

## § 1216.305

(b) The final environmental impact statement (EIS) should be completed and circulated prior to the decision to proceed from the detailed planning/definition phase to the development/construction (or implementation) phase of the proposed action. For example, the EIS should be completed by, and incorporated with:

- (1) Proposal of an R&D (or SFCDC) project for development/construction;
- (2) Proposal of a major Construction of Facilities project for development/construction;
- (3) Proposal to undertake a significant institutional action (other than a facility project); and
- (4) Proposal to implement a program change.

[44 FR 44485, July 30, 1979, as amended at 53 FR 9761, Mar. 25, 1988]

### § 1216.305 Criteria for actions requiring environmental assessments.

(a) Whether a proposed NASA action within the meaning of the CEQ Regulations (43 FR 55978) requires the preparation of an environmental assessment, an environmental impact statement, both, or neither, will depend upon the scope of the action and the context and intensity of any environmental effects expected to result. A NASA action shall require the preparation of an environmental assessment (§§ 1501.3 and 1508.9 of the CEQ Regulations) provided the action is not one normally requiring an environmental impact statement (paragraph (c)) or it is not categorically excluded from the requirement for an environmental assessment and an environmental impact statement (paragraph (d)).

(b) Specific NASA actions normally requiring an environmental assessment are:

- (1) Specific spacecraft development and flight projects in space science.
- (2) Specific spacecraft development and flight projects in space and terrestrial applications.
- (3) Specific experimental projects in aeronautics and space technology and energy technology applications.
- (4) Development and operation of new space transportation systems and advanced development of new space transportation and spacecraft systems.

## 14 CFR Ch. V (1–1–08 Edition)

(5) Reimbursable launches of non-NASA spacecraft or payloads.

(6) Major Construction of Facilities projects.

(7) Actions to alter ongoing operations at a NASA installation which could lead, either directly or indirectly, to natural or physical environmental effects.

(c) NASA actions expected to have a significant effect upon the quality of the human environment shall require an environmental impact statement. For these actions an environmental assessment is not required. Criteria to be used in determining significance are given in § 1508.27 of the CEQ Regulations (43 FR 55978). Specific NASA actions requiring environmental impact statements, all in the R&D budget category, are as follows:

(1) Development and operation of new launch vehicles.

(2) Development and operation of space vehicles likely to release substantial amounts of foreign materials into the earth's atmosphere, or into space.

(3) Development and operation of nuclear systems, including reactors and thermal devices used for propulsion and/or power generation. Excluded are devices with millicurie quantities or less of radioactive materials used as instrument detectors and small radioisotope heaters used for local thermal control, provided they are properly contained and shielded.

(d) NASA actions categorically excluded from the requirements to prepare either an environmental assessment or an EIS (§ 1508.4 of the CEQ Regulations) fit the following criteria: They are each sub-elements of an approved broadbased level-of-effort NASA science and technology program (basic research, applied research, development of technology, ongoing mission operations), facility program, or institutional program; and they are each managed relatively independently of other related sub-elements by means of separate task orders, Research and Technology Operating Plans, etc. Specific NASA actions fitting these criteria and thus categorically excluded from the requirements for environmental assessments and environmental impact statements are:

(1) R&D (or SFCDC) activities in space science (e.g., Physics and Astronomy Research and Analysis, Planetary Exploration Mission Operations and Data Analysis) other than specific spacecraft development and flight projects.

(2) R&D activities in space and terrestrial applications (e.g., Resource Observations Applied Research and Data Analysis, Technology Utilization) other than specific spacecraft development and flight projects.

(3) R&D activities in aeronautics and space technology and energy technology applications (e.g., Research and Technology Base, Systems Technology Programs) other than experimental projects.

(4) R&D (or SFCDC) activities in space transportation systems engineering and scientific and technical support operations, routine transportation operations, and advanced studies.

(5) R&D (or SFCDC) activities in space tracking and data systems.

(6) Facility planning and design (funding).

(7) Minor construction of new facilities including rehabilitation, modification, and repair.

(8) Continuing operations of a NASA installation at a level of effort, or altered operations, provided the alterations induce only social and/or economic effects but no natural or physical environmental effects.

(e) Even though an action may be categorically excluded from the need for a formal environmental assessment or environmental impact statement, it is not excluded from the requirement for an environmental analysis conducted during the earliest planning phases. If that analysis shows that the action deviates from the criteria for exclusion and it is concluded that there may be significant environmental effects, an environmental assessment must be carried out. Based upon that assessment, a determination must then be made whether or not to prepare an environmental impact statement.

[44 FR 44485, July 30, 1979, as amended at 53 FR 9761, Mar. 25, 1988]

#### § 1216.306 Preparation of environmental assessments.

(a) For each NASA action meeting the criteria of 14 CFR 1216.305(b) and for other actions as required, the responsible Headquarters official shall prepare an environmental assessment (40 CFR 1501.3 and 1508.9 of the CEQ Regulations) and, on the basis of that assessment, determine if an EIS is required; except where action meeting the criteria is strictly of a local nature under the purview of the Field Installation Director.

(b) If the determination is that no environmental impact statement is required, the Headquarters official or Field Installation Director, shall, in coordination with the Associate Administrator for Management, prepare a "Finding of No Significant Impact." (See 40 CFR 1508.13 of the CEQ Regulations.) The "Finding of No Significant Impact" shall be made available to the affected public through direct distribution and publication in the FEDERAL REGISTER, or coordinated with the State Single Point of Contact pursuant to E.O. 12372, as amended, "Intergovernmental Review of Federal Programs," as appropriate.

(c) If the determination is that an environmental impact statement is required, the Headquarters official shall proceed with the "notice of intent to prepare an EIS" (see 40 CFR 1508.22 of the CEQ Regulations). The Headquarters official shall transmit this notice to the Associate Administrator for Management for review and subsequent publication in the FEDERAL REGISTER (see 40 CFR 1507.3(e) of the CEQ Regulations). The Headquarters official shall then apply procedures set forth in 14 CFR 1216.307 to determine the scope of the EIS and proceed to prepare and release the environmental statement in accordance with the CEQ Regulations and the procedures of this subpart.

(d) Environmental assessments may be prepared for any actions, even those which meet the criteria for environmental impact statements (§ 1216.305(c)) or for categorical exclusion