

(12) Excessive working of propellers or engines.

(13) Landing or mooring.

(14) Deposit of refuse.

(15) Aids to navigation. Persons in charge of log rafts or other tows, and the masters of vessels and boats using the canal, shall keep a careful watch when passing buoys or other aids to navigation and promptly report to the District Engineer or his authorized assistants any displacement or damage to such aids.

NOTE.—Aids to navigation and other related data are shown on Nautical Chart No. 18447 published by the National Ocean Survey.

(16) Operation of salt water barrier in the large lock of the Hiram M. Chittenden Locks.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; 33 U.S.C. 1.)

Dated: September 22, 1977.

C. A. SELLECK, JR.,
Colonel, Corps of Engineers,
Executive Director of Civil Works.

[FR Doc.77-28665 Filed 9-28-77;8:45 am]

[6506-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 777-7]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Gas turbine installations with a heat input greater than 32.1 gigajoules per hour (3,000 HP) are proposed to be added to the list of source categories which require preconstruction review under the prevention of significant deterioration regulations.

DATES: Comments must be received on or before November 28, 1977.

ADDRESS: Comments must be submitted (preferably in triplicate) to: Environmental Protection Agency, Control Programs Development Division (MD-15), Research Triangle Park, N.C. 27711, Attn.: Mr. Richard G. Rhoads. All public comments received may be inspected and copied at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Richard G. Rhoads, Environmental Protection Agency, Control Programs Development Division (MD-15), Research Triangle Park, N.C. 27711 (919-541-5497).

SUPPLEMENTARY INFORMATION: On December 5, 1974 (39 FR 42510), the Administrator of the Environmental Protection Agency published final regulations for the prevention of significant deterioration of air quality (PSD) applicable in all 55 States and territories. The plan for preventing significant deterioration, as set forth on December 5 and amended on June 9, 1975, is implemented through a preconstruction review of major stationary sources to determine if construction of such sources in a particular area would cause a violation of specified air quality increments. Presently there are 19 source categories which require preconstruction review under the PSD requirements included in the ruling.

Certain gas turbine installations are proposed to be added to the list of sources subject to PSD at this time. Although turbines vary widely in terms of size, fuel type, and emissions, installations greater than 32.1 gigajoules per hour heat input (3,000 HP) will generally have emissions in excess of 25 lbs/hr under the proposed NSPS limit. Therefore, the Administrator feels that such installations meet the criteria for source inclusion as set forth on June 9, 1975 (40 FR 24534), and should be subject to PSD review. While the addition of these gas turbines to the list of PSD categories is now being proposed, the Administrator acknowledges the possible need to revise this action pending the outcome of current deliberations to amend the Clean Air Act.

(Sec. 110 of the Clean Air Act, as amended, 42 U.S.C. 1857c5.)

Dated: September 21, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. In § 52.21, paragraph (d) is revised to read as follows:

§ 52.21 Prevention of significant deterioration.

- (d) * * *
- (i) * * *
- (xx) Gas turbine installations.

[FR Doc.77 28717 Filed 9-28-77;8:45 am]

[FRL-797-7]

[40 CFR Part 85]

EMISSION CONTROL SYSTEM PERFORMANCE WARRANTY REGULATIONS—SHORT TEST ESTABLISHMENT

Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments to the notice of proposed rulemaking, published Wednesday, May 25, 1977 (42 FR 26742), regarding the short test provision of the Clean Air Act.

DATE: All relevant material received on or before November 7, 1977, will be considered.

ADDRESS: All comments should be sent to: Deputy Assistant Administrator, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Paul Lapsley, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, 202-755-0596, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: Requests for another extension of the comment period (the initial comment period was extended by 45 days in an August 9, 1977 FEDERAL REGISTER notice) have been expressed citing the need for additional time following the public workshops to submit comments which would reflect any issues raised in the workshops. The Agency has considered the requests, and decided that an extension would be in the best interest of all parties concerned.

Accordingly the comment period is hereby extended to November 7, 1977.

Dated: September 22, 1977.

ERICK O. STARK,
Acting Assistant Administrator
for Air and Waste Management.

[FR Doc.77-28619 Filed 9-28-77;8:45 am]

[40 CFR Part 148]

[FRL 778-8]

WATER PROGRAMS

Sole or Principal Source Aquifer Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: These proposed regulations implement aquifer requirements of the Safe Drinking Water Act. The regulations establish procedures for designating areas where an aquifer is the sole or principal source of drinking water, and for reviewing commitments of Federal financial assistance to projects in designated areas. The purpose is to prevent grants of Federal financial assistance to projects which may contaminate a "sole source" aquifer so as to create a significant hazard to public health.

DATE: Comment period: November 28, 1977.

ADDRESS: Send comments to: Environmental Protection Agency, Office of Water Supply (WH-550), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Ms. Zoraida J. Carballeira, Program Analyst, State Programs Division, Office of Water Supply (WH-550), Environmental Protection Agency (202-426-3934).

SUPPLEMENTARY INFORMATION:

These proposed regulations implement Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300f, 300h-3(e); 88 Stat. 1660 et. seq.; Pub. L. 93-523).

Section 1424(e) states:

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the FEDERAL REGISTER. After the publication of any such notice, no commitment for Federal financial assistance (through a grant contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

In summary, Section 1424(e) authorizes:

- (a) Designation of sole or principal source aquifer areas; and
- (b) Review of Federal financially assisted projects which may contaminate the aquifer.

DESIGNATION

Subpart B of these regulations establishes requirements for an area to qualify for designation under Section 1424(e). Designation of an area will be made by the Administrator on his own motion, or upon receipt of a public petition meeting specified criteria, if the Administrator determines that an aquifer is the sole or principal source for the area and would, if contaminated, create a significant hazard to public health. The Administrator's determination will be based upon significant Regional input and upon the recommendation of the Regional Administrator.

The FEDERAL REGISTER notice of a designation will include a description of the boundaries of the recharge zone and the streamflow source zone of the aquifer in question. Maps of the area will be made available to the public upon request. Upon designation of an area, the EPA Regional Office in the area will also notify all regional Federal agencies of the designation and will provide the agencies with maps outlining the recharge zone and the streamflow source zone. EPA headquarters will notify the heads of all Federal agencies.

The only area which has been designated to date is the San Antonio, Texas area where the Edwards Underground Reservoir is the sole source of water supply for over 1,000,000 people.

PROJECT REVIEW

Section 1424(e) provides that no commitment of Federal financial assistance shall be made to a project which the Administrator determines may contaminate an aquifer in a designated area through its recharge zone so as to create "a significant hazard to public health." Subpart C of these regulations establishes procedures for review of projects for which an application for Federal financial assistance has been made. The project review process will be implemented by the Regional Administrators with the exception of the final determination which will be made by the Administrator. Regional Administrators are encouraged to explore all available alternatives with the Federal agencies involved, before a recommendation is submitted to the Administrator to determine that a project may contaminate an aquifer in a designated area so as to create a significant hazard to public health.

Programs and actions will be subject to EPA's project review authority only if an application for Federal financial assistance has been submitted. Federal actions such as dredging performed by the Army Corps of Engineers, which do not involve a grant of financial assistance to a project, are not affected by the project review authority granted by Section 1424(e). Similarly, Federal actions of programs performed by contractors for the Federal Government, such as construction of roads on Federal lands by a contractor under the supervision of the Bureau of Land Management are not subject to project review. Although this type of Federal action does not fall within the scope of Section 1424(e), an obligation to evaluate ground water impact may exist based on other authority. Some actions may be subject to the provisions of the National Environmental Policy Act (NEPA), and the preparation of an environmental impact statement (EIS) may be required. Furthermore, in accordance with Executive Order 1752, all Federal facilities have a responsibility to take the initiative in the protection of the environment.

If a commitment of Federal financial assistance is sought which is within the meaning of Section 1424(e), the Administrator then has the authority to review the project for which financial assistance is sought, in order to determine whether the project may contaminate an aquifer in a designated area so as to create a significant hazard to public health. EPA will not be concerned with reviewing, on an individual basis, small, isolated commitments of financial assistance such as individual home mortgage loans (e.g., Farmers Home Administration loans and Veterans' Administration loans) which presumptively have an insignificant impact on aquifer quality. However, EPA may conduct review of the cumulative impact if a large number of such projects is of concern.

Because ground water impact evaluations are not only required under Section

1424(e), but are also an integral part of the responsibilities imposed under the National Environmental Policy Act (NEPA), the process of project review pursuant to Section 1424(e) will be integrated as fully as possible with the review of Federal actions subject to NEPA. All Federal agencies have published guidelines for the implementation of NEPA which provide the basis for determining whether a project will have a "significant impact on the environment." Review under Section 1424(e) requires the closely related determination of whether a project may contaminate an aquifer through its recharge zone so as to pose a "significant hazard to public health." Integration of the two types of review will allow EPA and other Federal agencies to avoid needless duplication of efforts under the two statutes and will prevent inefficient use of resources in carrying out ground water impact evaluations. It will also permit EPA to take advantage of the Federal agencies' and the public's familiarity with the NEPA process. The heads of all Federal agencies have been advised by the Council on Environmental Quality (CEQ) in a memorandum dated November 19, 1976, that NEPA guidelines should be amended to place specific emphasis on the evaluation of the ground water impact of projects which might affect the quality of an aquifer through its recharge zone and that projects should be submitted to a thorough ground water impact evaluation in accordance with NEPA procedures.

Assessment of environmental impact under NEPA results in the preparation of an Environmental Impact Statement (EIS) if an initial environmental assessment shows that a project will have a significant impact on the environment. EPA will ordinarily review the potential impact of projects on aquifers in designated areas pursuant to Section 1424(e) at the time that draft or final EIS's are submitted to EPA. An EIS prepared for a project which is subject to Section 1424(e) as well as NEPA should contain all the information which is necessary for EPA to properly evaluate a project's impact on ground water quality under Section 1424(e). EPA will routinely review under Section 1424(e) all EIS's prepared for projects which are to be located in the recharge zone or streamflow source zones of aquifers in designated areas which may have an impact on ground water quality and for which an application for Federal financial assistance has been made.

Although it is anticipated that established NEPA procedures will ordinarily be sufficient to ensure adequate review of ground water impact pursuant to Section 1424(e), the Regional Administrators shall also have the authority in implementing Section 1424(e) to specifically require that a ground water impact evaluation which will satisfy the requirements of Section 1424(e) be prepared by the Federal agency from which a commitment of financial Administrator's

own motion based on information available to him, or upon receipt of a public petition meeting certain specified criteria. A well-researched ground water impact chapter extracted from an environmental assessment prepared in accordance with NEPA may be sufficient to satisfy such a request for a ground water impact evaluation under Section 1424(e).

To ensure that EPA and the public are informed of projects which may affect the quality of the aquifer, EPA will request from each funding Federal agency that a list of projects for which EIS's will be prepared and which are located in the recharge zone or streamflow source zones of sole source aquifers be periodically submitted to the appropriate Regional Administrator and made available to the public upon request. Once an area is designated the Regional Administrators shall also have discretionary authority to work out with regional Federal agencies any agreements or memoranda of understanding which they feel are necessary to supplement the general regulations and to keep them informed of projects in the area. The Regional Administrators may assume the initiative in obtaining information on commitments of Federal financial assistance which are under consideration and in taking other steps to ensure that they are kept up-to-date on Federal funding of projects in the area. The Regional Administrators may, for example, request lists of applications for Federal financial assistance from the local A-95 Clearinghouse. EPA will rely as much as possible upon existing State capabilities in protecting the ground water quality of aquifers. This reliance will in no way constitute a delegation of project review authority, since this is clearly an EPA responsibility which may not be delegated. However, State assistance can be very valuable in providing the agency with information and comments based on knowledge of local ground water problems. The State's role will, of course, depend upon the individual State's capabilities and interests. Regional Administrators, upon designation of an area, may workout memoranda of understanding with the States in order to determine their participation in the protection of ground water quality in the area.

The content of these regulations is primarily procedural. EPA plans to initiate a study to provide technical guidance to EPA regional reviewers for the assessment of ground water impact evaluations prepared by Federal agencies in three major project categories: (1) Multi-unit housing development, (2) highways, and (3) sewage collection, treatment, and disposal facilities. Forthcoming technical guidance will also contain a detailed outline of the information which should be provided by Federal agencies for those project categories. In the meantime, Section 1424(e) review will be carried out in conjunction with NEPA review as currently implemented.

Experience with the interim guidelines issued for the San Antonio area (40 FR 58292, December 16, 1975) has been eval-

uated in formulating these national regulations.

Public comment on these proposed regulations shall be submitted on or before November 28, 1977 to the following address:

Environmental Protection Agency, Office of Water Supply (WH-550), 401 M Street SW., Washington, D.C. 20460.

Dated: September 22, 1977.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, it is proposed to add Part 148 as follows:

- Subpart A—General Provisions**
- Sec.
- 148.1 Applicability.
- 148.2 Definitions.
- Subpart B—Designation of Sole or Principal Source Aquifer Area**
- 148.10 Submission of petitions.
- 148.11 Decision to initiate designation procedures.
- 148.12 Public hearing.
- 148.13 Determination by the Administrator.
- Subpart C—Project Review**
- 148.20 Project review authority.
- 148.21 Public information.
- 148.22 Submission of petitions.
- 148.23 Decision to review.
- 148.24 Notice of review.
- 148.25 Request for information.
- 148.26 Public hearing.
- 148.27 Decision under Section 1424(e).
- 148.28 Resubmittal of redesigned projects.
- 148.29 Funding to redesigned projects.

AUTHORITY: Sec. 1424(e), Safe Drinking Water Act 42 U.S.C. 300f, 300h-3(e); 88 Stat. 1660 et. seq.; Pub. L. 93-523).

Subpart A—General Provisions

§ 148.1 Applicability.

This part sets forth, pursuant to Section 1424(e) and 1450 of the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523, regulations relating to aquifers which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.

§ 148.2 Definitions.

As used in these regulations and except as otherwise specifically provided, the term(s):

(a) "Act" means the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523.

(b) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(c) "Research zone" means any area through which water enters the aquifer.

(d) "Administrator" (Regional Administrator) means the Administrator (Regional Administrator) of the United States Environmental Protection Agency.

(e) "Person" means an individual, corporation, company, association, partnership, state, or municipality.

(f) "Project" means a program or action for which an application for Federal financial assistance has been made.

(g) "Federal financial assistance" means any financial benefits provided di-

rectly as aid to a project by a department, agency, or instrumentality of the Federal government in any form including contracts, grants, and loan guarantees. Actions or programs carried out by the Federal government itself such as dredging performed by the Army Corps of Engineers do not involve "Federal financial assistance." Actions performed for the Federal government by contractors, such as construction of roads on Federal lands by a contractor under the supervision of the Bureau of Land Management, should be distinguished from contracts entered into specifically for the purpose of providing financial assistance, and will not be considered programs or actions receiving "Federal financial assistance." "Federal financial assistance" is limited to benefits earmarked for a specific program or action and directly awarded to the program or action. Indirect assistance, e.g., in the form of a loan to a developer by a lending institution which in turn receives Federal assistance not specifically related to the project in question, is not "Federal financial assistance" under Section 1424(e).

(h) "Commitment of Federal financial assistance" means a written agreement entered into by a department, agency, or instrumentality of the Federal Government to provide financial assistance as defined in paragraph (g) of this section. Renewal of a commitment which the issuing agency determines has lapsed shall not constitute a new commitment unless the Regional Administrator determines that the project's impact upon a designated aquifer has not been previously reviewed under Section 1424(e). The determination of a Federal agency that a certain written agreement constitutes a commitment shall be conclusive with respect to the existence of such a commitment.

(i) "Streamflow source zone" means the upstream headwaters area which drains into the recharge zone.

(j) "Significant hazard to public health" means any level of contaminant which causes or may cause the aquifer to exceed any maximum contaminant level set forth in any promulgated National Primary Drinking Water Standard at any point where the water may be used for drinking purposes or which may otherwise adversely affect the health of persons, or which may require a public water system to install additional treatment to prevent such adverse effect.

(k) "Aquifer" means a geological formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells or springs.

(l) "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator

of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(m) "Sole or principal source aquifer" means an aquifer which supplies 50 percent or more of the drinking water for an area.

(n) "Area" means a large territory, usually encompassing more than one county.

Subpart B—Designation of Sole or Principal Source Aquifer Areas

§ 148.10 Submission of petitions.

Any person may submit a petition requesting the Administrator to determine that an area has a sole or principal source aquifer. Petitions not meeting the requirements set forth below may be returned to the petitioner with a request that available information be submitted. Any petition shall be submitted in duplicate and shall include:

(a) The name, address, and telephone number of the individual, organization, or other entity submitting the petition;

(b) A brief statement of the requesting person's interest in the Administrator's determination;

(c) A statement of why, in the petitioner's view, contamination of the aquifer would result in a significant hazard to public health;

(d) All pertinent information known to the petitioner regarding:

(1) The aquifer and its location;

(2) The location of the area for which the petitioner alleges the aquifer is the sole or principal source of drinking water;

(3) The population in the area described under subparagraph (2) of this paragraph;

(4) Alternative sources of drinking water for the area described under subparagraph (2) of this paragraph;

(5) The recharge and streamflow source zone (or zones) for the aquifer and its location;

(6) The sources of recharge to the aquifer and their location;

(7) Projects which might contaminate the aquifer through the recharge zone; and

(8) The public water systems utilizing water from the aquifer, the number of people served by each system and the water treatment provided by each system.

(e) Maps showing, to the best of the petitioner's knowledge and belief:

(1) The location and boundaries of the aquifer;

(2) The location and boundaries of the recharge zone or zones for the aquifer; and

(3) The location of the source or sources of recharge to the aquifer.

§ 148.11 Decision to initiate designation procedures.

(a) The Administrator may consider designation of an area on his own initiative, on the initiative of a Regional Ad-

ministrator, or as a response to a public petition.

(b) Upon receipt of a petition meeting the requirements of § 148.10, or upon his own initiative, the Regional Administrator shall review all the information readily available to him which is relevant to the existence of a sole or principal source aquifer. All such information shall be forwarded by the Regional Administrator to the Administrator along with this recommendation.

(c) The Administrator will review all information available to him, determine whether the region should initiate formal designation procedures, and notify the Regional Administrator. If the notification is affirmative, and where appropriate and in the public interest, the Regional Administrator will publish in the FEDERAL REGISTER notice of any petition submitted in accordance with § 148.10 hereof, and shall indicate in the FEDERAL REGISTER the availability for public review of data and information available to the Regional Administrator which are relevant to a determination regarding the existence of a sole or principal source aquifer in the area.

§ 148.12 Public hearing.

Where there is a significant public interest the Regional Administrator may hold a public hearing on whether an area should be designated under this subpart. Any such hearing shall be conducted by the Regional Administrator or his designee in an informal, orderly, and expeditious manner. Where appropriate, limits may be placed upon the time allowed for oral statements, and statements may be required to be submitted in writing. The Regional Administrator will give notice of such a public hearing by any reasonable means he deems appropriate.

§ 148.13 Determination by the Administrator.

The Regional Administrator will make his recommendation on designation to the Administrator no later than six (6) months after the date of publication of the FEDERAL REGISTER notice under § 148.11.

(b) Upon the recommendation of the Regional Administrator, the Administrator shall either make the designation or determine that the area should not be designated. In deciding whether to designate an area under Section 1424(e), the Administrator shall consider:

(1) The availability of alternative sources of drinking water;

(2) The size of the area and population served by the aquifer;

(3) The susceptibility of the aquifer to contamination through the recharge zone;

(4) The location of the aquifer;

(5) The number of public water systems utilizing water from the aquifer, the number of people served by such systems, and the treatment provided by such systems; and

(6) Such other factors as he deems relevant.

(c) If the Administrator determines that an area will be designated, he shall identify the boundaries of the recharge zone, the streamflow source zone, or portions thereof, through which contamination could affect the area for which the aquifer is the sole or principal source of drinking water, and, to the extent known, the water body or bodies which contact such recharge zone.

(d) The Administrator shall publish his determination in the FEDERAL REGISTER, including the basis for his decision.

Subpart C—Project Review

§ 148.20 Project review authority.

(a) Once an area is designated pursuant to Subpart B of this part, no subsequent commitments of Federal financial assistance may be made to projects which the Administrator determines may contaminate the aquifer so as to create a significant hazard to public health.

(b) The Regional Administrator is hereby delegated the authority and assigned responsibility for carrying out the project review process assigned to the Administrator under Section 1424(e) of the Act, except the final determination that a project may contaminate a sole or principal source aquifer in a designated area through its recharge zone so as to create a significant hazard to public health.

(c) The Regional Administrator may review any project which he considers may potentially contaminate a sole or principal source aquifer in a designated area through its recharge zone so as to create a significant hazard to public health.

§ 148.21 Public information.

After an area is designated under Section 1424(e), Federal agencies, for projects located in the recharge zone and streamflow source zones, are required to:

(a) Maintain a list of projects for which environmental impact statements will be prepared in accordance with the National Environmental Policy Act (NEPA);

(b) Revise the list at regular intervals and submit to EPA; and

(c) Make the list available to the public upon request.

§ 148.22 Submission of petitions.

Any person may submit a petition requesting the Regional Administrator to review a project to determine if such project may contaminate an aquifer in an area designated under Subpart B of this part through its recharge zone so as to create a significant hazard to public health. Any such petition shall identify:

(a) The name, address, and telephone number of the individual, organization or other entity submitting the petition;

(b) A brief statement of the requesting person's interest in the Regional Administrator's determination;

(c) The name of the project and Federal agency involved;

In addition, the petitioner is requested to submit to EPA available information on:

(d) Applicable action already taken by State and local agencies including establishment of regulations to prevent contamination of the aquifer and why, in the petitioner's judgment, that action was inadequate;

(e) Any actions taken under the National Environmental Policy Act and why, in the petitioner's judgment, the action was inadequate in regard to evaluation of potential effect on the aquifer;

(f) The potential contaminants involved;

(g) The means by which the contaminant might enter the aquifer; and

(h) The potential impact of the proposed project.

§ 148.23 Decision to review.

(a) The Regional Administrator shall review under Section 1424(e) all projects located in the recharge or streamflow source zone of sole source aquifers for which a draft or final EIS is submitted which may have an impact on groundwater quality and which involve Federal financial assistance as defined in these regulations.

(b) Upon receipt of a public petition, the Regional Administrator shall decide whether the project which is the subject of the petition should be reviewed under Section 1424(e).

(c) The Regional Administrator may decide to review a project upon his own motion.

(d) In determining whether to review a project upon receipt of a public petition or upon his own motion, the Regional Administrator shall consider whether the project is likely to directly or indirectly cause contamination of the aquifer through its recharge zone, taking into account any factors he deems relevant, including:

- (1) The location of the project, and
- (2) The nature of the project.

(e) In determining whether to review a project upon receipt of a public petition or upon his own motion, the Regional Administrator may consult with, or request information from, the Federal agency to which the project application has been made, the applicant seeking Federal assistance, appropriate State and local agencies, and other appropriate persons or entities.

(f) In determining whether to review a project which is the subject of a public petition, the Regional Administrator may request such additional information from the petitioner as he deems necessary.

§ 148.24 Notice of review.

(a) Notice to Federal agency. If the Regional Administrator decides upon receipt of a public petition or upon his own motion to review a project under Section 1424(e), he shall give written notification of the decision to the Federal agency from which financial assistance is sought. The notification shall include a description and identification of the project.

(b) Notice to Public. When the Regional Administrator undertakes to review a project pursuant to § 148.23 above, he shall provide public notice of project review by such means as he deems appropriate. The notice shall set forth the availability for public review of all data and information available, and shall solicit comments, data and information with respect to the determination of impact under Section 1424(e). The period for public comment shall be 30 days after public notice unless the Regional Administrator extends the period at his discretion or a public hearing is held under § 148.26.

§ 148.25 Request for information.

In reviewing a project under Section 1424(e), the Regional Administrator may request any additional information from the funding Federal agency which is pertinent to reaching a decision. If full evaluation of the groundwater impact of a project has not been submitted in accordance with the agency's NEPA procedures, the Regional Administrator may specifically request that the Federal agency submit a groundwater impact evaluation of whether the proposed project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health.

§ 148.26 Public hearing.

If there is significant public interest, the Regional Administrator may hold a public hearing with respect to any project or projects to be reviewed if he finds that such a hearing is necessary and would be helpful in clarifying the issues. Public hearings held under this section should be coordinated, if possible, with other Federal public hearings held pursuant to applicable laws and regulations. Any such hearing shall be conducted by the Regional Administrator or designee in an informal, orderly and expeditious manner. Where appropriate, limits may be placed upon the time allowed for oral statements, and statements may be required to be submitted in writing. The record will be held open for further public comment for seven (7) days following the close of the public hearing.

§ 148.27 Decision under Section 1424(e).

(a) As soon as practicable after the submission of public comments under Section 1424(e) and information requested by the Environmental Protection Agency from the originating Federal agency, on the basis of such information as is available to him, the Regional Administrator shall review the project taking all relevant factors into account, including:

- (1) The extent of possible public health hazard presented by the project;
- (2) Planning, design, construction, operation, maintenance and monitoring measures included in the project which would prevent or mitigate the possible health hazard;

(3) The extent and effectiveness of State or local control over possible contaminant releases to the aquifer;

(4) The cumulative and secondary impacts of the proposed project; and

(5) The expected environmental benefits of the proposed project.

(b) After reviewing the available information, the Regional Administrator shall:

(1) Determine that the risk of contamination of the aquifer through the recharge zone so as to create a significant hazard to public health is not sufficiently great so as to prevent commitment of Federal funding to the project; or

(2) Forward the information to the Administrator with his recommendation that the Administrator determine that the project may contaminate the aquifer through the recharge zone so as to create a significant hazard to public health.

(c) After receiving the available information forwarded by the Regional Administrator, the Administrator shall:

(1) Determine that the risk of contamination of the aquifer through the recharge zone so as to create a significant hazard to public health is not sufficiently great so as to prevent commitment of Federal funding to the project; or

(2) Determine that the project may contaminate the aquifer through the recharge zone so as to create a significant hazard to public health.

(d) Notice of any decisions by the Regional Administrator under paragraph (b)(1) of this section or by the Administrator under paragraph (c)(1) and (c)(2) to prevent a commitment of Federal funding shall be published in the FEDERAL REGISTER. Such notices shall include a description of the proposed project, and a statement of the decision with an accompanying statement of facts and reasons.

§ 148.28 Resubmission of redesigned projects.

If a project is redesigned in response to EPA's objections, the applicant for Federal financial assistance or the grantor agency may file a petition with the Regional Administrator for withdrawal of the determination that the project may contaminate the aquifer through the recharge zone so as to create a significant hazard to public health. Any such petition shall demonstrate how the project has been redesigned so as to justify the withdrawal of EPA's objections. If appropriate, the Regional Administrator may request public comments or hold an informal public hearing to consider the petition. After review of pertinent information, the Regional Administrator shall either deny the petition or recommend to the Administrator that the initial determination that a project may contaminate the aquifer be vacated. Upon receipt of a recommendation from the Regional Administrator that a determination be vacated, the Administrator shall either deny the petition or order that the initial determination be vacated. The final decision regarding a petition shall be published in the FEDERAL REGISTER with an accompanying statement of reasons.

§ 148.29 Funding to redesigned projects.

After publication of a decision that a proposed project may contaminate a sole or principal source aquifer in a designated area through its recharge zone so as to create a significant hazard to public health, a commitment for Federal financial assistance may be entered into, if authorized under another provision of law, to plan or redesign such project to assure that it will not so contaminate the aquifer.

[FR Doc. 77-28695 Filed 9-28-77; 8:45 am]

[6560-01]

[40 CFR Part 250]

[FRL 797-6]

DEVELOPMENT OF REGULATIONS FOR THE TRANSPORTATION OF HAZARDOUS WASTE

Joint Public Meeting

AGENCY: Environmental Protection Agency and Office of Hazardous Materials, Department of Transportation

ACTION: Supplemental advanced notice of proposed rulemaking; notice of meeting.

SUMMARY: The Environmental Protection Agency announces a joint meeting with the Office of Hazardous Materials Operations/DOF to determine whether current DOT regulations under the Hazardous Materials Transportation Act of 1974 may have the potential to be expanded to partially meet the mandates of the Resource Conservation and Recovery Act of 1976.¹ The purpose of this meeting is to maximize the coordination of the RCRA regulatory requirements with existing DOT rules for the benefit of all parties.

DATES: The meeting will be held on October 26, 1977. Comments must be received on or before November 9, 1977.

ADDRESSES: Send comments to: U.S. Environmental Protection Agency, Office of Solid Waste, Hazardous Waste Materials Division, Docket Section, Room 2111, 401 M St. SW., Washington, D.C. 20460, and Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

The meeting will be held at the Ramada O'Hare Inn, Mannheim and Higgins Road, Des Plaines, Ill., 312-827-5131.

SUPPLEMENTARY INFORMATION: The Resource Conservation and Recovery Act of 1976 (RCRA) mandates a comprehensive Federal-State-local approach to all aspects of waste management, in-

cluding resource conservation and recovery, land disposal of municipal and industrial wastes, and authorizes a new regulatory program for hazardous wastes.

The Environmental Protection Agency (EPA) under Subtitle C—Hazardous Waste Management—is required to write standards for generators, shippers, transporters, and receivers of hazardous waste. In addition EPA is required to develop criteria and a list to define what are hazardous wastes.

During the analysis of the RCRA requirements, it became apparent that current Department of Transportation (DOT) regulations under the Hazardous Materials Transportation Act of 1974 (HMTA) may have the potential to be expanded to partially meet the mandate of RCRA. EPA would like to maximize the coordination of the RCRA regulatory requirements with existing DOT rules for the benefit of all parties.

The Act requires that regulations developed under Subtitle C of RCRA be consistent with the requirements of HMTA and the regulations thereunder. In addition, it authorizes the EPA to make recommendations to DOT respecting regulations for hazardous wastes under HMTA and for the addition of materials to be covered by that Act.

Authority for the regulation of hazardous waste transportation is contained in both HMTA and RCRA. The HMTA is concerned with the protection of public safety, health, and property during the loading, transportation, storage incident to transportation, and unloading of hazardous materials. HMTA requires the Secretary of Transportation to designate materials as hazardous upon finding that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property. The materials designated as hazardous may include, but are not limited to: explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases.

Under Subtitle C, RCRA is concerned with the protection of the public health and the environment from improper hazardous waste management during transportation, treatment, storage or disposal. Hazardous waste as defined by RCRA is a solid waste, or combination of solid wastes which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of. In turn, RCRA defines "solid" waste to include solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and, with some exception, agricultural operations, and from commu-

nity activities. The Administrator shall take into account, when designating hazardous wastes, toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics.

For the transportation of hazardous wastes under RCRA, Section 3002 requires the Administrator to develop standards for generators/shippers of hazardous wastes concerning labeling practices for any containers used for storage, transport, or disposal that will identify accurately such wastes; use of appropriate containers, and use of a manifest system to assure that all hazardous waste generated is designated for treatment, storage or disposal to a permitted hazardous waste management facility. The manifest as defined by the Act means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage. Section 3003 requires the Administrator to develop standards for transporters of hazardous waste concerning recordkeeping, transportation of hazardous wastes only if properly labeled, compliance with the manifest system and transportation of all the hazardous wastes to the designated permitted facility. In addition, the Administrator is considering the development of standards for the acceptance of hazardous waste for transport, loading and stowage of hazardous wastes, notification in the event of a spill and spill reporting, marking and placarding of vehicles, and notification of the transportation of hazardous wastes.

Many of the standards being considered under RCRA for transportation are currently required under HMTA. Specifically, definition of a hazardous material (waste), labeling, placarding, packaging, manifest (shipping document) spill notification and reporting, and loading and stowage. In addition, HMTA has provisions for the development of standards concerning record-keeping and registration.

In December of 1976 the Department of Transportation evidenced concern for the development of regulations for hazardous waste transporters, HM-145. Environmental and Health Effects Materials Advance Notice of Proposed Rulemaking, published December 9, 1976, in the FEDERAL REGISTER, presented several questions concerning hazardous wastes: "with regard to hazardous wastes, what classification system may be used to clearly identify mixtures as opposed to single compound materials; what packaging may be appropriate for transportation; and how existing transportation documentation can be used to cover transport of hazardous wastes from the generator (shipper) to the disposer (consignee)." Several comments were received expressing concern for the development of hazardous waste transportation regulations by both EPA and DOT.

¹ See 42 FR 23332, May 2, 1977, for information on Hazardous waste guidelines and regulations.