

12 May 1997

Re: NEPA Call-In Technical Inquiry 0079 - Public Notification of FONSI  
for a Target Area within a Delineated Area

Dear NEPA Call-In User:

This letter is in response to your April 22, 1997 inquiry to NEPA Call-In concerning the public notification process for a Finding of No Significant Impact (FONSI) which was made following the preparation of an Environmental Assessment (EA) on a target area within a larger delineated area. A FONSI was already prepared on the larger delineated area and made available to the public. A second EA, tiered to the original EA, was prepared on the target area. You specifically asked whether or not the follow-on FONSI for the second EA requires the same public notification period.

#### SUMMARY OF FINDINGS

NEPA Call-In found that the public notification procedures for a follow-on FONSI are the same as the original FONSI. NEPA Call-In's detailed findings are provided below.

#### DETAILED FINDINGS

NEPA Call-In reviewed Title 40 Code of Federal Regulations (CFR) Part 1501.4(e)(1), "Whether to prepare an environmental impact statement," which states: "the agency shall make the finding of no significant impact available to the affected public as specified in Part 1506.6." NEPA Call-In reviewed Title 40 CFR Part 1506.6, "Public Involvement" (enclosed). Among other requirements, this section states that Agencies shall: "provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected."

Title 40 CFR Part 1506.6 provides a general overview of the requirement for public review of EA's and FONSI's and lists the proper vehicles for issuing a statement of public availability for FONSI's. Specific requirements of the GSA are outlined in PBS P 1095.4B, "PBS Preparation of Environmental Assessments and Environmental Impact Statements." ADM 1095.1E, "Environmental considerations in decisionmaking" canceled PBS P 1095.4B but states it may be employed on an interim basis until a revised PBS order is issued, which has not yet been done. Chapter 6 of PBS P 1095.4B, "Public information and involvement," Paragraph 3, "Reviewing the finding of no significant impact (FONSI)," states: "If the EA results in a FONSI, give public notice of the fact (under section 1501.4(e) (1) and (2) of the regulations) and make the FONSI available in the regional office for public review and comment before starting the action."

PBS P 1095.4B, Chapter 6, Paragraph 17, "Other public notice," states that the FONSI and EA must be made publicly available for 30 days before taking action. The public is notified as in an EIS (see paragraph 8, "EIS availability"). This 30-day public notice process must be carried out if the proposed action is one that (1) normally would require an EIS as set out in Chapters 2-3 of PBS P 1095.4B, (2) is similar to actions for which several statements have been prepared, or (3) has been announced as the subject of a statement. If any of these three conditions apply to the proposed action, then the 30-day public notification period is required.

No other information was found detailing alternate public notification procedures for a follow-on FONSI. NEPA Call-In recommends handling the follow-on FONSI in the same manner as the original FONSI for the larger delineated area in order to assure that GSA is in compliance with NEPA regulations.

The materials in this TI have been prepared for use by GSA employees and contractors and are made available at this site only to permit the general public to learn more about NEPA. The information is not intended to constitute legal advice or substitute for obtaining legal advice from an attorney licensed in your state and may or may not reflect the most current legal developments. Readers should also be aware that this response is based upon laws, regulations, and policies in place at the time it was prepared and that this response will not be updated to reflect changes to those laws, regulations and policies.

Sincerely,

(Original Signed)

NEPA Call-In Researcher