

Major budget expense categories	2001-02 (Revised)	2002-03
Reserve for Contingencies	34,355	17,455

The Committee reviewed and unanimously recommended 2002-03 expenditures of \$386,880. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee. An alternative to this action would be to continue with the \$2.80 per ton assessment rate, but the anticipated larger crop, with an assessment rate of \$2.80 per ton, would generate monies in excess of that needed to fund all the budget items. The assessment rate of \$2.60 per ton of salable dried prunes was determined by dividing the total recommended budget by the estimated salable dried prunes. The Committee is authorized to use excess assessment funds from the 2001-02 crop year (currently estimated at \$76,878) for up to 5 months beyond the end of the crop year to fund 2002-03 crop year expenses. At the end of the 5 months, the Committee refunds or credits excess funds to handlers (\$993.81(c)). Anticipated assessment income and interest income during 2002-03 will be adequate to cover authorized expenses.

The grower price for the 2002-03 season is expected to average above the estimated 2001-02 average grower price of about \$750 per salable ton of dried prunes. Based on estimated shipments of 148,800 salable tons, assessment revenue during the 2002-03 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 27, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to

reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on August 15, 2002 (67 FR 53293). Copies of that rule were also mailed or sent via facsimile to all prune handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on October 15, 2002, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab/html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and Recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR part 993 which was published at 67 FR 53293 on August 15, 2002, is adopted as a final rule without change.

Dated: November 13, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02-29532 Filed 11-20-02; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1710

**RIN 0572-AB65**

#### Demand Side Management and Renewable Energy Systems

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Utilities Service (RUS) is removing its regulations which

detail separate policies and requirements for loans for renewable energy systems and demand side management. Many of these requirements overlap provisions found elsewhere in part 1710. Others do not seem well suited for the smaller scale projects of this type that are becoming increasingly common in the industry. RUS believes that it is more appropriate to consider such small scale projects in this rapidly developing segment of the energy industry by proceeding on a case-by-case basis. By contrast, the balance of part 1710 affords a useful framework for considering utility-scale energy projects without regard to whether they are for demand side management or renewable resources.

**EFFECTIVE DATES:** November 21, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Georg A. Shultz, Chief, Energy Forecasting Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1569, 1400 Independence Ave., SW., Washington, DC 20250-1569. Telephone: (202) 720-1921. FAX: (202) 720-7491. E-mail: [gshultz@rus.usda.gov](mailto:gshultz@rus.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

##### Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

##### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be

exhausted before an action against the Department or its agencies.

#### Regulatory Flexibility Act Certification

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Rural Utilities Service is not required by 5 U.S.C. 551 *et seq.* or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

#### Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

#### Information Collection and Recordkeeping Requirements

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

#### Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

#### Background

The Rural Utilities Service (RUS) is removing from part 1710 of its regulations entitled "General and Pre-Loan Policies and Procedures" subpart H thereof, which separately treats demand side management and renewable energy systems. Subpart H has seldom been used. Since it was first promulgated in 1994, RUS has averaged less than one of these loans a year. More recently, changes in the energy industry and technological advances have

produced increased interest in utilizing these approaches for smaller scaled projects and projects employing innovative technologies. However, subpart H with its requirements for such things as integrated resource plans (IRP's) and demand side management plans present formidable barriers for the development of smaller projects. Furthermore, the usefulness of such traditional analytical devices in today's radically changed energy industry has become questionable. In addition, projects of this sort often possess unique attributes that make the application of detailed regulations impractical and sometimes even counterproductive. For example, subpart H precludes the use of innovative technologies. See 7 CFR 1710.351(a) and 1710.353. For all of these reasons, RUS believes that subpart H has become unjustified and unnecessary as a result of changed circumstances and should be removed or substantially revised.

After considering the low volume of loan requests RUS receives annually for these loans, the disparate nature of the projects that can be characterized as demand side management or renewable energy systems, and the rapidly evolving nature of this industry, RUS has determined that the removal of subpart H is the better alternative. Accordingly, RUS will proceed case-by-case in considering requests for demand side management and renewable energy system loans.

RUS expects that utility scale projects will continue to conform to the remaining provisions of part 1710 establishing its general and pre-loan policies and procedures. RUS recognizes that the particular circumstances of an individual project may necessitate adjustments in the application or interpretation of its general policies and procedures to specific demand side management or renewable energy systems loans regardless of scale. The Administrator may, of course, waive or reduce any requirement imposed by part 1710 by resorting to the exception authority contained in the rule itself. See 7 CFR 1710.4. In light of their rarity so far, RUS anticipates that it may be necessary to interpret the application of part 1710 to utility scale demand side management and renewable energy system loans on a somewhat frequent basis at first. RUS will treat small-scale projects as pilot projects for which the remainder of part 1710 will serve merely as guidance. As used in this rule, "small scale project" refers to projects requesting loans less than \$5 million or generating less than 10 MW (nameplate

rating). "Utility scale project" refers to everything else.

As RUS acquires greater experience with loans for demand side management and renewable energy systems, it may reissue regulations on this subject in the event that the volume of loans requests or the number of recurring issues raised warrant it. Accordingly, subpart H is being reserved.

A proposed rule was issued April 25, 2001, at 66 FR 20759, inviting comments this action. The comment period for this proposed rule ended May 25, 2001. Only one comment was received. The Regulatory Flexibility Act Certification discussion has been modified in the Supplementary Information section of this final rule to respond to the comment. No changes were made to the text of the rule from that as proposed.

#### List of Subjects in 7 CFR Part 1710

Electric power, Electric utilities, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, RUS amends 7 CFR chapter XVII, part 1710, as follows:

#### PART 1710—GENERAL AND PRELOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

**Authority:** 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, and 6941 *et seq.*

#### Subpart H—Demand Side Management and Renewable Energy Systems

##### §§ 1710.350–1710.363 (Subpart H) [Removed and Reserved]

2. Remove and reserve subpart H.

Dated: November 13, 2002.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

[FR Doc. 02-29598 Filed 11-20-02; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

#### Rural Utilities Service

#### 7 CFR Parts 1710 and 1717

RIN 0572-AB68

#### Exceptions of RUS Operational Controls Under Section 306E of the RE Act

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Final rule.