Office of the Secretary, DOT

§ 313.2 Policy.

(a) General. It is the policy of DOT to view the conservation of energy and the energy efficiency improvement goals of Chapter 77 of Title 42 as part of DOT’s overall mandate, to be considered along with the several public interest and public convenience and necessity factors enumerated in section 40101 of the Statute. To the extent practicable and consistent with DOT’s authority under the Statute and other law, energy conservation and efficiency are to be weighed in the decision-making process just as are DOT’s traditional policies and missions.

(b) Implementation. Implementation of this policy is to establish procedures and guidelines for the implementation of DOT’s responsibility under 42 U.S.C. 6362 to include in any major regulatory action taken by DOT a statement of the probable impact on energy efficiency and energy conservation.
§ 313.3

As used in this part:

(a) Energy efficiency means the ratio of the useful output of services in air transportation to the energy consumption of such services.

(b) Energy statement is a statement of the probable impact of a major regulatory action on energy efficiency and energy conservation, contained in a decision, opinion, order, or rule.

(c) Major regulatory action is any decision by the DOT decisionmaker or administrative law judge requiring an energy statement pursuant to §313.4 of this part.

(d) NEPA means the National Environmental Policy Act of 1969.

(e) Statute means Subtitle VII of Title 49 of the United States Code (Transportation).

[Docket No. 82, 50 FR 2425, Jan. 16, 1985, as amended at 60 FR 43529, Aug. 22, 1995]

§ 313.4 Major regulatory actions.

(a) Any initial, recommended, tentative or final decision, opinion, order, or final rule is a major regulatory action requiring an energy statement, if it:

1. May cause a near-term net annual change in aircraft fuel consumption of 10 million (10,000,000) gallons or more, compared to the probable consumption of fuel were the action not to be taken; or

2. Is specifically so designated by DOT because of its precedent value, substantial controversy with respect to energy conservation and efficiency, or other unusual circumstances.

(b) Notwithstanding paragraph (a)(1) of this section, the following types of actions shall not be deemed as major regulatory actions requiring an energy statement:

1. Tariff suspension orders under section 41509 of the Statute, emergency exemptions or temporary exemptions not exceeding 24 months under section 40109 of the Statute and other proceedings in which timely action is of the essence;

2. Orders instituting or declining to institute investigations or rulemaking, setting or declining to set applications for hearing, on reconsideration, or on requests for stay;

3. Other procedural or interlocutory orders;

4. Actions taken under delegated authority; and

5. Issuance of a certificate where no determination of public convenience and necessity is required.

(c) Notwithstanding paragraph (a)(1) of this section, DOT may provide that an energy statement shall not be prepared in a proceeding which may result in a major regulatory action, if it finds that:

1. The inclusion of an energy statement is not consistent with the exercise of DOT's authority under the Statute or other law;

2. The inclusion of an energy statement is not practicable because of time constraints;