

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]

BILLING CODE 3410-15-P

#### 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.

**SUMMARY:** In an effort to streamline requirements of borrowers and make regulations simple and direct, the Rural Utilities Service (RUS) will eliminate regulations on Exceptions of RUS Operational Controls under Section 306E of the RE Act in its entirety. Because borrowers are now afforded the same exemptions of RUS operational controls by way of other provisions, RUS has determined that the regulation can now be removed from its regulations.

**DATES:** This rule will become effective on December 23, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Patrick R. Sarver, Management Analyst, Rural Utilities Service, Electric Program, Room 4024 South Building, Stop 1560, 1400 Independence Ave., SW., Washington, DC 20250-1560, Telephone: 202-690-2992, FAX: 202-690-0717, E-mail: psarver@rus.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This rule has been determined to be not significant for 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 titled "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034) advising that RUS loans and loan guarantees from coverage 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 appeals procedures, if any are required, must be exhausted before and 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.

**Information Collection and Recordkeeping Requirements**

This rule contains no additional information collection or recordkeeping requirements under OMB control number 0572-0032 that would require approval 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.

**National Environmental Policy Act Certification**

The Administrator of RUS has determined that this rule will not significantly affect the quality of 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, U.S. Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

**Background**

On May 24, 2002, at 67 FR 101, RUS published a proposed rule, 7 CFR Part 1710 and 1717, Exceptions of RUS Operational Controls Under Section 306E of the RE Act, which proposed the elimination of 7 CFR 1710.7. RUS currently treats the general subject of operational controls for recipients of electric loans and guarantees in three separate places, namely in RUS loan documents, in 7 CFR part 1717, subpart M, and in 7 CFR 1710.7. In the interest of eliminating confusion and to continue in its ongoing program to streamline RUS regulations, RUS will eliminate 7 CFR 1710.7.

Written comments were received June 24, 2002, from Tex-LA Electric Cooperative of Texas, Inc., Northeast Texas Electric Cooperative, Inc, and Sam Rayburn G&T Electric Cooperative, Inc., on behalf of themselves and their respective member distribution cooperatives. The three cooperatives support the removal of 7 CFR 1710.7 and provided additional comments on regulations not covered in this rulemaking. Specifically the cooperatives ask that more precise reference be made throughout the regulations when the phrase "other RUS regulations" is used as reference. The three cooperatives also ask that RUS take the opportunity to correct a typographical error found in 7 CFR 1717.615 (f)(2). RUS agrees with the comments made by the three cooperatives that whenever possible, precise reference to other sections of the regulations should be made instead of a more general statement and will continue to make rules with clear reference to other sections of its regulations as appropriate. RUS will also take this opportunity to correct the typographical error that was identified.

In this rulemaking, as presented in the proposed rule, it appears that 7 CFR 1710.7 has become an anachronism because the subsequent promulgation of new loan documents and subpart M effectively conferred the benefits of 7 CFR 1710.7 to all borrowers. Borrowers who are relying on subpart M are encouraged to switch to the new forms of loan documents so that subpart M itself can eventually be removed at a later date once the universe of legacy borrowers has sufficiently contracted to the point that any remaining legacy borrowers could be dealt with either informally or on a case-by-case basis. RUS does not believe this action will diminish or abrogate any rights or privileges conferred upon 110 percent borrowers by section 306e of the RE Act, and no such consequences are intended.

**List of Subjects**

*7 CFR Part 1710*

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

*7 CFR Part 1717*

Administrative practice and procedure, Electric power, Electric power rates, Electric utilities, Intergovernmental relations, Investments, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter X of title 7 of the Code of Federal Regulations, RUS amends 7 CFR parts 1710 and 1717 as follows:

**PART 1710—GENERAL AND PRE-LOAN 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.*, 6941 *et seq.*

**Subpart A—General**

**§ 1710.7 [Removed and Reserved]**

2. Section 1710.7 is removed and reserved.

**PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS**

3. The authority citation for part 1717 continues to read as follows:

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

**Subpart S—Lien Accommodations for Supplemental Financing Required by 7 CFR 1710.110**

4. Section 1717.615(f)(2) is revised to read as follows:

**§ 1717.615 Consolidations and Mergers.**

\* \* \* \* \*

(f) \* \* \*

(2) A pro forma TIER of not less than 1.25 and a pro forma DSC of not less than 1.25 for each of the two preceding calendar years;

**§ 1717.904 [Amended]**

5. Section 1717.904 is amended by removing paragraphs (c) and (d) and redesignating paragraph (e) as paragraph (c).

Dated: November 13, 2002.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

[FR Doc. 02–29597 Filed 11–20–02; 8:45 am]

**BILLING CODE 3410–15–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Airspace Docket No. 02–ACE–7]

**Modification of Class D Airspace; Knob Noster, Whiteman AFB, MO; Modification of Class E Airspace; Knob Noster, Whiteman AFB, MO; Correction**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This action corrects an error in the effective date of a final rule that was published in the **Federal Register** on Friday, October 25, 2002 (67 FR 65498). The rule modifies Class D and Class E airspace at Knob Noster, Whiteman AFB, MO.

**EFFECTIVE DATE:** January 23, 2003.

**FOR FURTHER INFORMATION CONTACT:** Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

**SUPPLEMENTARY INFORMATION:**

**Background**

**Federal Register** Document 02–27176 published on Friday, October 25, 2002, (67 FR 65498) modifies Class D and Class E airspace at Knob Noster, Whiteman AFB, MO.

**Correction of Publication**

Accordingly, pursuant to the authority delegated to me, the effective date of the modification of Class D and Class E airspace, Knob Noster, Whiteman AFB, MO, as published in the **Federal Register** Friday, October 25, 2002, (67 FR 65498), (FR Doc. 02–27176), is corrected as follows:

**§ 71.1 [Corrected]**

On page 65498, Column 2, EFFECTIVE DATE paragraph, after EFFECTIVE DATE: Change “0902 UTC, December 26, 2002.” to read “0901 UTC, January 23, 2003.”

Issued in Kansas City, MO, on October 29, 2002.

**Herman J. Lyons, Jr.**

*Manager, Air Traffic Division, Central Region.*

[FR Doc. 02–29457 Filed 11–20–02; 8:45 am]

**BILLING CODE 4910–13–M**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Airspace Docket No. 02–ASO–26]

**Amendment of Class E5 Airspace; Memphis, TN**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E5 airspace at Memphis, TN. The Twinkletown Airport, within the Memphis, TN, Class E5 airspace area, has closed. Therefore, the Memphis, TN, Class E5 legal description must be amended to reflect the closure.

**DATES:** 0901 UTC, January 23, 2003.

**FOR FURTHER INFORMATION CONTACT:** Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

**SUPPLEMENTARY INFORMATION:**

**History**

The Twinkletown Airport, within the Memphis, TN, Class E5 airspace area, has closed. Therefore, the Memphis, TN, Class E5 legal description must be amended to reflect the closure. This amendment will become effective on the date specified in the **DATE** section. Since this action has no impact on the users of the airspace in the vicinity of the Memphis, TN, Class E5 airspace area, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Designations for Class E are published in FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Memphis, TN.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February