at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25230 Filed 10–11–95; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Record of Decision for the Energy Planning and Management Program

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision.

SUMMARY: The Department of Energy, Western Area Power Administration (Western) completed a draft and final environmental impact statement (EIS), DOE/EIS–0182, on its Energy Planning and Management Program (Program). Western is publishing this Record of Decision (ROD) to adopt the Program, which will require the preparation of integrated resource plans (IRP) by Western's long-term firm power customers, and establish a framework for extension of existing firm power resource commitments to customers.

DATES: Western will proceed to take action with the publication of this ROD. All parties who have previously expressed an interest in the Program will be notified and copies of the ROD made available to them.

FOR FURTHER INFORMATION CONTACT: Robert C. Fullerton, Western Area Power Administration, P.O. Box 3402, A3100, Golden, CO 80401–0098, (303) 275–1610.

SUPPLEMENTARY INFORMATION: Western has prepared this (ROD) pursuant to the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality NEPA implementing regulations (40 CFR Parts 1500–1508), and DOE NEPA implementing regulations (10 CFR Part 1021). This ROD is based on information contained in the ''Energy Planning and Management Program Environmental Impact Statement,'' DOE/EIS–0182, and related coordination with agencies, power customers, interested groups, and individuals. Western has considered all comments received on the proposed Program in preparing this ROD. The final Program also implements the provisions of section 114 of the Energy Policy Act of 1992 (EPAct), Public Law 102–486.

Background

Western proposed the Program in concept on April 19, 1991 (56 FR 16093). The goal of the Program was, and is, to require planning and efficient energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments as contracts expire. Western published its notice of intent to prepare an EIS in the Federal Register on May 1, 1991 (56 FR 19995).

Combined public information/environmental scoping meetings on the proposed Program were held in seven states in June 1991. Based on the feedback received from these meetings, Western developed alternatives to be analyzed in the EIS. Public alternatives workshops were held in eight cities in Western's service area during March and April 1992.

President Bush signed EPAct into law on October 24, 1992. Section 114 of EPAct requires the preparation of IRPs by Western's customers, and amends Title II of the Hoover Power Plant Act of 1984. Western adjusted its proposed Program to fully incorporate the provisions of this law.

The draft EIS was printed and distributed during March of 1994. Notices of availability for the draft EIS were published in the Federal Register by Western on March 31, 1994 (59 FR 15198), and by the Environmental Protection Agency (EPA) on April 1, 1994 (59 FR 15409). Eight public hearings were held throughout Western's service area during the 45-day public comment period. Western did not identify a preferred alternative in the draft EIS, but solicited input from interested parties and the public as to what they thought the appropriate alternative should be.

Because the Program is also a rule-making action, Western conducted a public process under the Administrative Procedure Act (APA), coordinated with the ongoing NEPA process. A notice of the proposed Program was published in the Federal Register on August 9, 1994 (59 FR 40543), with seven public information/comment forums held at various locations during September 1994.

With input from oral and written comments from both the NEPA and APA processes, Western modified the EIS alternatives where appropriate, and revised the draft EIS. The final EIS was distributed to the public on June 27, 1995. The EPA notice of availability was published on July 21, 1995 (60 FR 37640). The final EIS identified an agency preferred alternative, a combination of features from Alternatives 5 and 6, as presented in the draft EIS. The alternatives considered in the EIS are described in the following section.

Alternatives

The EIS evaluated a total of 13 alternatives, including a no-action alternative. All but the no-action alternative comprised different approaches to implementing the proposed Program. The two parts of the proposed Program are the IRP provision and the Power Marketing Initiative (PMI). The IRP provision requires customers to prepare IRPs, and establishes administrative procedures and requirements. Small customers could be exempt from the IRP requirement, but would still have to accomplish some resource planning on a simpler scale as needed.

Options for the PMI include PMI Extensions, PMI Limited Extensions, and PMI Non-extensions. These options, which are explained more fully in the EIS, include varying amounts of existing resources (from 90 to 100 percent of the present commitments) that would be extended to Western's power customers, varying the lengths of contracts (from 10 to 35 years), determining the existence and size of a resource pool ranging from 0 to 10 percent, establishing options for how pooled resources would be generally allocated, and setting penalties for noncompliance.

The alternatives in the EIS consisted of various reasonable combinations of the above components. The summary of the EIS contains a table, Table S.3, which concisely describes the principal attributes of each alternative. That table is reprinted here. The no-action alternative assumes the continuation of Western's Guidelines and Acceptance Criteria for the Conservation and Renewable Energy Program. The alternatives are not described in further detail here, as they are combinations of the components discussed above, and the EIS analysis did not reveal any important differences in impacts among the alternatives, except with the no-action alternative.

All alternatives had positive impacts when compared to no action, as each alternative would encourage energy efficiency on the part of Western's customers. The predicted effect of the Program within Western's service territory is reduced energy usage of approximately 2 to 6 percent in the year 2015, depending on the alternative. Western's customers are forecast to use 5 to 15 percent less energy in 2015, depending on the alternative. Within Western's service territory, the savings varies from area to area, depending primarily on the amount of conservation activity already accomplished and the number and type of existing energy-efficient buildings.

The energy saved reduces the need for generation which, in turn, reduces pollution as compared with the no action alternative. Although small when compared with regional generation needs, the reduction of emissions in absolute terms is important. A typical 500-megawatt coal plant produces about 2,600 tons of sulphur oxides, 5,200 tons of oxides of nitrogen, 500 tons of total suspended particulates, and 3.2 million tons of carbon dioxide annually. The Program alternatives are estimated to reduce annual emissions by the equivalent of one to two such coal plants in 2015.

With the exception of the no-action alternative, the effects among alternatives are very similar, positive, and in many cases within the level of uncertainty of the analyses. The summary tables of impacts included in the EIS (Tables S.5 and S.6) show that each alternative except the no-action alternative is environmentally preferable in some impact category. Because of the small differences in impacts, their positive nature, and the uncertainty inherent in the future projections, none of the alternatives was clearly superior to the others in terms of overall environmental impact. Therefore, although none of the action alternatives can be regarded as environmentally preferable overall, each of them is environmentally preferable when compared to the no-action alternative.

Scoping Issues Not Addressed

A number of issues were raised during the scoping process that were determined to be outside the scope of the EIS. These issues included transmission access, incentive rates and rate design, and river and dam operations. Western already has an open transmission access policy. Rates and rate design are accomplished under a separate public rate-setting process as set forth in 10 CFR 903, and are not a part of a power marketing plan. River and dam operations are not determined by Western, but by the operating agencies, usually the Bureau of Reclamation (Reclamation) or the Corps of Engineers.

Modifications to the Preferred Alternative

Two minor modifications to the preferred alternative were found to be necessary to make the final EIS consistent with the final Program regulations, which will be published in the Federal Register shortly after publication of this ROD. The modifications are procedural or administrative in nature, and do not affect the analyses in the EIS.

The first modification involves the timing of extension contract offers to customers of the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects. The EIS indicates that extension contracts would be offered upon publication of the ROD in the Federal Register, subject to subsequent approval of the submitted IRP/small customer plan. Under the final rule contracts signed pursuant to the PMI would not be subject to termination if an IRP/small customer plan is disapproved. In recognition of the fact that extension contracts will make the penalty provisions of section 114 of EPAct applicable to customers immediately, the final rule will allow extension contracts to be unconditionally offered for execution no sooner than the effective date of the final regulations.

The second modification involves the applicability of penalty provisions for nonsubmittal of annual progress reports in a timely manner, as described in the EIS. In the final regulations, the penalty provision will not be applied to nonsubmittal or untimely submittal of annual reports. There are two reasons for this change: EPAct does not provide for application of a penalty in this circumstance, and a penalty would be harsh and out of proportion to the importance of annual report submittal.

In the final regulations, two decisions will be made that are within ranges set forth in the preferred alternative. The term of contract is established at 20 years, within the range of 18–20 years analyzed for the preferred alternative. For the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects, the final rule establishes an initial resource pool of 4 percent, with two additional increments of up to 1 percent each, 5 and 10 years into the extension term.

Responses to Late Comments on the Program

Several comment letters were received postmarked after May 16, 1994, the close of the comment period on the EIS, and too late to be incorporated in the final EIS. The following section summarizes those comments and addresses them.

1. *Comment:* Program implementation in Texas should mean less need for energy, which would lead to less water demand for power generation at the Falcon and Amistad projects. Texas law permits but does not mandate integrated resource planning, and the Texas Public Utility Commission has many IRP elements in place. Comprehensive IRP rules are under consideration in Texas. Several utilities are experimenting with IRP processes. Texas requires biennial filings of long-term forecasts and capacity resource plans from all generating utilities, including municipal utilities. Several utilities in Texas have achieved significant demand-side management program impacts since 1981, and the PUC has had a biennial energy efficiency reporting rule since August of 1984. The Texas PUC has not completed an IRP review process for any utility. Two footnotes in Chapter 3 of the draft EIS refer incorrectly to a point of contact at the Texas PUC. Table 3.9 in the draft EIS does not give sufficient recognition to the status of IRP in Texas. The draft EIS does not adequately emphasize the Texas PUC's requirement for demand and supply-side solicitation as part of its power plant licensing regulations (Texas Office of State-Federal Relations).

Response: Since Western's resources are favorably priced in comparison to other sources of power, energy efficiency improvements resulting from IRP implementation would result in conservation of thermal resources or purchased electricity other than hydropower. No impact on hydropower generation will take place.

The information on the status of IRP in Texas was largely derived from national surveys that are regarded as authoritative in the utility industry. Obviously, the best source of information on the status of Texas PUC practices and regulations is the PUC itself. Western accepts the information provided by this commenter as authoritative.

2. *Comment:* The direct environmental impacts of thermal generation cannot be known until the location and projected emission levels are known. In the absence of this information, we can only express our concern about the potential impacts of locating plants in ozone nonattainment areas in the state of Texas (Texas Natural Resource Conservation Commission).

Response: Western agrees that the location of new generation is an important factor that influences air quality. Western's Program will increase efficient energy use and, compared with no action, will reduce the need for new generation. Any entity proposing new thermal generation for construction must apply for necessary permits from appropriate authorities such as the State of Texas.

3. *Comment:* It is more practical and environmentally sound to make contract extension and allocation decisions on a project-by-project basis, as Western has

done in the past. A project-by-project approach will make it easier for Western to coordinate its efforts with those of the Bureau of Reclamation. The power contract extension alternatives proposed by Western may create unrealistic expectations among Western's customers, which may be difficult to satisfy in the event of future changes in the operations of Reclamation dams. Decisions should not be made now on the marketing of power during time periods more than ten years into the future. Western's draft EIS may lock in resources to an inappropriate degree. Western needs to analyze the environmental effects of (1) rewarding customers that conserve energy with a larger power allocation, (2) providing power to entities that intend to meet future power needs with fossil fuel-fired generation, and (3) providing more Western power for fish and wildlife purposes. The impacts of increasing the costs of Western's power also need to be evaluated (Bureau of Reclamation).

Response: The final Program provides a general framework for marketing Western's long-term firm hydroelectric resources. Many project-specific determinations are necessary before any final decisions can be made on marketing power. Such important issues as the resource available for marketing in the future, the size of a resource pool, any adjustments to the size of this pool, and allocation criteria for new customers must be decided on a project-specific basis, with public input and appropriate environmental documentation. Project-specific decisions will need to be made on whether to apply the Power Marketing Initiative to Western's projects in the future, such as the Colorado River Storage Project and the Central Valley Project. All of these decisions will be made in the future, and on a project-specific basis. Western is not making decisions today about all of the specifics of power marketing in the future.

The Program will not create unrealistic expectations among Western's power customers. Project-specific extension percentages will be applied to the marketable resource determined to be available at the time future resource extensions begin. This approach will allow Western to accommodate changes in operations by the generating agencies before the extension term begins. The Program also allows Western to adjust its marketable resources on 5 years' notice after the extension term starts. This feature allows the flexibility to respond to changing operations or hydrology. Western's customers have been made aware of these Program features.

Suggestions on how Western might allocate its power to new customers will be addressed during project-specific allocation processes in the future. For the two projects initially covered by the Power Marketing Initiative, resource pool size was determined based upon meeting a fair share of the needs of new customers within a project-specific marketing area. For other projects, the fair share needs of new customers will be determined at a time closer to the expiration date of existing contracts.

Rates are not analyzed as part of the Program EIS, as they are outside the scope of the Program. Rate issues should be addressed within Western's long-established public ratemaking process.

At a congressional hearing on June 16, 1994, the Commissioner of Reclamation expressed support for the Program proposal as documented in the testimony of Deputy Secretary of Energy White. At the hearing, Commissioner Beard stated that Deputy Secretary White's testimony ''reflects a very thorough attempt to look at the problem and to come forward with * * * a very unique and innovative set of solutions.''

Beard continued: ''I think the changes that [Deputy] Secretary White is recommending and that Western is going to be pursuing will help us * * * be able to deal with future problems * * * quicker and faster.'' WAPA Allocation of Hydroelectric Power: Oversight Hearing before the Subcommittee on Oversight and Investigations of the Committee on Natural Resources, House of Representatives, 103rd Congress, Second Session at 141–42 (June 16, 1994).

Decision

Western has selected the preferred alternative as described in the final EIS, with the modifications described earlier in this document, as its proposed action. This alternative best meets Western's Program requirements and the needs of Western's customers, while being responsive to the comments received on the proposed Program. The proposed action falls between Alternatives 5 and 6, described in the EIS, in terms of its component provisions. The specific impacts of the proposed action will fall somewhere between those identified for Alternatives 5 and 6, which are very similar to each other. Essential elements of the proposed action include requiring IRPs for Western's long-term firm power customers, with a small customer provision for those customers with total energy sales or usage of 25 gigawatt-hours or less. The extension period for Federal power resources will be 20 years.

Project-specific extensions over the entire contract term will be not less than 94 percent of the resource determined to be available at the time new contracts are signed for the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects; the percentage will be determined later for other projects. A resource pool of up to 6 percent will be established for these two projects, consisting of an initial pool of 4 percent, with additional withdrawal opportunities of up to 1 percent 5 and 10 years into the contract term. The pool may be used for allocations to new customers, customer development of new technologies for conservation or renewable resources, and contingencies. Decisions on pools for other projects will be made at a later date.

Allocations may be adjusted on 5 years' notice for changes in operations and hydrology. This does not mean that any changes in operations will have to be deferred for 5 years; changes can be implemented immediately. Any shortfall in generation will be replaced with purchases or other resources until allocation adjustments are made. Purchased resources will be evaluated in an internal IRP process recently adopted through a separate public process. Project use withdrawals will be made in accordance with the principles set forth in existing marketing plans and contracts. The Program will carry the progressive penalty provisions prescribed in EPAct.

The IRP provision will be effective for all of Western's customers following publication of the final rule under the APA process. The PMI will be in effect for the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects initially. Its application to the Salt Lake City Integrated Projects marketing plan will be determined following completion of the separate NEPA process currently under way on marketing before 2004. PMI application to the Central Valley Project will be evaluated during the project-specific NEPA process for the marketing of power after the year 2004. Application of the PMI to projects in the Phoenix Area will be considered closer to the time the existing power contracts expire.

No Mitigation Action Plan will be prepared for the Program, as the proposal involves no construction, and no mitigation was identified as necessary to implement the Program.

Issued at Golden, Colorado, September 21, 1995.

J.M. Shafer,

Administrator.

TABLE S.3.—SUMMARY OF ENERGY PLANNING AND MANAGEMENT PROGRAM ALTERNATIVES INCLUDING THE PREFERRED ALTERNATIVE

Program components	No action	Program alternatives											
		PMI extension							PMI limited extension		PMI non-extension		Pre-ferred
	1	2	3	4	5	6	7	8	9	10	11	12	13
EMP	C&E, G&AC.	IRP	IRP	IRP	IRP with Small Customer Provision.	IRP with Small Customer Provision.	IRP with Small Customer Provision.	IRP	IRP	IRP with Small Customer Provision.	IRP	IRP with Small Customer Provision.	IRP with Small Customer Provision.
Extension Period.	Varies [a]	15 yrs [b]	25 yrs [b]	35 yrs [b]	15 yrs [b]	25 yrs [b]	35 yrs [b]	25 yrs [b]	10 yrs [c]	10 yrs [c]	Varies [a]	Varies [a]	18–20 years.
Percentage Allocation.	Varies [a]	98%	95%	90%	98%	95%	90%	98%	100% [e]	100% [e]	Varies [a]	Varies [a]	Varies [f]
Resource Pool	None [d]	2%	5%	10%	2%	5%	10%	2%	None [e]	None [e]	None [d]	None [d]	Varies [g]
Adjustment Provisions.	None [d]	Limited	1 adjust.	2 adjust.	Limited	1 adjust	2 adjust	5 yr notice.	None [e]	None	None [d]	None [d]	5 year notice.
Penalty Provision.	10% Withdrawal.	10% to 30% surcharge, see Figure 2.1 and Table 2.4. Optional 10% power reduction.											

[a] To be determined by project-specific marketing plan.

[b] Contract extension begins at time of current expiration. Contracts are excluded upon receipt of IRP by Western.

[c] Contract extensions are executed at the time of IRP approval; extension will provide resource certainty to a customer for 10 years from the date of IRP approval. After 10 years, power marketing will be determined by project-specific marketing plans.

[d] Unless provided by project-specific marketing plan.

[e] Western assumes that the percent allocation after the limited extension period will be determined by project-specific marketing plans. For purposes of analysis, this draft EIS assumes a 90% allocation after the expiration of the 10-year extension period.

[f] Project-specific extensions of not less than 94% for the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects; percentage to be determined for other projects.

[g] Total resource pool of up to 6% for the Pick-Sloan Missouri Basin Program-Eastern Division and Loveland Area Projects, which includes both an initial pool followed by additional withdrawal opportunities 5 and 10 years into the contract; other projects to be determined.

[FR Doc. 95–25222 Filed 10–11–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5314–3]

Agency Information Collection Activities up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before December 11, 1995.

ADDRESSES: U.S. EPA, Wetlands Division (4502F), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lori Williams, 202–260–5084, fax 202–260–8000.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities affected by the action are Federally recognized Indian Tribes who are applying to assume the Clean Water Act Section 404 permit program.

Title: Wetlands Indian Regulation; OMB #2040–0140; current ICR expires on February 28, 1996.

Abstract: Indian Tribes are eligible to request assumption of the Clean Water Act (CWA) Section 404 permit program. Tribes must demonstrate that they meet the requirements in Section 518 of CWA as well as the section 404 program specific requirements of 40 CFR part 233. Tribes seeking to assume the section 404 permit program must:

- Be Federally recognized,
- Carry out substantial governmental duties and powers over a Federal Indian reservation,
- Have appropriate authority to regulate reservation waters, and
- Be reasonably expected to be capable of administering the Section 404 program.

Tribes must submit documentation demonstrating that they meet these requirements. When EPA receives a complete assumption request from a Tribe, EPA will solicit comments from the Corps of Engineers, U.S. Fish and Wildlife Service and National Marine Fisheries Service about the adequacy of the Tribe's program. EPA will publish notice of the assumption request and solicit public comment on the request to assume the Federal permitting program. EPA will also hold public hearing(s) on the assumption request. EPA will review the documentation submitted by the Tribe, consider comments received from the public and the Federal review agencies in making its decision.

EPA eliminated unnecessary duplication when revised regulations were published in December 1994. Prior to this regulatory revision, Tribes first had to qualify for ''treatment as a State.'' Only after the Tribe completed the ''treatment as a State'' determination, could the Tribe apply to assume the Section 404 program. Under the revised regulations, this is all done at the same time with only one submission needed from the Tribe, instead of the previous two separate submissions.