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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1600, 1610, 1700, 1735, 1737, 1740, 1744, 1751, 2003, 2200 and 2201

Docket No. RUS-19-Telecom-0026

RIN 0572-AC38

Repeal of Regulations Concerning the Rural Telephone Bank, the Public Television Station Digital Transition Grant Program, and the Local Television Loan Guarantee Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule informs the public that the Rural Utilities Service (RUS or Agency) is repealing the Rural Telephone Bank, Public Television Station Digital Transition Grant Program and the Local Television Loan Guarantee Program from the Code of Federal Regulations (CFR). This action removes expired and terminated programs from the CFR as repealed by the 2018 Agricultural Improvement Act (2018

Farm Bill). The statutory changes result from the 2018 Farm Bill. Additionally, conforming changes are being made to other regulations as a result of the aforementioned statutory changes.

DATES: This final rule will be effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Rural Development Innovation Center – Regulatory Team 2, USDA, 1400 Independence Avenue SW, STOP 1522, South Building, Washington, DC 20250-1522. Telephone: (202) 690-4492. Email to thomas.dickson@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the Rural Telephone Bank (RTB) was to make loans for telecommunications infrastructure purposes. On October 1, 2005, the RTB ceased all business operations and began dissolution of equity to its stockholders, and in November 2007, the RTB was completely liquidated. For over a decade, the RTB statute remained, although the bank had ceased to exist. The 2018 Farm Bill repealed the provisions of the Rural Electrification Act of 1936 that created the RTB.

The purpose of the Rural Utilities Service (RUS) Public Television Station Digital Transition Grant Program (Grant Program) was to enable public television stations serving rural areas to transition from broadcasting in analog to digital, as required under the Federal Communications Commission (FCC) rules, by awarding grants through a

competitive process. While stations were required to broadcast their main transmitter signal in digital, many rural stations had not completed the transition of all their equipment, especially translators. In 2011, the FCC adopted a final deadline to convert all translators by September 1, 2015. The RUS program was expired in 2015.

The purpose of the Local Television Loan Guarantee Program was to facilitate access, on a technology neutral basis by December 31, 2006, to signals of local television stations for households located in non-served areas and underserved areas. Although regulations and a notice were published, this program did not receive viable applications. As a result, the program was never funded.

The 2018 Farm Bill repealed all programs mentioned above and so RUS is adjusting the CFR accordingly to remove these programs. Along with the removal of these programs, several rules needed to be modified as well, since they mention the repealed programs. These include [7 CFR parts 1700, 1735, 1737, 1744, 1751, and 2003](#). Accordingly, the corresponding provisions in the above-referenced regulations are being amended to remove any reference to the programs mentioned above.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulations are necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs,

harmonizing rules, and promoting flexibility. This rule has been determined not to be significant for purposes of Executive Order 13563. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 12372

This final 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).

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), it has been determined that this rule will not change the information collection and recordkeeping requirements previously approved and will not impose additional reporting or recordkeeping burden on users.

The Agency will request the current information collection and recordkeeping requirements for 7 CFR 1740, approved by OMB under 47 U.S.C. 1101 and assigned OMB Control Number 0572-0134 to be retired with this final rule.

The information collection and recordkeeping requirements of 7 CFR parts 2200 and 2201 were approved by OMB under 47 U.S.C. 1101 and was assigned OMB Control

Number 0572-0135. This information collection was retired by OMB on December 31, 2006.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. There are no civil justice implications associated with this direct final rule.

Civil Rights Review

RUS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this rule will not deny any persons or groups the benefits of a program or subject any persons or groups to discrimination.

Executive Order 13132, Federalism

This rule has been reviewed under Executive Order 13132, Federalism, which directs agencies to construe, in regulations and otherwise, a Federal statute to preempt state law only when the statute contains an express preemption provision. There are no federalism implications associated with this rule.

List of Subjects

7 CFR Part 1600

Sunshine Act

7 CFR Part 1610

Loan programs-communications, Rural areas, Telephone

7 CFR Part 1700

Administrative practice and procedure, Authority delegations (Government agencies), Electric power, Grant programs-energy, Loan programs-energy, Organization and functions (Government agencies)

7 CFR Part 1735

Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone

7 CFR Part 1737

Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone

7 CFR Part 1740

Communications, Grant programs, Rural areas, Television

7 CFR Part 1744

Accounting, Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone

7 CFR Part 1751

Communications equipment, Loan programs-communications, Rural areas, Telephone

7 CFR Part 2003

Organization and functions (Government agencies), Freedom of information,
Rural areas, Volunteers

7 CFR Parts 2200 and 2201

Loan programs-communications, Reporting and recordkeeping requirements,
Rural areas, Telecommunications, Television

Therefore, chapters XVI, XVII, XVIII, and XX of title 7 of the Code of
Regulations are amended as follows:

Subtitle B – Regulations of the Department of Agriculture

Chapter XVI [Removed and Reserved]

1. Under the authority of section 6602, Pub. L. 115-334, 132 Stat. 4490 7 CFR
chapter XVI, consisting of parts 1600 through 1699, is removed and reserved.

Chapter XVII—Rural Utilities Service, Department of Agriculture

PART 1700 – GENERAL INFORMATION

2. The authority citation for part 1700 continues to read as follows:

Authority: 5 U.S.C. 301, 552; 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 7 CFR
2.7.

Subpart A - General

3. Amend §1700.1 by revising paragraph (b) and removing paragraph (c).

The revision reads as follows:

§ 1700.1 General.

* * * * *

(b) The Secretary of Agriculture (Secretary) established the Rural Utilities Service (RUS) on October 20, 1994, pursuant to the Department of Agriculture Reorganization Act of 1994, (7 U.S.C. 6941 *et. seq.*). RUS was assigned responsibility for administering electric and telecommunications loan and loan guarantee programs previously administered by REA, including water and waste loans and grants previously administered by the Rural Development Administration, along with other functions as the Secretary determined appropriate. The rights, interests, obligations, duties, and contracts previously vested in REA were transferred to, and vested in RUS.

Subpart B – Agency Organization and Functions

4. Amend § 1700.25 by revising the first two sentences to read as follows:

§ 1700.25 Office of the Administrator.

The Administrator of the Rural Utilities Service (RUS) is appointed by the President. The Under Secretary, Rural Development delegated to the Administrator, in 7 CFR part 2, responsibility for administering the programs and activities of RUS. * * *

5. Amend §1700.29 by revising the introductory text to read as follows:

§1700.29 Telecommunications Program.

RUS, through the Telecommunications Program, make loans and loan guarantees to furnish and improve telecommunications service in rural areas.

* * * * *

**PART 1735 - GENERAL POLICIES, TYPES OF LOANS, LOAN
REQUIREMENTS—TELECOMMUNICATIONS PROGRAM**

6. The authority citation for part 1735 continues to read as follows:

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

Subpart A - General

7. Amend §1 735.2 by revising the definitions of “economic life” and “RUS cost-of-money loan” and removing the definition of “RTB loan”.

The revisions read as follows:

§1735.2 Definitions

* * * * *

Economic life as applied to facilities financed by loan funds, means the number of years resulting from dividing 100 percent by the depreciation rate (expressed as a percent) approved by the regulatory body with jurisdiction over the telephone service provided by the borrower for the class of facility involved or, if no approved rate exists, by the median depreciation rate expressed as a percent as published by RUS in its Statistical Report, Rural Telephone Borrowers for all RUS borrowers for that class of facility.

* * * * *

RUS cost-of-money loan means a loan made under section 305(d)(2) of the RE Act bearing an interest rate as determined under §1735.31(c).

* * * * *

Subpart B – Loan Purpose and Basic Policy

8. Amend §1735.10 by revising paragraphs (b) and (e) to read as follows:

§1735.10 General.

* * * * *

(b) RUS will not make hardship loans or RUS cost-of-money loans for any wireline local exchange service or similar fixed-station voice service that, in RUS' opinion, is inconsistent with the borrower achieving the requirements stated in the State's telecommunication modernization plan within the time frame stated in the plan (see 7 CFR part 1751, subpart B), unless RUS has determined that achieving the requirements as stated in such plan is not technically or economically feasible.

* * * * *

(e) No fees or charges are assessed for any type of loan or guarantee provided by RUS.

* * * * *

9. Amend §1735.17 by revising paragraph (b) to read as follows:

§1735.17 Facilities financed.

* * * * *

(b) RUS makes RUS cost-of-money to finance the improvement, expansion, construction, and acquisition of systems or facilities (excluding station apparatus owned by the borrower, headquarters facilities, and vehicles not used primarily in construction) to furnish and improve telephone service in rural areas, except as noted under paragraph (c) of this section.

* * * * *

Subpart C – Types of Loans

10. Amend §1735.30 by revising paragraphs (b)(2), (f), and (g) to read as follows:

§1735.30 Hardship loans.

* * * * *

(b) * * *

(2) Those facilities may, however, be financed with a RUS cost-of-money loans or a guaranteed loan if the borrower is eligible for such financing.

* * * * *

(f) On request of any borrower who is eligible for a hardship loan for which funds are not available, the borrower shall be considered to have applied for a RUS cost-of-money loans under sections 305 of the RE Act.

(g) Hardship loans may be made simultaneously with a RUS cost-of-money loans or guaranteed loans.

11. Amend § 1735.31 by revising the section heading, paragraphs (a) introductory text, (b), (c) introductory text, and (d) through (f) to read as follows:

§ 1735.31 RUS cost-of-money.

(a) RUS makes cost-of-money loans, under section 305(d)(2) of the RE Act.

To qualify for cost-of-money - loans, a borrower must meet each of the following requirements:

* * * * *

(b) To determine the RUS cost-of-money, the total loan amount will be multiplied by the ratio of RUS cost-of-money funds appropriated for the fiscal year to the sum of RUS cost-of-money funds appropriated for the fiscal year in which the loan is approved. If during the fiscal year the amount of funds appropriated changes, the ratio will be adjusted accordingly and applied only to those loans approved afterwards.

(c) The RUS cost-of-money loan shall bear interest as described in paragraphs (c)(1) and (2) of this section.

* * * * *

(d) Generally, no more than 10 percent of lending authority from appropriations in any fiscal year for RUS cost-of-money loans may be loaned to a single borrower. RUS will publish by notice in the Federal Register the dollar limit that may be loaned to a single borrower in that particular fiscal year based on approved RUS lending authority.

(e) On request of any borrower who is eligible for RUS cost-of-money loans for which funds are not available, the borrower shall be considered to have applied for a loan guarantee under section 306 of the RE Act.

(f) RUS cost-of-money loans may be made simultaneously with hardship loans or guaranteed loans.

12. Amend §1735.32 by revising paragraph (a) to read as follows:

§1735.32 Guaranteed loans.

(a) *General.* Loan guarantees under this section will be considered for only those borrowers specifically requesting a guarantee. Borrowers may also specify that the loan to be guaranteed shall be made by the Federal Financing Bank (FFB). RUS provides loan guarantees pursuant to section 306 of the RE Act. Guaranteed loans may be made simultaneously with hardship loans or RUS cost-of-money loans. No fees or charges are assessed for any guarantee of a loan provided by RUS. In view of the Government's guarantee, RUS generally obtains a first lien on all assets of the borrower (see §1735.46).

* * * * *

Subpart D - Terms of Loans

13. Amend §1735.43 by revising paragraphs (b) through (e) and removing paragraph (f).

The revisions read as follows:

§1735.43 Payments on Loans

* * * * *

(b) Borrowers that have demonstrated to the satisfaction of the Administrator an inability to maintain the funded reserve or net plant to secured debt ratio requirements, if any, contained in their mortgage, may elect to replace notes with an original maturity that exceeded the composite economic life of the facilities financed with notes bearing a shorter maturity approximating the expected composite economic life of the facilities financed, if this will result in a shorter maturity for the loan. The principal balance of the notes (hereinafter in this section called the “refunding notes”) issued to refund and substitute for the original notes would be the unpaid principal balance of the original

notes. The refunding notes would mature at a date no later than the remaining economic life of the facilities financed by the loan, plus three years, as determined by the original feasibility study prepared in connection with the loan. Interest on the original note must continue to be paid through the closing date. All other payment terms, including the rate of interest on the refunding notes, would remain unchanged. Disposition of funds in the funded reserve will be determined by RUS at the closing date. RUS will notify the borrower in writing of the amendment of loan payment requirements and the terms and conditions thereof.

(c) A borrower qualifying under paragraph (b) of this section shall not be required to pay a prepayment premium on such portion of the payments under its new notes as exceeds the payments required under the notes being replaced.

(d) To apply for refunding notes, borrowers must send to the Area Office the following:

(1) A certified copy of a board resolution requesting an amendment of loan payment requirements and that certain notes be replaced;

(2) If applicable, evidence of approval by the regulatory body with jurisdiction over the telecommunications service provided by the borrower to issue refunding notes; and

(3) Such other documents as may be required by the RUS.

(e) Principal and interest will be repaid in accordance with the terms of the notes. Generally, interest is payable each month as it accrues. Principal payments on each note generally are scheduled to begin 2 years after the date of the note. After this deferral

period, interest and principal payments on all funds advanced during this 2-year period are scheduled in equal monthly installments. Principal payments on funds advanced 2 years or more after the date of the note will begin with the first billing after the advance. The interest and principal payments on each of these advances will be scheduled in equal monthly installments. This CFR part supersedes those portions of RUS Bulletin 320-12, “Loan Payments and Statements” with which it is in conflict.

14. Revise § 1735.44 to read as follows:

§ 1735.44 Prepayment premiums.

The loan documents normally provide that RUS insured loans may be repaid in full at any time without prepayment premiums. Depending upon the lender, there may be prepayment premiums on loans guaranteed by RUS. See RUS Bulletin 320-12 for additional information. This CFR part supersedes those portions of RUS Bulletin 320-12, “Loan Payments and Statements,” with which it is in conflict.

15. Amend § 1735.46 by revising paragraph (f) to read as follows:

§ 1735.46 Loan security documents.

* * * * *

(f) This section does not limit the rights of any parties to the mortgage other than RUS.

16. Amend §1735.47 by revising paragraph (a)(2) to read as follows:

§1735.47 Rescissions of loans.

(a) * * *

(2) Sufficient funds are available from sources other than RUS or FFB to complete the purposes of the loan being rescinded; or

* * * * *

PART 1737 - PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED TELECOMMUNICATIONS LOANS

17. The authority citation for part 1737 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

Subpart A - General

18. Amend §1737.2 by revising the definition of “RUS cost-of-money loan” and removing the definition of “RTB loan”.

The revision reads as follows:

§1737.2 Definitions.

* * * * *

RUS cost-of-money loan means a loan made under section 305(d)(2) of the RE Act bearing an interest rate as determined under 7 CFR 1735.31(c).

* * * * *

Subpart B - Preapplication Stage

19. Amend §1737.11 by revising paragraph (i) to read as follows:

§1737.11 Preapplication determinations.

* * * * *

(i) *Telecommunications modernization plan*. A borrower applying for hardship or concurrent RUS cost-of-money loans should refer to 7 CFR part 1751, subpart B.

Subpart G – Project Cost Estimation Procedures

20. Amend §1737.60 by revising the last sentence in paragraph (a) introductory text and paragraphs (a)(1) and (2) to read as follows:

§1737.60 Telephone loan budget

(a) * * * The amount of funds included in any loan shall be limited for certain items:

(1) Operating funds for working capital or current operating deficiencies shall be included only in cases of financial hardship as determined by the Administrator.

(2) Contingencies shall not exceed 3 percent of the total amount of loan funds to be used for construction, engineering, operating equipment and operating funds.

* * * * *

Subpart H—Feasibility Determination Procedures

21. Amend §1737.71 by revising the first sentence of paragraph (a) to read as follows:

§1737.71 Interest rate to be considered for the purpose of assessing feasibility for loans

(a) For purposes of determining the creditworthiness of a borrower for RUS cost-of-money, the Administrator shall assume that the loan, if made, would bear interest at the Treasury rate on the date of determination as described in paragraph (b) of this section. * * *

* * * * *

PART 1740 – [REMOVED AND RESERVED]

22. Under the authority of section 6602, Pub. L. 115-334, 132 Stat. 4490, part 1740 is removed and reserved.

**PART 1744 - POST-LOAN POLICIES AND PROCEDURES COMMON TO
GUARANTEED AND INSURED TELEPHONE LOANS**

23. The authority citation for part 1744 continues to read as follows:

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

Subpart B – Lien Accommodations and Subordination Policy

24. Amend §1744.21 by revising the definitions of “Administrator”, “Advance”, “RE Act (Act)”, and “RUS” to read as follows:

§1744.21 Definitions.

* * * * *

Administrator means the Administrator of RUS.

Advance means transferring funds from RUS or a lender guaranteed by RUS to the borrower's construction fund.

* * * * *

RE Act (Act) means the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*).

RUS means the Rural Utilities Service, and includes its predecessor, the Rural Electrification Administration.

* * * * *

Subpart C – Advance and Disbursement of Funds

25. Amend § 1744.67 by revising the paragraph (a)(2) introductory text to read as follows:

§ 1744.67 Temporary excess construction funds

* * * * *

(a) * * *

(2) With RUS cost-of-money or FFB loan funds, the following apply:

* * * * *

26. Amend § 1744.68 by revising paragraphs (a) introductory text and (a)(1), and the first sentence of paragraph (d) to read as follows:

§1744.68 Order and method of advances of telephone loan funds.

(a) Borrowers may specify the sequence of advances of funds under any combination of approved telephone loans from RUS or FFB, except that for all loans approved on or after November 1, 1993, the borrower may use loan funds:

(1) Only for purposes for which that type of loan (i.e. Hardship, RUS cost-of-money, or FFB) may be made; and

* * * * *

(d) Borrowers of RUS funds may request advances by wire service only for amounts greater than \$500,000 or for advances to borrowers outside the Continental United States. * * *

* * * * *

Subpart E – Borrower Investments

§ 1744.200 [Amended]

27. Amend §1744.200 by removing paragraph (b).

28. Amend §1744.201 by revising the definitions of “Administrator” and “Borrower” and removing the definition of “RTB”.

The revisions read as follows:

§1744.201 Definitions.

* * * * *

Administrator means the Administrator of the Rural Utilities Service (RUS).

* * * * *

Borrower means any organization which has an outstanding loan made by RUS or guaranteed by RUS, or which is seeking such financing.

* * * * *

**PART 1751 - TELECOMMUNICATIONS SYSTEM PLANNING AND DESIGN
CRITERIA, AND PROCEDURES**

29. The authority citation for part 1751 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

30. Amend § 1751.100 by revising the definitions of “Borrower” and “RUS cost-of-money loan” and removing the definition of “RTB loan”.

The revisions read as follows:

§ 1751.100 Definitions.

* * * * *

Borrower. Any organization that has received a RUS loan designation number and which has an outstanding telephone loan made by RUS or guaranteed by RUS, or which has a completed loan application with RUS.

* * * * *

RUS cost-of-money loan. A loan made under section 305(d)(2) of the RE Act bearing interest as determined under 7 CFR 1735.31(c).

* * * * *

31. Amend § 1751.103 by revising the second sentence in paragraph (a) introductory text to read as follows:

§ 1751.103 Loan and loan advance requirements

(a) ***. In particular, beginning February 13, 1996, RUS will make RUS hardship and RUS cost-of-money loans for facilities and other RE Act purposes in a State only if:

* * * * *

**Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural
Utilities Service, and Farm Service Agency, Department of Agriculture
Subchapter I—Administrative Regulations**

PART 2003 - ORGANIZATION

32. The authority citation for part 2003 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 6941; and 7 CFR 2.17.

§ 2003.1 [Amended]

33. Amend § 2003.1 by removing the definition of “RTB”.

34. Amend §2003.22 by revising paragraphs (b) introductory text, (b)(3) introductory text, and (b)(3)(iii) to read as follows:

§2003.22 – Functional organization of RUS

* * * * *

(b) *Office of the Administrator.* According to 7 CFR 2.47, the Administrator has responsibility for managing and administering the programs and support functions of RUS to provide financial and technical support for rural infrastructure to include electrification, clean drinking water, telecommunications, and water disposal systems, pursuant to the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1921 *et. seq.*), and the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et. seq.*). The office develops and implements strategic plans concerning the Rural Electrification Act of 1936, as amended.

* * * * *

(3) *Office of Assistant Administrator—Telecommunications Program.* Headed by the Assistant Administrator—Telecommunications Program, this office is responsible to the Administrator for directing and coordinating the National Rural Telecommunications, Distance Learning, and Telemedicine programs of RUS. The Assistant Administrator, Telecommunications Program, is responsible for developing, maintaining, and implementing regulations and program procedures on the processing and approval of grants, loans, and loan-related activities for all rural telecommunications borrowers and grant recipients. The office directs the following three divisions:

* * * * *

(iii) *Telecommunications Area Offices.* Headed by area directors, these four offices are responsible for administering the Telecommunications, Distance Learning, and Telemedicine programs for specific geographic areas, and serving as the single point of contact for all program applicants and borrowers within their respective areas. The offices provide guidance to applicants and borrowers on RUS loan policies and procedures and make recommendations to the Administrator on applications for loans, guarantees, and grants. The offices assure that borrower systems and facilities are designed and constructed in accordance with the terms of the loan, acceptable engineering practices and specifications, and acceptable loan security standards.

* * * * *

Chapter XX—[Removed and Reserved]

35. Under the authority of section 6602, Pub. L. 115-334, 132 Stat. 4490, 7 CFR chapter XX, consisting of parts 2200 through 2299, is removed and reserved.

Chad Rupe

Administrator

Rural Utilities Service

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