Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The Commission's Rules of Practice require all persons filing documents with the Commission to serve a copy of those documents on each person on the official service list for the project, which is maintained by the Secretary.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

k. Niagara Mohawk Power Corporation and Fourth Branch Associates (co-licensees) state that they filed the Offer of Settlement for the purpose of resolving between the co-licensees all issues associated with the Mechanicville Project. The co-licensees request that the Commission approve and implement the Settlement Agreement; rescind its acceptance of the surrender of the license for the Mechanicville Project; and, upon effectiveness of a license transfer, terminate the surrender proceeding. The Settlement Agreement transfers all of Niagara Mohawk Power Corporation's interests in the Project to Fourth Branch Associates and, in turn, Fourth Branch Associates will discontinue all proceedings against Niagara Mohawk Power Corporation.

l. A copy of the settlement agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. 03-10965 Filed 5-2-03; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project—Extension of Electric Power Resource Commitments by Application of the Energy Planning and Management Program Power Marketing Initiative

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of decision.

SUMMARY: Western Area Power Administration (Western) will apply the Energy Planning and Management Program (EPAMP) Power Marketing Initiative (PMI) to the Parker-Davis Project (P-DP), as proposed in a **Federal Register** Notice (FRN) published on August 8, 2002. Western will market additional capacity that will be available October 1, 2008, creating a larger resource pool and making additional capacity and energy available to new contractors. The additional capacity will also allow Western to extend a larger percentage of existing contractors' current Firm Electric Service (FES) allocations.

DATES: Western's decision to apply the PMI to the P-DP will become effective on June 4, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Tinsley, Project Manager, Western Area Power Administration, PO Box 6457, Phoenix, AZ, 85005-6457, telephone (602) 352-2525, email *post2008pdp@wapa.gov.*

SUPPLEMENTARY INFORMATION:

Authorities: Western markets P-DP power resources under the Department of Energy (DOE) Organization Act (42 U.S.C. 7101-7352); and the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by later acts, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that apply specifically to P-DP.

Background: Western published its proposal to apply the EPAMP PMI to the P-DP on August 8, 2002 (67 FR 51580). We proposed to extend 94 percent of the current P-DP FES allocations for 20 years. The remaining 6 percent of resources would form a resource pool for allocation to new contractors.

In the August 8, 2002, notice, Western requested comments on the proposal and gave interested parties until November 6, 2002, to submit written comments. Public information and comment forums were held in Las Vegas, Nevada; Phoenix, Arizona; and Ontario, California. Western received comments from firm power contractors, Native American tribes, and other potential contractors. Comments may be viewed on Western's Web site at *http://www.wapa.gov/dsw/pwrmkt.* Western also addresses specific comments later in this notice.

Decision: Based on comments received and a review of available resources, Western will: (1) Apply the PMI to the Parker-Davis Project remarketing effort; (2) Increase the summer and winter marketable capacity to 258.985 megawatts (MW) and 198.240 MW respectively; (3) Increase the capacity available to existing P-DP contractors as of October 1, 2008; (4) Round up allocations of less than 1 MW to an even 1 MW in summer and winter, and allocations of less than 2 MW to an even 2 MW in summer only; (5) Extend for 20 years 93 percent of existing contractors' adjusted allocations; and, (6) Use the remaining 7 percent of adjusted allocations for the resource pool.

Western computed existing contractors' extension allocation amounts using the formula contained in the EPAMP PMI (10 CFR part 905.33):

Customer Contract Rate of Delivery (CROD) today/total project CROD under contract today × project-specific percentage × marketable resource determined to be available at the time future resource extensions begin = CROD extended.

After adjusting each contractors' CROD by applying the increase in marketable capacity and then reducing the adjusted allocations by 7 percent, the net effect to each contractor's current allocation is a reduction of less than 1 percent. (See Table 1 for a list of each contractor's extended allocation.) The 7 percent reduction to the adjusted allocations will create a resource pool with 16.779 MW of summer capacity and 12.903 MW of winter capacity. Western rounded these capacities to 17 MW in summer and 13 MW in winter. The new resource pool includes 0.869 MW of summer withdrawable capacity and 0.619 MW of winter withdrawable capacity. The associated energy will equal 3,441 kWh/kW in summer and 1,703 kWh/kW in winter, based on the current marketing plan criteria. Western will request applications for resource pool allocations under a separate process.

Table 1
Revised Contract Values
Capacity Allocation (kW)

Allottee	Summer			Winter		
	Withdrawable FES Allocation (kW)	Non-withdrawable FES Allocation (kW)	Total FES Allocation (kW)	Withdrawable FES Allocation (kW)	Non-withdrawable FES Allocation (kW)	Total FES Allocation (kW)
AEPCO	0	23,637	23,637	0	18,284	18,284
CRC	3,560	53,000	56,560	2,097	38,655	40,752
CRIT	0	8,839	8,839	0	5,903	5,903
ED3 (1)	2,143	3,021	5,164	1,438	2,765	4,203
Edwards AFB	842	17,318	18,160	498	14,040	14,538
FMIT	0	2,000	2,000	0	1,192	1,192
Fredonia	486	1,514	2,000	250	1,084	1,334
IID	0	32,327	32,327	0	26,135	26,135
Luke AFB (2)	808	1,795	2,603	489	2,124	2,613
March AFB (3)	1,410	3,129	4,539	766	3,321	4,087
Mesa	0	10,379	10,379	0	7,950	7,950
Needles (4)	0	5,065	5,065	0	4,038	4,038
Nellis AFB	890	1,977	2,867	489	2,124	2,613
Nevada Test Site	692	1,537	2,229	405	1,759	2,164
SCIP	849	16,218	17,067	507	12,540	13,047
SRP	0	31,483	31,483	0	22,358	22,358
Thatcher	0	1,000	1,000	0	1,000	1,000
Tohono O'odham Utility Authority (5)	890	1,977	2,867	438	1,900	2,338
Wickenburg	566	1,434	2,000	284	1,236	1,520
WMI&DD	429	2,650	3,079	282	2,148	2,430
Yuma Irrigation District	0	1,000	1,000	0	1,000	1,000
Yuma MCAS	665	1,477	2,142	334	1,450	1,784
Yuma Proving Ground	931	4,268	5,199	564	3,490	4,054
Totals	**15,161**	**227,045**	**242,206**	**8,841**	**176,496**	**185,337**

(1) Contractual allocation of ED1 assigned to ED-3, effective July, 1989

(2) Gila Bend Aux allocation assigned to Luke AFB, effective October 1, 1992

(3) George AFB and Norton AFB allocations assigned to March AFB effective October 1, 1992

(4) Western's seasonal energy obligations to the City of Needles will reflect the same ratio of energy to capacity specified in the Conformed Criteria (49 FR 50587, December 28, 1984)

(5) Name changed from Papago Tribal Utility Authority to Tohono O'odham Utility Authority on August 1, 1991

Comments and Discussion

This section summarizes and discusses the comments received during the public process on the applicability of the PMI to P–DP. All written comments and transcripts from the public comment forums are available on Western's Web site at *http://www.wapa.gov/dsw/pwrmkt.*

Application of the Power Marketing Initiative

Background: Consistent with other recent Western marketing efforts, Western proposes to apply the PMI to the P–DP.

Comments and discussion: Most commenters supported applying the PMI to P–DP, citing the strong precedent in other regions and noting that "it has worked well for Western, for the Federal government, and for customers." Western believes the P–DP has no unique characteristics to exempt it from the PMI, which we have applied in

every remarketing effort since its adoption in 1995. One commenter said that it is not a question of whether, but how, the PMI applies to P–DP, adding that "not to treat Parker-Davis under these rules would be arbitrary and capricious and abusive discretion."

Several commenters opposed applying the PMI, instead favoring a complete reallocation of P–DP resources. Some supported extending small contractors' allocations at current levels while reallocating the remaining amount. However, extending some contracts and conducting a complete reallocation are mutually exclusive actions. Under a complete reallocation, no existing contractor would be guaranteed an allocation. The process would also slow the P–DP remarketing effort significantly, creating uncertainty for both existing and potential contractors. This would hamper contractors' ability to make long-term plans, which conflicts with several comments asking Western for a quick decision. Western does not believe that a total reallocation is necessary or desirable.

Some commenters stated that P–DP has been the "private preserve of some entities for over 40 years." Western believes application of the PMI balances the needs of the existing contractors with those of prospective contractors. While current contractors will continue to receive P–DP power under the PMI, the 17–MW summer resource pool, which is a 17–percent increase over the proposed 14.55–MW resource pool, will allow Western to provide the benefits of Federal hydropower beyond existing contractors. As this solution balances the needs of new and existing contractors and encourages widespread use of the resource, Western will apply the PMI to the P–DP remarketing effort.

Contract Term

Background: The PMI provides for extending a major portion of the marketable resource determined to be available at the time resource extensions begin in the future.

Comments and discussion: Western received a substantial number of comments which supported the PMI contract term adopted in the EPAMP final rule (10 CFR 905.31). No objecting comments were received.

Pool Size

Background: Western proposed to extend 94 percent of P–DP contractors' allocations to FES from P–DP. The remaining 6 percent of current allocations would form a resource pool of 14.55 MW of summer capacity and 11.13 MW of winter capacity.

Comments and discussion: Many comments supported a 6-percent reduction of each contractor's allocation to create a resource pool. Others asked Western to consider a smaller percentage, stating that the proposed reduction would disproportionately affect small customers, while some asked us to find additional resources to increase the pool size. Western reviewed the P–DP resources and identified additional capacity to market as FES. The additional capacity results in part from the recent generator rewinds at Davis Powerplant.

Therefore, existing contractors' FES allocations will be increased to reflect the additional capacity, and Western will then extend 93 percent of these allocations, beginning October 1, 2008. The remaining 7 percent will form the resource pool of 17 MW of P–DP power in summer and 13 MW in winter. Applying the increase in marketable capacity with a 7-percent reduction has the net effect of reducing contractors' unadjusted current CRODs by less than 1 percent. This action provides a larger pool for new customers while taking less from current contractors' allocations, benefiting both groups.

One commenter suggested that Western purchase power to increase the pool size. The core of this comment is a request to expand the resource pool, which Western did by marketing additional P–DP capacity. However, the comments accompanying the EPAMP regulations (60 FR 54151, 54162, October 20, 1995) state,

> Western will not purchase resources for new but not yet identified customers, as the appropriate level of Western's marketable resources should be determined through a project-specific analysis of hydrology, project use load, losses, and reserves.

The resource pool expansion is consistent with this statement. Purchase power is a component of the existing marketing plan, as required to meet firm electric service contractual commitments. Western will not supplement the pool by purchasing additional capacity.

Another commenter said that Western had no analytical support for the pool size. The PMI states that Western must make a fair share of the resource available. In the comments accompanying the EPAMP regulations (60 FR 54151, 54162, October 20, 1995), Western stated,

> * * * it is difficult to define precisely the demands of new customers prior to creation of the resource pool. That can only be done after a call for applications is published in the **Federal Register**, and applications are actually received. Western cannot precisely define the needs of new customers at this time.

However, the increased capacity has created a larger resource pool for potential new contractors, allowing Western to allocate P–DP power to more customers.

Existing Marketing Plan Minimum Allocation

Background: Two P–DP contractors receive allocations of less than 1 MW. However, the current marketing plan criteria contains a 1–MW minimum for new customer allocations (52 FR 28333, 28335, July 29, 1987).

Comments and discussion: A commenter asked Western to round up allocations of less than 1 MW, making it consistent with the marketing plan criteria. The 1–MW minimum recognizes that operationally Western does not schedule power to entities in quantities of less than 1 megawatt. Western will round up allocations of less than 1 MW in both summer and winter, based on the 1–MW minimum allocation provision in the existing marketing plan.

Rounding Up To Mitigate Scheduling Risk

Background: Utilities must schedule energy in full megawatt increments. As a result, Western contractors at times must round up their Western allocations when scheduling. Western is at risk of exceeding the P–DP CROD in any one hour because each contractor has the discretion to decide when to round up when scheduling its P–DP power. This risk is highest in summer, when demand is greatest. Western has exceeded the P–DP CROD in the past, which exposes Western to the potential of purchasing capacity. Rounding up customers with allocations of less than 2 MW in summer reduces Western's risk of exceeding the P–DP CROD in any one hour.

Comments and discussion: We will round up contracts with allocations of less than 2 MW to an even 2 MW in summer. This action will reduce Western's risk of exceeding the P–DP CROD and exposure to purchasing capacity.

Exemption for Small Contractors

Background: Western's August 8, 2002, **Federal Register** notice (67 FR 51580–51581) did not propose to exempt small contractors from allocation reductions to form the P–DP resource pool.

Comments and discussion: Several commenters expressed concern about the impact of a 6-percent allocation reduction on small contractors, saying it

would significantly affect power costs while adding very little to the resource pool. These commenters suggested exempting small customers from an allocation reduction.

Western considered special provisions for small contractors during the PMI's development in the early 1990s. The initial PMI proposal (56 FR 16093, April 19, 1991) called for exempting contractors with allocations under 1 MW. However, Western ultimately rejected the idea based on fairness and equity. Such an exemption is also inconsistent with other contract provisions, which do not exempt small contractors from resource withdrawals for project use power or due to changes in operations and hydrology. Small customers will, however, benefit from a much smaller reduction of their P–DP resources due to the increase in marketed project capacity. While allocations of less than 2 MW will be rounded up, Western is taking that action to mitigate its exposure to purchase capacity when the sum of contractors' bulk schedules exceeds the total project CROD, particularly during summer peak usage months.

Withdrawable and Nonwithdrawable Power

Background: P–DP allocations consist of two types of firm power: withdrawable and nonwithdrawable. Power designated "withdrawable" may be taken from contractors should the Bureau of Reclamation, U.S. Department of the Interior, determine a need for additional project use power. The Consolidated Marketing Criteria (49 FR 50582, 50586, December 28, 1984) states,

> Power that is reserved for United States priority use, but not presently needed, is marketed to some of the Parker-Davis Project contractors as withdrawable power.

Reclamation may request priority use withdrawals upon 2 years' notice. Western will then substantiate the request. Some contractors' allocations contain only nonwithdrawable power; others contain both withdrawable and nonwithdrawable. Determining the mix of resources in the pool will affect both new and existing P–DP contractors.

Comments and discussion: Several commenters suggested creating the resource pool using only the nonwithdrawable part of the project's generation. Several others asked Western to only use withdrawable power whenever possible. Still others said Western should use withdrawable energy for the pool wherever possible and redesignate it as nonwithdrawable. Some commenters said no withdrawals have been made for at least 15 years, and that it is doubtful future withdrawals will be necessary. However, priority use power recipients said they will need both current and future project use withdrawals for the Yuma area. Another commenter contended that all P–DP power is withdrawable.

The Bureau of Reclamation is responsible for defining priority use requirements and for determining the amount of withdrawable power for the P–DP. When priority use power is requested, Western substantiates the requirements and makes the withdrawals. In its letter responding to Western's proposal to apply the PMI to P–DP (dated November 19, 2002), Reclamation stated,

> Reclamation today is unable to precisely identify the electric requirements of pumping that may be required Post 2008. There are prospective Reclamation plans which, consistent with the Gila Project Act and Yuma Project Act and the other Acts affecting the responsibility of Reclamation under the law, may require additional project pumping.

When reducing existing allocations for the post-2008 marketing period, Western will first take energy from contractors' withdrawable allocations up to the total reduction, when available. The remaining reductions will come from nonwithdrawable energy. This approach will create a resource pool with 5.11 percent withdrawable energy in summer. Using this procedure to reduce existing allocations, withdrawable energy in summer will make up 6.26 percent of the total allocation to Western's existing contractors. Western believes that reducing existing contractors' withdrawable energy first will result in a more equitable distribution of withdrawable and nonwithdrawable energy among current and new contractors. Using this process, the amount of withdrawable energy in the resource pool will more closely reflect the percentage of withdrawable and nonwithdrawable power in existing allocations.

Undepreciated Replacement Advances

Background: In the August 8, 2002, FRN (67 FR 51580), Western proposed that as provided in the current P–DP Advancement of Funds (AOF) contract, new customers will be required to reimburse existing customers for undepreciated replacement advances, to the extent existing customers' allocations are reduced as a result of creating the resource pool.

Comments and discussion: Several commenters asked Western to apportion the required advanced funding payments for undepreciated replacement expenses over time to avoid a financial burden for new customers. Western's Advancement of Funds contract (98–DSR–10870) already includes this provision in section 15.7. The contract states that Western will collect AOF payments from new contractors incrementally until the surcharge obligation has been satisfied. The collection begins 120 days after the effective date of the contract that carries out the withdrawal or reallocation of power. Western then pays the contractors that advanced the funds in five annual payments, beginning on the first anniversary of the withdrawal or reallocation.

Advance Funding

Background: In the August 8, 2002, FRN (67 FR 51580), Western proposed that customers who receive an allocation will also be required to participate in advance funding of Western's and the Bureau of Reclamation's operation and maintenance expenses.

Comments and discussion: Western received no comments on this requirement, so advance funding will be included as a requirement in the contracts.

Imperial Irrigation District's Allocation

Background: Several commenters have argued that Imperial Irrigation District (IID) should forfeit 15 MW of its P–DP allocation based on the Bureau of Reclamation's 1948 allocation of Davis Dam power that potentially subjected half of IID's 30–MW allocation to recapture when Pilot Knob Powerplant became operational. However, in 1954 the Bureau of Reclamation determined that the recapture of the 15 MW was not warranted. IID has been allocated at least 30 MW in all subsequent P–DP marketing actions.

Comments and discussion: Western received several requests to reduce Imperial Irrigation District's (IID) allocation by 15 MW. Western has reviewed the issue and has determined that there was, and is, no legal requirement for the Bureau of Reclamation or Western to reduce IID's allocation. IID's contract will be extended on the same basis as all other P–DP contracts.

Colorado River Commission's Allocation

Background: The Colorado River Commission (CRC) resells P–DP power to five manufacturing companies. This action has led to allegations that CRC is violating long-standing provisions of Reclamation Law by reselling its P–DP

energy to nonpreference customers. In response, CRC cites a 1980 Comptroller General decision that addressed a similar issue on the Falcon-Amistad Project. In that case, the Comptroller General ruled that the preference restriction pertained only to the initial sale of power and not to any subsequent sale by the preference customer, and that since the contract between the parties included no additional prohibition against resales, none existed.

Comments and discussion: Some commenters stated that CRC's allocation should be reduced by the amount of energy being resold to nonpreference entities. Historically, CRC has some customers that are nonpreference entities and CRC's contract with Western has allowed sales to these customers. Therefore, Western has no basis to reduce CRC's allocation because of these sales. Western will not reduce CRC's allocation as long as CRC complies with applicable laws, regulations, and the terms and conditions of its P–DP FES contract.

Native American Issues

Background: Western no longer requires utility status for Native American tribes as a prerequisite for receiving power allocations. That means more tribes may apply for allocations of P–DP hydropower as preference entities. In previous Western PMI remarketing efforts, tribes received a large part of resource pool allocations.

Comments and discussion: Some commenters said Western should create a larger resource pool. They believe that this would help Western allocate power that approximates 65 percent of qualified Native American applicants' load, a goal set during the Salt Lake City Area Integrated Projects (SLCA/IP) reallocation process. Western set the 65-percent level as a goal, not a requirement. It was also specific to the SLCA/IP remarketing effort.

Another commenter, who favored a complete reallocation, said it is unfair to prevent Native American tribes from participating fully in the current marketing effort, since the requirement for utility status prevented them from receiving P–DP allocations in the past. Western invites the tribes to participate fully in the current remarketing effort. In fact, Western has increased the resource pool size to 17 MW, making more resources available to potential new customers within the P–DP marketing area, including Native American tribes.

Another commenter asked Western to create a separate "new user category" for tribes. The comments included with the EPAMP regulations (60 FR 54151, 54167, October 20, 1995) state,

> Western declines to create a special class of power exclusively for tribes. In the absence of direction from Congress to the contrary, Western believes it is inequitable to create administratively a special, preferential classification for Indians.

In contrast, one commenter stated that his utility "would strenuously object to another attempt to carve out a specific portion of whatever resource pool is created to meet additional tribal requirements." Western will accept applications from all eligible preference entities and will not set aside a specific part of the resource pool for any specific customer class.

Background: The Colorado River Indian Tribes (CRIT) have a reservation that spans parts of Arizona and California. The tribes applied for and received an allocation for the tribal load in Arizona; however, the load in California fell outside the SLCA/IP marketing area.

Comments and discussion: CRIT commented that Western told the tribes that they "could look to Parker-Davis for the load that was not covered (by SLCA/IP)." In a **Federal Register** notice concerning the SLCA/IP (67 FR 5113, 5114), published February 4, 2002, Western stated:

> Any expansion of the (SLCA/IP) marketing area to include portions of reservations in California is outside the scope of this effort. The portions of reservations in California are within the Parker-Davis Project marketing area. Power resource pools from these projects will be allocated effective upon expiration of existing contracts on September 30, 2008. Tribes with reservation lands and eligible loads in California may be able to participate in that process.

This statement does not amount to an entitlement for CRIT. However, Western welcomes resource allocation applications from all eligible preference customers, including tribes. We will address the application process and criteria in a future public process.

Other Comments

Western received a request to abandon Integrated Resource Planning (IRP) requirements for P–DP contractors. This request is outside the scope of this process. Section 114 of the National Energy Policy Act of 1992 (Pub. L. 102–486) requires all Western contractors to submit IRPs as a condition of receiving Federal hydropower. Since Western's PMI also requires contractors to complete IRPs, this requirement will continue for P–DP contractors.

A commenter asked that Western return unallocated energy to contractors on October 1, 2008. In 10 CFR part 905.32(e)(1), the PMI regulations state,

> If power is reserved for new customers but not allocated, or resources are offered but not placed under contract, this power will be offered on a pro rata basis to customers that contributed to the resource pool through application of the extension formula in § 905.33.

Other commenters asked Western to evaluate the P–DP resource in relationship to the requirements of the restructured and evolving power industry, and to work with the control area operator to ensure P–DP customers receive credit for their ancillary services. There is a great deal of uncertainty surrounding industry restructuring. The Federal Energy Regulatory Commission (FERC) has proposed a standard market design that has not been finalized. Several regional transmission organizations are attempting to form in the southwestern United States, including the P–DP marketing area. These organizations do not plan to begin operations for several years after the effective date of contract extensions. It is not possible to anticipate which changes will occur to the electric utility industry, or when. Western continually monitors utility industry changes and actively participates in regional organizations.

Western received a request to exempt Fredonia, Arizona, from the Central Arizona Project recovery cost because the town receives no benefits from CAP. Because the purpose of this process is to determine the applicability of the EPAMP PMI to the P–DP, this issue is outside the scope of this process.

Western was asked whether P–DP's operational integration with the Boulder Canyon Project (BCP) will continue. Applying the PMI also means applying the existing marketing plan. Therefore, operational integration will continue under the existing marketing plan contained in the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (49 FR 50582, December 28, 1984).

Some commenters said that Western should evaluate whether project integration will continue past 2017. Changes to existing marketing criteria are outside the scope of this public process. It is too early to make decisions about contracts that expire 14 years from now in 2017.

The Metropolitan Water District of Southern California requested confirmation that it will be eligible for an allocation as a new customer. Dixie Power Water Light and Telephone requested that the P–DP marketing area be expanded to include Kane and

Washington counties in southern Utah. Because the purpose of this process is to determine the applicability of the EPAMP PMI to the P–DP, these issues are outside the scope of this public process. These issues may be addressed in a future public process regarding resource pool marketing criteria.

Western received comments to reopen the comment period. Some commenters wanted to respond to comments submitted during the first comment period. Western accepted comments after the official comment period ended, which gave commenters an opportunity to respond. However, Western received no new or additional information beyond that submitted during the comment period. We believe a new comment period is unnecessary. Western has enough information to make a decision.

Some commenters asked Western to recognize the agency relationship between a generation and transmission cooperative and a distribution cooperative. Another asked Western to prevent windfalls for utilities providing service to tribal customers that establish their own utility or change utility services providers. The commenter said the original provider's allocation should be reduced proportionately. These requests are outside the scope of this decision, and Western will resolve questions regarding cooperatives' and providing utilities' relationships and allocations as they arise.

Western was also asked to replace generation lost through water transfers caused by water use and operational needs. Western does not have control of water transfer decisions. The Bureau of Reclamation decides when to make water transfers, so this comment is outside the scope of this decision.

I. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to do a regulatory flexibility analysis if a rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

II. Small Business Regulatory Enforcement Fairness Act

Western determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involving matters of procedure.

III. Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, we require no clearance of this notice by the Office of Management and Budget.

IV. Environmental Compliance

Western completed an environmental impact statement (EIS) on EPAMP under the National Environmental Policy Act of 1969 (NEPA). Western published the Record of Decision in the **Federal Register** (60 FR 53181, October 12, 1995). Western's NEPA review assured all environmental effects related to these actions have been analyzed.

Dated: April 17, 2003.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 03–11009 Filed 5–2–03; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[WI115–01–7345; FRL–7493–7]

Adequacy Status of the MOBILE6 Transportation Conformity Motor Vehicle Emissions Budgets for Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that EPA has found that the Motor Vehicle Emissions Budgets (MVEB) in the January 31, 2003, Wisconsin State Implementation Plans (SIP) revision are adequate for conformity purposes. The submittal included MOBILE6 MVEB updates for the Milwaukee severe ozone area and the Sheboygan ozone maintenance area, and new maintenance plan MVEBs for the Manitowoc moderate ozone area and the Door marginal ozone area. On March 2, 1999, the DC Circuit Court ruled that submitted SIPs cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, Milwaukee, Sheboygan, Manitowoc, and Door areas can use the MVEBs from the submitted plan for future conformity determinations. These budgets are effective May 20, 2003.

FOR FURTHER INFORMATION CONTACT: The finding and the response to comments will be available at EPA's conformity Web site: *http://www.epa.gov/otaq/transp/*, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Michael Leslie, Environmental Engineer, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that we have already made. EPA Region 5 sent a letter to the Wisconsin Department of Natural Resources on March 25, 2003, stating that the Milwaukee, Sheboygan, Manitowoc, and Door MVEBs in the submitted are adequate. This finding will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/transp/*, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Transportation conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the EPA, may later disapprove the SIP.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999, memo titled "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision"). We followed the guidance in making our adequacy determination.

Authority: 42 U.S.C. 7401–7671q.