

§ 520.21

49 CFR Ch. V (10–1–10 Edition)

weight of a motor vehicle; and (ii) actions which may directly or indirectly result in a significant adverse effect upon the aerodynamic drag of a motor vehicle;

(9) Any action that may directly or indirectly result in a significant increase in the amount of harmful emissions resulting from the operation of a motor vehicle;

(10) Any action that may directly or indirectly result in a significant increase in either the use of or the exposure to toxic or hazardous materials in the manufacture, operation, or disposal of motor vehicles or motor vehicle equipment;

(11) Any action that may directly or indirectly result in a significant increase in the problem of solid waste, as in the disposal of motor vehicles or motor vehicle equipment;

(12) Any action that may directly or indirectly result in a significant depletion of scarce natural resources associated with the manufacture or operation of motor vehicles or motor vehicle equipment; and

(13) Any other action that causes significant environment impact by directly or indirectly affecting human beings through adverse impacts on the environment.

(c) *Research activities.* (1) In accordance with DOT Order 5610.1B, the Assistant Secretary for Systems Development and Technology (TST) will prepare, with the concurrence of the NHTSA, proposed procedures for assessing the environmental consequences of research activities. Until final procedures are promulgated, the following factors are to be considered for periodic evaluation to determine when an environmental statement is required for such programs:

(i) The magnitude of Federal investment in the program;

(ii) The likelihood of widespread application of the technology;

(iii) The degree of environmental impact which would occur if the technology were widely applied; and

(iv) The extent to which continued investment in the new technology is likely to restrict future alternatives.

(2) The statement or environmental review culminating in a negative declaration must be written late enough

in the development process to contain meaningful information, but early enough so that this information can practically serve as an input in the decision-making process. Where it is anticipated that an environmental impact statement may ultimately be required but its preparation is still premature, the office shall prepare a publicly available record briefly setting forth the reasons for its determination that a statement is not yet necessary. This record shall be updated at least quarterly, or as may be necessary when significant new information becomes available concerning the potential environmental impact of the program. In any case, a statement or environmental review culminating in a negative declaration must be prepared before research activities have reached a state of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives. Statements on technology research and development programs shall include an analysis not only of alternative forms of the same technology that might reduce any adverse environmental impacts but also of alternative technologies that would serve the same function as the technology under consideration. Efforts shall be made to involve other Federal agencies and interested groups with relevant expertise in the preparation of such statements because the impacts and alternatives to be considered are likely to be less well defined than in other types of statements.

Subpart B—Procedures

§ 520.21 Preparation of environmental reviews, negative declarations, and notices of intent.

(a) *General responsibilities*—(1) *Associate Administrators and Chief Counsel.* Each Associate Administrator and the Chief Counsel is responsible for determining, in accordance with Subpart A, whether the projects and activities under his jurisdiction require an environmental review, and for preparing all such reviews, negative declarations, and notices of intent.

(2) *Regional Administrators.* Each Regional Administrator, in consultation with the Governor's Representative, is

responsible for determining, in accordance with Subpart A, whether proposed State activities in his Region, as stated in Annual Work Programs, require an environmental review, and for the preparing all such reviews, negative declarations, and notices of intent.

(3) *Associate Administrator for Planning and Evaluation.* The Associate Administrator for Planning and Evaluation may request in accordance with the requirements of this order, that the appropriate Associate Administrator or Regional Administrator prepare an Environmental review or Environmental Impact Statement for any proposed or continuing NHTSA action, or comment on any environmental statement prepared by other agencies.

(b) *Coordination.* Coordination with appropriate local, State and Federal agencies should be accomplished during the early stages by the responsible official to assist in identifying areas of significance and concern. Existing procedures, including those established under the Office of Management and Budget (OMB) Revised Circular A-95, should be used to the greatest extent practicable to accomplish this early coordination.

(c) *Applicants.* (1) Each applicant for a grant, loan, or other financial assistance for use in State and community projects may be requested to submit, with the original application, an environmental assessment of the proposed project.

(2) Under OMB Revised Circular A-95, "Evaluation, Review, and Coordination of Federal Assistance Programs and Projects," and DOT 4600.4B, "Evaluation, Review and Coordination of DOT Assistance Programs and Projects," dated February 27, 1974, a grant applicant must notify the clearinghouse of its intention to apply for Federal program assistance. The notification must solicit comments on the project and its impacts from appropriate State and local agencies. Since it is the NHTSA's policy to assure that (i) interested parties and Federal, State, and local agencies receive early notification of the decision to prepare an environmental impact statement, and (ii) their comments on the environmental effects of the proposed Federal action are solicited at an early stage in the prepara-

tion of the draft impact statement, this early notification requirement may be met by a grant applicant by sending the notification to interested parties and agencies at the same time it is sent to the clearinghouse.

(d) *Consultants.* Consultants may prepare background or preliminary material and assist in preparing a draft or final environmental statement for which the NHTSA takes responsibility. Care should be exercised in selecting consultants, and in reviewing their work, to insure complete and objective consideration of all relevant project impacts and alternatives, particularly if the consultant may expect further contracts based on the outcome of the environmental decision.

(e) *Environmental review report.* The environmental review shall culminate in a brief written report of the same title, which shall be included in the proposed or ongoing agency action, and which:

(1) Describes the proposed or ongoing NHTSA action, the environment affected, and the anticipated benefits;

(2) Evaluates the potential environmental impact, including those adverse impacts which cannot be avoided, should the proposal be implemented or the action continued;

(3) Assesses the alternatives to the proposed or ongoing action and their potential environmental impact;

(4) Evaluates the cumulative and long-term environmental effects of the proposed or ongoing action;

(5) Describes the irreversible and irretrievable commitments of resources involved in the proposal's implementation or the action's continuance;

(6) Identifies any known or potential conflicts with State, regional, or local plans and programs;

(7) Weighs and analyzes the anticipated benefits against the environmental and other costs of the proposed or ongoing action in a manner which reflects similar comparisons of reasonably available alternatives; and

(8) Concludes with a negative declaration or recommends the preparation of a DEIS.

(f) *Negative declarations.* (1) If the responsible official judges that the environmental impact of a proposed or ongoing action under his jurisdiction will

§ 520.22

not significantly affect the quality of the human environment, the following declaration will be included in the environmental review report:

It is the judgment of this agency, based on available information, that no significant environmental impact will result from execution of this action.

(2) A DEIS may be changed to a negative declaration if the public review process indicates that the proposal or ongoing action will not have a significant effect upon the environment.

(3) An index of all negative declarations and a copy of each environmental review report shall be retained by the responsible official under whose jurisdiction it was prepared and shall be made available for public inspection upon request.

(g) *Notice of intent to prepare a draft environmental impact statement.* If the responsible official under whose jurisdiction an environmental review is prepared determines that the proposed or ongoing action could have a potentially significant effect on the quality of the environment, he shall: coordinate with the Associate Administrator for Planning and Evaluation and the Chief Counsel, transmit to appropriate Federal, State and local agencies and have published in the FEDERAL REGISTER a notice of intent to prepare an environmental statement as soon as is practicable after the determination to prepare such a statement.

§ 520.22 Maintenance of a list of actions.

(a) The Associate Administrator for Planning and Evaluation shall be responsible for the preparation and maintenance of a list of actions for which draft or final environmental impact statements have been or are to be prepared. This list shall be on file with the Associate Administrator for Planning and Evaluation and shall be available for public inspection in the Docket Section upon request. A copy of the initial list and its updates at the end of each calendar quarter shall be transmitted by the Associate Administrator for Planning and Evaluation to TES and CEQ.

(b) If a determination is made that an environmental statement is not necessary for a proposed action (1) which

49 CFR Ch. V (10–1–10 Edition)

has been identified as normally requiring preparation of a statement, (2) which is similar to actions for which a significant number of statements have been prepared, (3) which the agency has previously announced would be the subject of a statement, or (4) for which the official responsible for such proposal has made a negative determination in response to a request from the CEQ, a record briefly setting forth the decision and the reasons for that determination shall be prepared by the responsible official. Such a record of negative determinations and any evaluations made pursuant to § 520.21 which conclude that preparation of a statement is not yet timely shall be prepared by the responsible official, submitted to the Associate Administrator for Planning and Evaluation, and made available by the Associate Administrator for Planning and Evaluation in the same manner as provided in paragraph (a) of this section for lists of statements under preparation.

§ 520.23 Preparation of draft environmental impact statements.

(a) *Planning stage.* (1) When a DEIS is to be prepared, the responsible official shall promptly initiate its preparation and develop a schedule in consultation with the Associate Administrator for Planning and Evaluation, to assure completion prior to the first significant point of decision in the program or project development process.

(2) The environmental impacts of proposed activities should be initially assessed concurrently with the initial technical and economic studies.

(3) Section 102(2)(A) of NEPA requires each Federal agency to utilize a “systematic, interdisciplinary approach” to plans and programs affecting the environment. To assure that all environmental impacts are identified and assessed, all relevant disciplines should be represented. If the necessary disciplines are not represented on the staff of the applicant or NHTSA, it is appropriate to use professional services available in other Federal, State or local agencies, universities, or consulting firms. The use of the interdisciplinary approach should not be limited to the environmental statement. This approach should also be