

NEPA Assignment for Rail Projects

FACT SHEET

SUMMARY:

This proposal removes the current sunset provision and permanently authorizes the consent of California to the jurisdiction of federal courts and waiver of immunity by the California Transportation Agency (CalSTA) with regards to the performance of certain federal environmental responsibilities under the National Environmental Policy Act (NEPA).

BACKGROUND:

Existing statute grants the Secretary of the California Transportation Agency the authority to assume responsibilities under the National Environmental Policy Act of 1969 and other federal environmental laws, pursuant to Section 327 of Title 23 of the United States Code, for any railroad, public transportation, or multimodal project and consents to the jurisdiction of federal courts with regards to the performance of these federal environmental responsibilities.

Government Code Section 13979.2 remains in effect only until January 1, 2025 and is repealed unless it is extended by new legislation. Repeal of this existing law will terminate existing federal agreements that assign to the Secretary of Transportation federal responsibilities for environmental review under NEPA.

NEED FOR LEGISLATION:

Through this proposed legislation, the state's federal agreement will remain in place, project delivery will continue to accelerate, and California will continue to benefit. Termination of NEPA authority will delay environmental documents and increase costs for local projects like the Los Angeles Union Station (Link US) project, and the Altamont Corridor Express (ACE) rail projects. The amount of delay would vary – from one year for smaller environmental documents, to more than two years for larger environmental documents. Under current NEPA authorization for highway projects, Caltrans has experienced significant time savings in Environmental approvals. For example, in approximately 600 approvals, Caltrans actualized at least 12 months in time savings. On 21 Environmental Impact Statement Approvals, Caltrans actualized 124 months in time savings.

Delays also result in tens of millions of dollars of higher costs for projects. For example, with inflation currently around 5 percent, a one-year delay to a \$100 million project adds costs of \$5 million. A two-year delay of a \$1 billion project at 3 percent inflation would add costs of \$61 million.

PROPOSED LANGUAGE:

This proposal will preserve the State's federal authority and clarify applicability to local rail, public transportation, and multimodal projects.