

TABLE ONE

Type of service	Step two of the existing rates October 1, 1995, through January 31, 1999	Proposed rates October 1, 1995, through September 30, 2000	Percent change (%)
Composite Rate .....	12.01 mills/kWh .....	6.62 mills/kWh .....	- 45
Energy Rate .....	6.01 mills/kWh .....	1.91 mills/kWh .....	- 68
Capacity Rate .....	\$2.63 per kW/month .....	\$2.06 per kW/month .....	- 22
Firm Transmission Service .....	\$12.55 per kW/year .....	\$13.28 per kW/year .....	6
Nonfirm Transmission Service .....	2.39 mills/kWh .....	2.53 mills/kWh .....	6
Transmission Service for SLCA/IP .....	\$6.27 per kW/season ...	\$6.64 per kW/season ...	6

Overall, annual revenue requirements for the proposed rates has slightly increased as compared to step one of the existing rates and has decreased as compared to step two of the existing rates. Table Two shows a comparison of the annual revenue requirements for step one of the existing rates, step two of the existing rates, and the proposed rates.

TABLE TWO

Step one of the existing rates (February 1, 1994, through September 30, 1995)	Step two of the existing rates (October 1, 1995, through January 31, 1999)	Proposed rates (October 1, 1995, through September 30, 2000)
\$37,209,290	\$42,099,987	\$37,385,908

Since the proposed P-DP rates constitute a major rate adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, both a public information forum and a public comment forum will be held. After review of public comments, Western will recommend proposed P-DP rates for approval on an interim basis by the Deputy Secretary of DOE (Deputy Secretary).

**DATES:** The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end not less than 90 days later, or June 21, 1995, whichever occurs last. A public information forum will be held at 9:30 a.m. on April 5, 1995, at Western's Phoenix Area Office, 615 South 43rd Avenue, Phoenix, Arizona. A public comment forum at which Western will receive oral and written comments will be held at 9:30 a.m. on May 15, 1995, also at Western's Phoenix Area Office.

Written comments should be received by Western by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Tyler Carlson, Area Manager, Western Area Power Administration, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005, (602) 352-2453.

**SUPPLEMENTARY INFORMATION:** Power and transmission rates for the P-DP are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), the Reclamation Act of 1902 (43 U.S.C. 392 *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of

the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and the Act of May 28, 1954 (ch. 241, 68 Stat. 143).

By Amendment No. 3 to Delegation Order No. 0204-108, published November 10, 1993 (58 FR 59716), the Secretary of Energy (Secretary) delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. Existing DOE procedures for public participation in rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37837).

**Availability of Information**

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed P-DP rates for firm power and firm and nonfirm transmission service are and will be made available for inspection and copying at the Phoenix Area Office, 615 South 43rd Avenue, Phoenix, Arizona 85005.

**Determination Under Executive Order 12866**

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance

of this notice by the Office of Management and Budget is required.

**Environmental Evaluation**

In compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*; Council on Environmental Quality Regulations (40 CFR Parts 1500-1508); and DOE NEPA Regulations (10 CFR Part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Issued in Golden, Colorado, March 10, 1995.

**J. M. Shafer,**

*Administrator.*

[FR Doc. 95-6913 Filed 3-20-95; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5175-7]

**Acid Rain Provisions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** EPA announces extension of the April 1, 1994 and April 1, 1995 deadlines for small diesel refineries to request allowances under the Acid Rain Program. These deadlines are extended to May 15, 1995. This extension is warranted by confusion regarding small diesel refinery eligibility for allowance allocations.

**FOR FURTHER INFORMATION CONTACT:** Kathy Barylski, EPA Acid Rain Division (6204J), 401 M Street., SW., Washington DC 20460; telephone (202) 233-9074.

**SUPPLEMENTARY INFORMATION:**

**1. Background**

Title IV of the Clean Air Act Amendments of 1990 (CAAA) established the Acid Rain Program to reduce acid rain in the United States. The Acid Rain Program will achieve a 50 percent reduction in sulfur dioxide (SO<sub>2</sub>) emissions from utility units. The SO<sub>2</sub> reduction program is a flexible market-based approach to environmental management. As part of this approach, EPA allocates "allowances" to affected utility units. Each allowance is a limited authorization to emit up to one ton of SO<sub>2</sub>. At the end of each calendar year, each unit must hold allowances in an amount equal to or greater than its SO<sub>2</sub> emissions for the year. Allowances may be bought, sold, or transferred between utilities and other interested parties.

Section 410(h) of the Clean Air Act provides allowances for small diesel refineries that produce diesel fuel that meets the requirements of section 211(i) (that "desulfurize" diesel fuel) during the period from October 1, 1993 through December 31, 1999. Section 410(h) limits the annual allocations to small diesel refineries to 35,000, as compared to the 8.95 million allowances for Phase II utilities. Also, each eligible small diesel refinery is limited to 1500 allowances per year. Small diesel refineries are not otherwise affected by the Acid Rain Program and do not need the allowances to comply with any provision of the Clean Air Act. Thus, the allowances serve as a financial benefit to small diesel refineries desulfurizing diesel fuel.

**2. Clarification of Eligibility**

The preamble to both the proposed (56 FR 29940, July 7, 1992) and final rules (57 FR 15645, March 23, 1993) concerning the allocation of acid rain allowances to small refineries stated that only small diesel refineries that desulfurized both on-road and off-road diesel fuels would be eligible for allowances. However, the text of the rule allowed all small refineries desulfurizing diesel fuel eligible to receive allowances. 40 CFR 73.90.

The purpose of today's notice is to remedy any confusion caused by the language in both preambles and to provide all eligible small refiners with an opportunity to participate in the allowance program. This notice clarifies that small refineries do not have to

desulfurize all diesel fuel to be eligible for allowances and supersedes the preamble language.

Contrary to assertions EPA made in the preamble to the final rule, nothing in section 410(h) clearly requires a small refiner to desulfurize all of its on-road diesel fuel as well as all of its off-road diesel fuel to obtain allowances. In particular, the declaration in the preamble that the section 410(h)(6) certification provision is "insistent" on both on-road and off-road diesel fuel being desulfurized ignores alternative interpretations of the certification language that would simply read it to require that allowances could be claimed only for the fuel that meets the section 211(i) standard. Rather than reading the certification to impose a substantive requirement not expressed elsewhere in section 410(h), the better reading of the subsection as a whole is that allowances may be claimed for all motor diesel fuel meeting section 211(i) that is produced at the small refinery. This interpretation is consistent with the statute and the text of the regulation and has been EPA policy in applying the regulation to the requests for allowances for 1993 fuel desulfurization.

EPA will consider a small diesel refinery eligible for allocation of allowances based solely on the requirements in the definition of "small diesel refinery" at 40 CFR 72.2. A small diesel refinery does not have to certify that it desulfurizes both on-road and off-road diesel fuel.

**3. Extension of 1994 and 1995 Filing Deadlines**

EPA acknowledges that the preamble to the final rule, when compared to the rule itself, created confusion as to the criteria for eligibility. In implementing this program, EPA has followed the statutory criteria, as implemented at 40 CFR 73.90 and 72.2.

After EPA provided notice of the allowances allocated to small diesel refineries in 1994 (59 FR 34811, July 7, 1994), several small refineries notified EPA that some refineries that had not desulfurized 100 percent of their diesel throughput were allocated allowances. The commenting refineries argued that these refineries, based on the criteria stated in the preamble to the rule, should not be eligible for allowances. The small refineries that notified EPA sought to be deemed eligible for allowances, in addition to the group listed in the **Federal Register** notice.

In order to be fair to all small diesel refineries, EPA is extending the April 1, 1994 deadline until May 15, 1995. Refineries that did not apply for

certification of eligibility or request allowances for 1993 desulfurization because they thought they were not eligible should apply for certification of eligibility and request allocations no later than May 15, 1995. All refineries that wish to be allocated allowances for 1994 desulfurization must request allocations no later than May 15, 1995. For each year in the future, the date for requests remains April 1.

Dated: March 15, 1995.

**Mary D. Nichols,**

*Assistant Administrator for Air and Radiation.*

[FR Doc. 95-6924 Filed 3-20-95; 8:45 am]

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[FRL-5175-6]

**Flow Control and Municipal Solid Waste; Availability of Report to Congress**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of a Report to Congress on Flow Control and Municipal Solid Waste. Flow controls are legal provisions that allow state and local governments to designate where Municipal Solid Waste (MSW) must be taken for processing, treatment, or disposal. These designated facilities may hold local monopolies on MSW and/or recoverable materials because of flow controls. Consequently, flow control has become a heavily debated issue among state and local governments, the waste management industry, the recycling industry, and environmental groups.

The 102nd Congress directed the Environmental Protection Agency (EPA) to review flow control as a form of MSW management. Congress asked EPA to: (1) Review and compare states with and without flow control authority; (2) identify the impact of flow controls on human health and the environment; and (3) describe the impacts of flow control on the development of state and local waste management, and on the achievement of state and local goals set for source reduction, materials reuse, and recycling.

The Report indicates that flow controls are an administratively efficient tool for local governments to plan and fund solid waste management systems. However, protection of human health and the environment is directly related to the implementation and enforcement of federal, state, and local environmental regulations, and not to