

November 19, 1976

MEMORANDUM FOR HEADS OF FEDERAL AGENCIES

SUBJECT: Environmental Review Pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 and its Relationship to the National Environmental Policy Act of 1969

This memorandum provides guidance to Federal agencies on how to carry out an evaluation of the impact of federally assisted projects on groundwater supplies.

Section 1424(e) of the Safe Drinking Water Act of 1974 [P.L. 93-523] authorizes the Administrator of the Environmental Protection Agency (EPA) to designate an aquifer for special protection if it is the sole or principal drinking water resource for an area, and if its contamination would create a significant hazard to public health. The Administrator may make this designation on the basis of a citizen petition or upon EPA's own initiative. No commitment for Federal financial assistance, through a grant, contract, loan guarantee or otherwise, may be entered into for any project that the Administrator determines may contaminate such a designated aquifer through a recharge zone so as to create a significant hazard to public health. This memorandum provides information and guidance to Federal agencies regarding the relationship of the review of such projects by the Administrator of EPA to the environmental review process established by the National Environmental Policy Act (NEPA).

If an area is under consideration for designation, EPA will publish notice in the Federal Register and notify the regional offices of Federal agencies. If an area is designated, the Federal agencies will receive notice with a map of the designated area with the recharge zone outlined. In each case relevant A-95 agencies will also be notified.

In general, EPA's reviews and determination for federally supported projects in the recharge zone of an aquifer designated under Section 1424(e) will involve actions subject to the provisions of NEPA and to a large degree will focus on proposed actions for which environmental impact statements (EISs) are prepared. EPA's review will be incorporated within its responsibilities and determinations under NEPA and other environmentally protective laws, including Section 309 of the Clean Air Act. For such actions planned to occur in designated aquifer areas, Federal agencies should send a copy of their decisions to prepare draft EISs * to the appropriate Regional EPA Administrator. This procedure will allow early consultation on projects and help avoid delays. Close coordination should take place between regional Federal agency offices and regional EPA offices during the environmental review process under NEPA, to minimize any adverse impact on aquifers designated or under consideration for designation pursuant to Section 1424(e).

EPA may conduct a special review of Federal aid projects that are in the vicinity of recharge zones of aquifers designated under Section 1424(e) on its own initiative or on the basis of citizen petition. If it decides to conduct a special review, EPA will notify the appropriate Federal agency. To date, only the Edwards Underground Reservoir, San Antonio, Texas, has been designated under Section 1424(e). Project review guidelines for Edwards were published by EPA in the Federal Register on December 16, 1975.

This memorandum should be understood to apply only to aquifers designated under Section 1424(e) of the Safe Drinking Water Act. Nevertheless, as part of their overall NEPA responsibilities, Federal agencies should continue to identify and analyze any significant groundwater impacts of their actions in cases where a particular aquifer has not been designated by EPA. In doing so, agencies may wish to consult with EPA early in project planning by contacting the appropriate regional office.

If, on the basis of an environmental assessment, it appears that there will be significant impacts on groundwater quality, a full EIS is warranted.

By incorporating evaluation of groundwater impacts into planning of federally assisted projects pursuant to NEPA, Federal agencies will avoid potential delays which might have been caused by Safe Drinking Water Act requirements. Agencies should review their NEPA procedures to assure that sufficient attention is given to evaluating potentially significant groundwater impacts of programs and projects. CEQ will be glad to assist in this effort.

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Acting Chairman