would occur by the responsible jurisdictions in "reasonably foreseeable future", that both planning projects are considered to be a "project" under the definition of CEQA.

However, CEQA determination of discretionary planning projects only occurs after the completion of the project and cannot be determined prior to the start of the project. Therefore, if the intent of the CTC is to make sure "discretionary" planning projects are subject to CEQA determination, SANBAG proposes to adopt the CEQA determination concurrently with the adoption of the "project" at the SANBAG Board of Directors. CEQA is clear on this. OPR states, "CEQA exempts a number of specific types of projects from its provisions under two broad categories of exemptions, statutory and categorical. **After approving a project** for which an exemption was employed, the lead agency may file a Notice of Exemption with the county clerk and, when the lead agency is a state agency, OPR. Notices of Exemption must be available for inspection within 24 hours and remain posted for a minimum of 30 days." http://ceres.ca.gov/planning/pub_notice/part3.html On planning projects, CEQA determination cannot be made unless the project is studied. CEQA does not allow CEQA determination to take place without a "project". Therefore, SANBAG cannot certify a Notice of Exemption prior to the planning project being completed.

Sincerely,



Steve Smith, Director of Planning

San Bernardino Associated Governments

CC: Laura Penne Baker (CTC)

Teresa McWilliam (Caltrans)