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## IMPROVING THE PROCESS FOR ENVIRONMENTAL COMPLIANCE FOR FEDERALLY-FUNDED TRANSPORTATION PROJECTS

### Background

California counties have long advocated for a state-for-federal environmental law reciprocity program. The California Environmental Quality Act (CEQA) provides equivalent environmental protection as the National Environmental Policy Act (NEPA), though NEPA analysis considers a small number of environmental impacts that are not covered by CEQA. To compensate for this discrepancy, areas of analysis only required by NEPA could be easily included in CEQA analysis for federally-funded transportation projects. Incidentally, California counties report that the additional requirement of NEPA analysis has rarely changed the outcome for specific federally-funded transportation projects. NEPA delegation to Caltrans has improved some aspects of the federal environmental review process for California counties, but it does not address the fundamental issues of duplication, increased costs and delays related to the overlapping requirements of CEQA and NEPA. CSAC's priority for federal surface transportation reauthorization remains a CEQA-for-NEPA Reciprocity Program. Further, there are additional legislative and administrative solutions to increase the efficiency of the environmental review process, described below.

### Issues

#### COSTLY AND TIME CONSUMING TECHNICAL STUDIES TO QUALIFY FOR A NEPA CATEGORICAL EXCLUSION

NEPA typically requires additional studies to allow a project to proceed under a Categorical Exclusion. These studies add time and cost to a project, although they rarely change the outcome of the environmental review process. Depending on the technical studies required to qualify for a Categorical Exclusion, the additional costs can amount to tens of thousands of dollars per project. Examples include:

*An FHWA-funded bridge project crossing a creek in an industrial area that will likely qualify for a CEQA Mitigated Negative Declaration and a NEPA Categorical Exclusion with technical studies.*

Typical technical studies required for both CEQA and NEPA would include: biology/wetlands, hazardous materials, traffic, and cultural resources. In addition, the federal lead agency has requested a complete visual study, a community impact assessment, and a relocation impact memo. These reports would not be required under CEQA because of the lack of visual resources in the area, and the minimal impact to two private properties. The ultimate conclusion under NEPA will likely be that the bridge project does not have significant environmental impacts. The cost of the additional studies will be about \$40,000-\$50,000 for the technical reports plus County staff time for review and administration. Time delay could be approximately 2 to 3 months.

*A group of FHWA-funded traffic signal projects.* The federal lead agency requires a project-specific air quality study for each signalization project, unless it is categorized as a "safety project." The time delay is about 2-4 weeks for preparation of the study and County staff time to review. The additional cost is about \$2,500-\$5,000 for preparation of the study and County staff administration and review. These signalization projects are CEQA exempt and qualify for a NEPA Categorical Exclusion.

#### FEDERAL AGENCIES REQUIRE THE SAME INFORMATION BUT IN DIFFERENT FORMATS

California counties report that various federal agencies require different formats for NEPA environmental review documents. It is common for a California county to have to reformat a NEPA Environment Impact Statement (EIS) or other document developed for the Federal Highway Administration to meet format requirements for the Fish and Wildlife Service. The reformatting does not provide any additional environmental benefit, but increases costs by \$2,000 to \$5,000 per technical report, with 6 to 10 technical reports, on average, required on larger projects, and typically adds 1 to 3 months to a project.

**Solutions**

1. Enact a CEQA-for-NEPA Reciprocity Program in California
2. Eliminate unnecessary, costly, and time consuming technical studies to qualify for a NEPA Categorical Exclusion
3. Require a singular consistent format for NEPA environmental review documents for all federal agencies and departments

***Differences between Key CEQA and NEPA Requirements<sup>1</sup>***

	CEQA	NEPA
Mitigation	Must mitigate significant projects impacts when feasible.	Must suggest appropriate mitigation measures, but no requirement to implement them.
Alternatives	Must analyze “reasonable range” of alternatives, but do not need to analyze each alternative to the same level of detail.	Must Evaluate all reasonable alternatives and “devote substantial treatment to each.”
Significance	Must identify potentially adverse significant effects on the environment.	Must determine whether the proposed projects will significantly affect the quality of the human environment.
Judicial Review of Decision to Prepare an EIR or EIS	Must prepare Environmental Impacts Report if “fair argument” can be made that project may have a significant impact.	Must prepare EIS only if substantial evidence exists that project may significantly affect the human environment.

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<sup>1</sup> Source: Caltrans Division of Environmental Analysis, 2004.