

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 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 clearing-houses, 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;

(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

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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.

(c) The FEIS shall then be submitted to the Chief Counsel by the official responsible for the action, for determination of legal sufficiency.

### § 520.29 Internal review of final environmental impact statements.

(a) Upon completion of the review for legal sufficiency of the FEIS, the Chief Counsel shall transmit 2 copies of the FEIS to TES for concurrence. Unless other notification is provided within 2 weeks after receipt in TES, the statement will be considered concurred in by TES.

(b) After concurrence by TES, the FEIS will be transmitted by the Chief Counsel to the Administrator for approval.

(c) If an action requires the personal approval of the Secretary or Deputy Secretary pursuant to a request by them or by TES, TGC, or the NHTSA office originating the action, the final environmental statement shall be accompanied by a brief cover memorandum requesting the Secretary's or Deputy Secretary's approval of the action.

(1) The memorandum shall have signature lines for the concurrence of the Assistant Secretary for Environment, Safety, and Consumer Affairs, the General Counsel, and the Deputy Secretary, and for the approval of the Secretary or Deputy Secretary.

(2) TES, in conjunction with the Executive Secretary, is responsible for informing the Assistant Secretary for

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Congressional and Intergovernmental Affairs and the Office of Public Affairs of the Secretary's decisions so that they, in coordination with the operating administrations or other Secretarial Offices involved, may take the appropriate actions.

### § 520.30 Availability of final environmental impact statements.

(a) Pending final approval and filing with CEQ, a proposed FEIS may be made available to the public and Federal, State, or local agencies if it carries a notation that it is not approved and filed.

(b) After approval by the Administrator, the Associate Administrator for Planning and Evaluation will send 5 copies of the FEIS (together with comments) to the CEQ; individual copies with comments attached to the EPA and all Federal, State, and local agencies and members of the public who submitted comments on the DEIS or requested copies of the FEIS. If the length of the statement or the number of comments make this distribution requirement highly impractical, TES should be consulted to consider an alternative arrangement.

(c) Copies of the FEIS will be made available in 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, and at appropriate State, regional, and metropolitan clearinghouses and, where the impact is localized, public libraries.

(d) The official responsible for the action shall, upon request, make available copies of the FEIS and substantive comments received on the DEIS without charge to the extent practicable, or at a fee which is not more than the actual cost of reproducing copies.

(Authority: Secs. 102(a)(A), 102(2)(C), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 2(b), 4(f), Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1651(b), 1653(f)); E. O. 11514, 35 FR 4247; 40 CFR Part 1500; DOT Order 5610.1B, 39 FR 35234; delegations of authority at 49 CFR 1.45, 1.50 and 501.7)

[40 FR 52396, Nov. 10, 1975, as amended at 48 FR 44081, Sept. 27, 1983]