

policy was promulgated and determined that it constituted a "general statement of policy" and was therefore exempt from the notice-and-comment requirements of section 4(a) of the APA, 5 U.S.C. 553(b)(A).

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Orders submitted by the firms. The DOE granted the following applications and issued the requested Protective Orders as Orders of the Department of Energy:

Name and Case No.

Marathon Oil Company, HRJ-0006
Committee of Marathon Customers;
Township Oil Company; Office of Solicitor,
HRJ-0007
Marathon Oil Co.; Growmark, Inc.; Office of
Solicitor, HRJ-0006

Supplemental Order

Office of Special Counsel for Compliance,
March 5, 1982, HRX-0015

On January 21, 1982, the Office of Hearings and Appeals (OHA) issued a Decision and Order to the Office of Special Counsel for Compliance (OSC), granting OSC's Motion for Discovery directed toward the Gulf Oil Corporation. Office of Special Counsel, 9 DOE ¶ 84,010 (1982). In the decision OHA did not rule on the specific OSC interrogatories and document requests but instead directed the parties to reach a stipulation concerning the proper scope of discovery. Gulf and OSC were unable to reach such a stipulation. Consequently, the Office of Hearings and Appeals issued a Supplemental Order ruling on amended discovery requests OSC filed on February 16, 1982. The OSC's amended requests were granted subject to certain limitations and modifications either agreed to by OSC and Gulf or mandated by OHA.

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ENVIRONMENTAL PROTECTION AGENCY

[WH-10-FRL 2054-6]

Determination of Water Source; Whidbey and Camano Island

AGENCY: Environmental Protection Agency.

ACTION: Final determination.

SUMMARY: The Administrator of the Environmental Protection Agency has determined that the Whidbey Island Aquifer is the sole or principal source of drinking water for Whidbey Island, Washington and that the Camano Island Aquifer is the sole or principal source of drinking water for Whidbey Island and that the Camano Island Aquifer is the sole or principal source of drinking water for Camano Island, Washington. These determinations are in response to two petitions submitted by the Island

County, Washington, Board of Commissioners on behalf of the Island County Health Department and the Island County Planning Department. The Commissioners requested that the EPA makes a determination under section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523 as amended, that the separate aquifers underlying Whidbey Island and Camano Island are sole or principal drinking water sources for the two islands respectively which, if contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects, constructed anywhere on either Whidbey or Camano Island, will be subject to EPA review to ensure that these projects are designed and constructed so as to protect the drinking water quality of the aquifers.

EFFECTIVE DATES: April 6, 1982.

ADDRESS: The data upon which these findings are based are available to the public and may be inspected during normal business hours at the library of the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 and at the Island County Health Department or Island County Planning Department, Courthouse Annex, 6th and Main, Coupeville, Washington, 98239 and at the Camano Island Courthouse Annex, 121 Northeast Camano Drive, Camano Island, Washington 98292.

FOR FURTHER INFORMATION CONTACT: Wendy A. Marshall, Drinking Water Programs Branch, Environmental Protection Agency, Region 10, at (206) 442-1223 or FTS 399-1223.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) the Administrator of the Environmental Protection Agency has determined that the Whidbey Island Aquifer is the sole or principal source of drinking water for Camano Island. Both aquifers supply water to public water systems and individual (single family) wells. Pursuant to section 1424(e), Federal financially assisted projects, constructed anywhere on either Whidbey or Camano Island, will be subject to EPA review.

I. Background

Section 1424(e) of the Safe Drinking Water Act 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 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 financial assistance may, if authorized under another provision of the law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

On April 13, 1981, the Island County Board of Commissioners on behalf of the Island County Health Department and the Island County Planning Department submitted petitions to the U.S. Environmental Protection Agency requesting designation of both the Whidbey Island Aquifer and the Camano Island Aquifer as "Sole Source" Aquifer Areas. The petitioners are interested in protecting their drinking water sources from contamination and wish to cooperate with the Environmental Protection Agency to ensure that all projects receiving Federal financial assistance will be consistent with our common goal of safeguarding the fragile island aquifers for present and future uses. A Notice of Receipt of this petition, together with a request for comments, was published in the Federal Register on October 1, 1981, 46 FR 48314. Comments in favor of the proposed action were received from the National Park Service. No negative comments were received. Because of this lack of adverse comment, a public hearing was not held.

Among the determinations which the Administrator must make in connection with the designation of an area under section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of water supply, and (2) whether, if contaminated, a significant hazard to public health would result.

On the basis of the substantial amount of information which is available to this Agency, the Administrator has made the following findings, which are the basis for the determinations noted above:

1. The Whidbey Island Aquifer is the "sole source" of drinking water for approximately 24,150 people. Less than 15 percent of the public water supply systems and individual wells on the Island are treated by chlorination. No treatment is provided for 85 percent of the systems. There is no alternative source of drinking water supply which could economically replace the Whidbey Island Aquifer.

2. The Whidbey Island Aquifer is particularly vulnerable to contamination from surface activities because of the highly permeable glacial sands and gravels of which Whidbey Island is composed. The aquifer is also susceptible to salt water intrusion in areas where the ground-water aquifer is overpumped.

There is evidence of localized contamination from industrial waste disposal, septic tanks, and salt water intrusion. Contamination of the Whidbey Island Aquifer would pose a significant hazard to those people dependent on the aquifer for water supply.

3. The Camano Island Aquifer is the "sole source" of drinking water for the entire population of Camano Island (approximately 5,100 persons). Current water supply treatment for both public water supply systems and individual wells is limited to chlorination for less than 15 percent of the systems. No treatment is provided for the remaining systems for drinking purposes. There is no alternative source of drinking water supply which could economically replace the Camano Island Aquifer.

4. The Camano Island Aquifer, just as the Whidbey Island Aquifer, is particularly vulnerable to contamination from surface activities because of the highly permeable glacial sands and gravels of which Camano Island is composed. The aquifer is also susceptible to salt water intrusion in areas where the ground-water aquifer is overpumped. Contamination of the Camano Island Aquifer would pose a significant hazard to those people dependent on the aquifer for water supply.

EPA, Region 10 is working with the Federal agencies which may in the near future fund projects in the areas of concern to EPA. Interagency procedures are being developed whereby EPA will be notified of proposed commitments for projects which could contaminate the Whidbey Island Aquifer and/or the Camano Island Aquifer. Although the project review process cannot be delegated, the Regional Administrator in Region 10 will rely to the maximum extent possible upon any existing or future State and local control mechanisms in protecting the ground-water quality of these two aquifers.

II. Description of the Whidbey Island Aquifer and the Camano Island Aquifer

Whidbey and Camano Islands, the two principal inhabited islands in Island County, Washington are situated in the northern reaches of Puget Sound on the

east end of the Strait of Juan de Fuca. Total land area is approximately 212 square miles, of which Whidbey Island accounts for 172 square miles and Camano 40 square miles. Both islands are long and narrow; no place on either is more than 2½ miles from a shoreline. The physical boundaries of the recharge zones of the Islands' aquifers are coincident with their land surface boundaries (shorelines); however, the boundaries of the aquifers themselves extend beneath the surrounding marine waters in most areas to an unknown distance.

Both the Camano Island Aquifer and the Whidbey Island Aquifer consist of unconsolidated glacial sand and gravel deposits which are interspersed with semi-permeable glacial till layers and discontinuous clay lenses. These semi-permeable till layers and clay lenses retard vertical flow locally, resulting in numerous semi-perched aquifer zones, surface springs, and marshes and ponds. However, except for highly localized withdrawal points, each saturated gravel and/or sand zone responds to hydraulic stresses (pumping influences and recharge) as if it was part of a single, but complex, aquifer on each island.

Recharge occurs by direct infiltration of precipitation, and by delayed infiltration through semi-perched zones and surface ponds. The surface soils of each island are comprised of the same glacial deposits as the underlying aquifers. Thus, the recharge zones of each aquifer include virtually the entire land surface of each island.

III. Economic and Regulatory Impact

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this certification the term "small entity" shall have the same meaning given in Section 601 of the RFA. This action is only applicable to the two islands covered by the petitions submitted by the Island County government. The only affected entities will be those island-based businesses, organizations or governmental jurisdictions that submit applications for Federal financial assistance to a Federal agency. While the number of small entities which submit such applications cannot be anticipated, EPA has stated that it "will not be concerned with reviewing, on an individual basis, small isolated commitments of financial assistance * * * 42 FR 31621 (September 29, 1977).

Thus the number of projects reviewed on these islands should be very small; protection of the aquifer will normally require review of larger, potentially contaminating or over-pumping projects such as housing projects, highways or sewage treatment plants which would not ordinarily be small entities under the RFA. See, 42 FR 51621, 51622.

For those small entities which are subject to review, the impact of today's action will not be significant. As noted in the Federal Register preamble cited above, most projects subject to this review will be preceded by a ground-water impact assessment under other Federal laws, such as the National Environmental Policy Act (NEPA). Integration of those related review procedures with Sole Source Aquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving a grant of assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of \$100 million or more on the economy, nor will it cause any major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States' enterprises to compete in domestic or export markets. Today's action only affects Whidbey and Camano Islands. It provides an additional review of ground-water protection measures, including any instituted by local authorities, for only those projects which request Federal financial assistance on these two islands. This rule was submitted to the Office of Management and Budget in accordance with the requirements of the Executive Order. (Safe Drinking Water Act, Pub. L. 93-523, as amended)

Dated: March 31, 1982.

Anne M. Gorsuch,
Administrator.

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