

## § 520.24

(c) *Lead agency.* CEQ guidelines provide that when more than one Federal agency (1) directly sponsors an action, or is directly involved in an action through funding, licenses, or permits, or (2) is involved in a group of actions directly related to each other because of their functional interdependence and geographical proximity, consideration should be given to preparing one statement for all the Federal actions involved. Agencies in such cases should consider the designation of a single "lead agency" to assume supervisory responsibility for preparation of a joint statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. The statement should contain an evaluation of the full range of Federal actions involved, should reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Some relevant factors in determining an appropriate lead agency are: The time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the project's environmental effects. Questions concerning "lead agency" decisions should be raised with CEQ through TES. For projects serving and primarily involving land owned by or under the jurisdiction of another Federal agency, that agency may be the appropriate lead agency.

(d) *Applicants.* Where the agency requests an applicant for financial assistance or other agency approval to submit an environmental assessment, the responsible official will (1) assist the applicant by outlining the information required, and (2) in all cases make his own evaluation of the environmental issues involved and take responsibility for the scope and content of draft and final environmental statements.

### § 520.24 Internal processing of draft environmental impact statements.

Before circulating a DEIS for external review, the official responsible for the DEIS shall receive the concurrence of the Associate Administrator for Planning and Evaluation and the Chief

## 49 CFR Ch. V (10-1-06 Edition)

Counsel; and prepare a memorandum for approval by the Administrator which shall:

(a) Set forth the basis on which it was determined that a potentially significant environmental effect exists;

(b) Attach the DEIS;

(c) Identify the Federal, State, and local agencies and private sources from which comments on the DEIS are proposed to be solicited (see Attachment 2);<sup>1</sup> and

(d) Include a recommendation on whether a public hearing on the proposed action should be held.

### § 520.25 External review of draft environmental impact statements.

(a) *Requirements.* The official responsible for the DEIS shall:

(1) Transmit 5 copies of the DEIS to the CEQ and 2 copies to TES;

(2) Solicit comments from all Federal, State, and local agencies which have jurisdiction by law or special expertise with respect to the possible environmental impact involved, and from the public (see Attachment 2); and

(3) Inform the public and interested parties of the availability of the DEIS and provide copies as appropriate; and

(4) Allow a comment period of not less than 45 days from the Friday of the week following receipt of the draft impact statement by CEQ. Requests for extensions shall be granted whenever possible, and particularly when warranted by the magnitude and complexity of the statement or the extent of citizen interest.

(b) *Procedures—(1) Federal and Federal-State agency review.* (i) The DEIS shall be circulated for review to the Federal and Federal-State agencies with special expertise or jurisdiction by law with regard to the potential environmental impact involved. These agencies and their relevant areas of expertise are identified in Attachment 2.

(ii) For actions within the jurisdiction of the Environmental Protection Agency (air or water quality, solid wastes, pesticides, radiation standards, noise), the DEIS shall be sent to EPA.

(iii) For actions which would affect any property that is included in the

<sup>1</sup> Filed as part of the original document.

National Register of Historic Preservation, the DEIS should be sent to the Advisory Council on Historic Preservation and the State Liaison Office for Historic Preservation.

(2) *State and local review.* Where a review of the proposed action by State and local agencies authorized to develop and enforce environmental standards is relevant, comments are to be solicited directly from such agencies with known responsibilities in environmental matters, and shall be obtained as follows:

(i) Where review of direct Federal development projects, and of projects assisted under programs listed in Attachment D to revised OMB Circular A-95 (as implemented by DOT 4600.4B "Evaluation, Review and Coordination of DOT Assistance Programs and Projects", dated February 27, 1974), takes place prior to preparation of an environmental statement, comments of the reviewing agencies on the environmental effects of the proposed project are inputs to the environmental statement. These comments shall be attached to the draft statement when it is circulated for review and copies of the draft shall be sent to those who commented. A-95 clearinghouses or other agencies designated by the Governor may also secure comments on environmental statements. In all cases, copies of the draft environmental statements shall be sent to clearinghouses and to the applicant whose project is the subject of the statement.

(ii) Comments shall be directly obtained from appropriate State and local agencies, except where review is secured by agreement through A-95 clearinghouses, unless the Governor of the appropriate State has designated some other point for obtaining his review. Instructions for obtaining the views of such agencies are contained in the joint OMB-CEQ memorandum (see Attachment 4). Comments shall be solicited from municipalities and counties on all projects located therein.

(iii) State and local review of NHTSA procedures, regulations, and policies for administering Federal programs of assistance to State and local governments shall be obtained pursuant to procedures established by OMB Circular No. A-85.

(iv) Generally, environmental statements on legislative and budget proposals may be excluded from State and local review.

(3) *General public review.* (i) At the time the DEIS is circulated to Federal, State, and local agencies, public availability of the DEIS for comment and review will be announced by the CEQ in the FEDERAL REGISTER. Copies of the DEIS should be sent to known interested parties, and press releases should be sent to local news media advising where the DEIS is available and how copies may be obtained. The Office of Public Affairs and Consumer Services shall maintain a list of groups, including conservation organizations and motor vehicle manufacturers, known to be interested in the agency's activities, and directly notify such groups of the availability of the DEIS or send them a copy as soon as it has been prepared.

(ii) A DEIS should be available to the public at least 30 days prior to the time of a public hearing on the DEIS.

(iii) Copies of the DEIS will be made available at the NHTSA Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, and, where appropriate, NHTSA Regional Offices, at the offices of any applicants or grantees, at appropriate State, regional, and metropolitan clearinghouses, and local public libraries, and furnished to public and private organizations and individuals with special expertise with respect to the potential environmental impact involved, and to those with an interest in the action who request an opportunity to comment. Copies to be made available to the public shall be provided without charge to the extent practicable, or at a fee which is not more than the actual cost of reproducing copies required to be sent to other Federal agencies, including the CEQ.

(iv) A copy of the DEIS should in all cases be sent to any applicant whose project is the subject of the statement.

(v) If a DEIS is changed to a negative declaration as a result of the public review process, all agencies and individuals that received copies and/or commented on the DEIS must be informed that a negative declaration was substituted for the DEIS and given a brief

## § 520.26

explanation of the reason for such substitution.

(c) *Utilization of comments.* Comments received on the draft statement, and inputs (in summary form, if appropriate) from the processes for citizen participation, shall accompany the environmental statement through the normal internal project or program review process.

### § 520.26 Public hearings.

(a) A public hearing on a proposed or ongoing action covered by a DEIS shall be held upon the determination by the official responsible for such action, in consultation with the Associate Administrator for Planning and Evaluation, that a public hearing would be appropriate and in the public interest. In deciding whether a public hearing is appropriate, the responsible official should consider:

(1) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of the commitment of the resources involved;

(2) The degree of interest in the proposal, as evidenced by requests from the public and from Federal, State, and local authorities that a hearing be held;

(3) The likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under the NEPA;

(4) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action; and

(5) The extent of potential environmental impact.

(b) If it is determined that a public hearing is to be held in accordance with paragraph (a) of this section, the official responsible for the action shall both announce the hearing through newspaper articles, direct notification to interested parties, and clearinghouses, and cause a notice to be issued in the FEDERAL REGISTER at least 30 days prior to the time of such hearing:

(1) Identifying the subject matter of the hearing;

## 49 CFR Ch. V (10-1-06 Edition)

(2) Announcing the date, time, and place of the hearing and the procedures to be followed; and

(3) Announcing the availability of the DEIS and any other information, as appropriate, for public inspection at one or more locations in the area affected by the action.

### § 520.27 Legislative actions.

(a) A DEIS on both legislative proposals and reports for which NHTSA either develops the Departmental position or originates the legislation will be cleared with TES, filed with CEQ, and submitted to the Office of Management and Budget through the normal DOT and NHTSA legislative process.

(b) The preparation, circulation, and filing of the environmental statement shall be in accordance with OMB Bulletin 72-6, "Proposed Federal Actions Affecting the Environment."

(c) A DEIS and any comments that have been received should be available to the Congress and to the public for consideration in connection with the proposed legislation or report on proposed legislation. In cases where the scheduling of Congressional hearings on recommendations or reports on proposals for legislation which the Department has forwarded to the Congress does not allow adequate time for the completion of a FEIS, a DEIS may be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text.

### § 520.28 Preparation of final environmental impact statements.

(a) If the action is to go forward and the DEIS has not been changed to a negative declaration, as soon as practicable after the expiration of the comment period and hearing process, if any, the official responsible for the action shall prepare a final environmental impact statement (FEIS), taking into account all comments received and issues raised during such period and process.

(b) The FEIS shall conform to the guidelines for form and content in Attachment 1.