

where they exist and are adequate to reduce effects below significance; and  
 (5) A listing of agencies and persons consulted.

The EA, supported by the necessary appendices, must be concise for meaningful review and use by the decisionmaker. Studies, technical data and other documents incorporated by reference should be readily available to the public.

c. Projects for which environmental assessments are normally completed include new or revised regulations, directives or policy guidance concerning activities that are not categorically excluded and it is uncertain whether they may have significant environmental effects.

#### 5. Finding of No Significant Impact (FONSI)

A FONSI is a statement that a proposed action has been environmentally assessed (EA completed) and determined not to "significantly affect the quality of the human environment." The FONSI must briefly present the reasons why the action will not have a significant impact on the quality of the human environment.

a. The FMCSA is only required to circulate an EA if there is a special reason to do so. The CEQ regulations require an agency to make an EA available for 30 days [see 40 CFR 1501.4(e)(2)] if there is a precedent-setting or unique action. Thus, the EA will be made available to the public for review and comment for thirty (30) days and notice will be provided in accordance with 40 CFR 1501.4(e)(2) and 1506.6. Normally, the FONSI may be attached to the EA and combined into a single document. However, if the EA is developed on a "precedent-setting or unique action" as referred to in section 1501.4(e)(2), a copy of the EA shall be made available to the public for a period of not less than 30 days before the FONSI is made and the action is implemented.

b. If the FMCSA is engaged in rulemaking under the Administrative Procedure Act or other statute for the purpose of protecting the public health or safety, it may make a finding of no significant impact available for public review (including State and areawide clearinghouses) for thirty (30) days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(1) The proposed action is, or is closely similar to, one which normally requires the preparation of an

environmental impact statement under the procedures adopted by the FMCSA pursuant to 40 CFR 1507.3, or

(2) The nature of the proposed action is one without precedent. See 40 CFR 1501.4(e)(2).

c. *Format.* For FMCSA purposes a FONSI should be a separate, one page document to which an EA is attached and which notes any other environmental document related to it. The format should be as outlined in Appendix 7.

d. *Coordination.* To ensure copies of the FONSI and the EA are available to the public upon request, the originator must forward one copy each to the Administrator and the responsible Associate Administrator program office, and retain one copy each in the office of the preparer and the appropriate program office. For actions involving a notice to be published in the **Federal Register** or where a docket has been established in the DOT Docket Management System (DMS), the originator must forward one single-sided copy suitable for black and white scanning to the staff responsible for the **Federal Register** notice or FMCSA docket. The staff person responsible for the FMCSA docket will forward the FONSI and EA to the appropriate docket for public viewing on the World Wide Web (www).

#### 6. Environmental Impact Statement (EIS)

a. An EIS is prepared for actions significantly affecting the quality of the human environment. It describes in detail the nature and extent of the environmental impacts of the proposed action and each alternative. The EIS should discuss appropriate mitigation measures for any adverse impacts associated with the proposed action or alternative. FMCSA actions which normally require an EIS include the following:

(1) Actions assessed in an environmental assessment where a finding of no significant effect is not made.

(2) Actions which generate significant controversy because of effects on the human environment.

(3) Actions for which there is a clear need for an Environmental Impact Statement, such that it is unnecessary to first prepare an Environmental Assessment. These would include actions having a significant effect on the following:

- (A) Air quality.
- (B) Noise.
- (C) Hazardous materials.
- (D) Endangered species.

(E) Significant archaeological, cultural or historical resources.

(F) Wetlands.

(G) Property protected under section 4(f) of the DOT Act.

b. Preparation and Processing of EISs.

(1) *Preparation of EISs.* All draft, final, and supplemental EISs (DEISs, FEISs, SEISs) must be prepared as directed in 40 CFR part 1502. A template for the cover page of an FMCSA EIS is included in Appendix 9.

(2) *Circulation of EISs.* FMCSA is adopting the availability of, and the review process for, draft EISs as set forth at 40 CFR 1506.10. The originator of the draft EIS or the responsible Associate Administrator program office must forward copies of the DEIS, FEIS, and SEIS, as applicable, to the Administrator for distribution among Administrator level offices and DOT elements, as appropriate, and for filing 5 copies with the Environmental Protection Agency's (EPA's) Office of Federal Activities. The copies of the environmental documents should be forwarded to the Administrator in sufficient time for review and comment by Administrator level offices and DOT elements as appropriate.

When the State process for intergovernmental review provides that comments are obtained through a designated agency, the DEIS must be circulated to that agency. When there is no designated agency for intergovernmental review, the FMCSA project manager must obtain comments directly from interested State and local agencies.

Additionally, comments must be solicited from the affected and interested public, Federal agencies that have jurisdiction by law or expertise with respect to any environmental impact involved or which are authorized to develop and enforce environmental standards, and any other Federal agency that is affected by the proposed action or has requested a copy of the DEIS. The FEIS and SEIS will be circulated to all those who commented on the DEIS or requested copies of the FEIS, and to any other interested or affected organizations, agencies or individuals.

(3) *Legal Review.* The Headquarters Office of the Chief Counsel must provide final legal sufficiency review of all FMCSA DEISs, FEISs, and SEISs prepared for all actions.

(4) *Environmental Review and Approval.* As noted above, the Administrator has authority to approve all FMCSA DEISs, FEISs, and SEISs in conjunction with the responsible official in the originating program office. With the exception of highly controversial