bar grade retention for all employees in or moving from non-GS/FWS pay systems.)

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would only apply to Federal agencies and employees.

List of Subjects in 5 CFR Part 536

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is proposing to amend part 536 of title 5 of the Code of Federal Regulations as follows:

PART 536—GRADE AND PAY RETENTION

1. The authority citation for part 536 continues to read as follows:

Authority: 5 U.S.C. 5361–5366; sec. 7202(f) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), 104 Stat. 1338–336; sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981; § 536.307 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

Subpart A—Definitions; Coverage and Applicability

2. In § 536.102, the definition of *Representative rate* is amended by adding ''or'' after the semicolon at the end of paragraph (1), removing the ''or'' at the end of paragraph (2), and replacing the semicolon with a period, and removing paragraph (3); and the definition of *employee* is revised to read as follows:

§ 536.102 Definitions.

* * * * *

Employee means an employee as defined in 5 U.S.C. 5361 and also an individual who moves from a position which is not under a statutorily covered pay schedule to a position which is under a statutorily covered pay schedule, provided that the individual's employment immediately prior to the move was not on a temporary or term basis. *Employee* also means an employee as defined in 5 U.S.C. 2105 who is granted pay retention under § 536.104(d), subject to the limitations set forth in this part. However, *employee* does not include an official in or moving from an Executive Schedule position.

* * * * *

3. In § 536.104, a new paragraph (d) is added to read as follows:

§ 536.104 Coverage and applicability of pay retention.

* * * * *

(d) The head of an agency may apply the pay retention provisions of this part to an individual not under a statutorily covered pay schedule (as defined in 5 U.S.C. 5361) whose rate of basic pay would otherwise be reduced as the result of a management action, provided that individual is an employee as defined in 5 U.S.C. 2105 (excluding an official in or moving from an Executive Schedule position). Coverage is subject to all other qualifying conditions and limitations established in this part.

4. In § 536.105, paragraph (a)(1) is removed, paragraphs (a)(2) through (a)(5) are redesignated as (a)(1) through (a)(4), respectively, and paragraph (c) is revised to read as follows:

§ 536.105 Exclusions.

* * * * *

(c) Grade retention under § 536.103 does not apply to an employee who—

(1) Moves to a position not under a statutorily covered pay schedule; or

(2) Moves from a position not under a statutorily covered pay schedule to a position under a statutorily covered pay schedule.

5. Section 536.203 is revised to read as follows:

§ 536.203 Determination of retained grade.

An employee who is in a position under a statutorily covered pay schedule immediately prior to the action that gives entitlement to grade retention shall retain the grade held immediately prior to the action.

6. In § 536.205, paragraphs (c) and (g) are revised to read as follows:

§ 536.205 Determination of rate of basic pay.

* * * * *

(c) When an increase in the scheduled rates of the grade of the employee's position occurs while the employee is under pay retention, the employee is entitled to 50 percent of the amount of the increase in the maximum rate of basic pay payable for the grade of the employee's current position. This paragraph does not apply to employees who move from a noncovered pay schedule to a statutorily covered pay schedule and who are receiving a retained rate in excess of the maximum payable rate of the applicable covered pay schedule.

* * * * *

(g) Notwithstanding paragraphs (b), (c), and (d) of this section, for an employee who is not in a position under a statutorily covered pay schedule while receiving a retained rate (as allowed by § 536.104(d))—

(1) The retained rate is compared to the rate of basic pay that otherwise would apply to the employee but for the retained rate (instead of comparing it to the maximum rate of the rate range for the employee's position) and is terminated when the retained rate falls below the employee's otherwise applicable rate;

(2) The retained rate is capped at 150 percent of the rate of basic pay that otherwise would apply to the employee but for the retained rate (instead of 150 percent of the maximum rate of the rate range for the employee's position); and

(3) The retained rate is frozen and may not be increased.

[FR Doc. 00–13052 Filed 5–24–00; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1735

RIN 0572–AB56

General Policies, Types of Loans, Loan Requirements—Telecommunications Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Supplemental proposed rule.

SUMMARY: The Rural Utilities Service (RUS) is proposing to amend its regulations to update the criteria for determining ''reasonably adequate service'' levels for local exchange carriers and providers of specialized telecommunications service. This supplemental proposed rule is part of an ongoing RUS project to modernize agency policies in order to provide borrowers with the flexibility to continue providing reliable, modern telephone service at reasonable costs in rural areas, while maintaining the security and feasibility of the Government's loans.

DATES: Written comments on this supplemental proposed rule must be received by RUS by or carry a postmark or equivalent of June 26, 2000.

ADDRESSES: Submit written comments on this supplemental proposed rule to Roberta D. Purcell, Assistant Administrator, Telecommunications

Program, Rural Utilities Service, 1400 Independence Avenue, SW., Room 4056, STOP 1590, Washington, DC 20250–1590. RUS requires a signed original and three copies of all comments (7 CFR part 1700.4). All comments received will be available for public inspection in room 4056, South Building, U.S. Department of Agriculture, Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday (7 CFR part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Avenue, SW., Room 4056, STOP 1590, Washington, DC 20250–1590. Telephone: (202) 720–9556.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in section 3 of that 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 prior to initiating litigation against the Department or its agencies.

Regulatory Flexibility Act Certification

RUS has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS telecommunications loan program provides borrowers with loans at interest rates and terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining Federal financing, receive economic benefits that exceed any direct cost associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

This proposed rule contains no new reporting or recordkeeping burdens, under OMB control number 0572–0079 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden to F. Lamont Heppe, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Avenue, SW., Room 4034, STOP 1522, Washington, DC 20250–1522.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this proposed 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 proposed rule is listed in the Catalog of Federal Domestic Assistance programs under numbers 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325. Telephone: (202) 512–1800.

Executive Order 12372

This program 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).

Unfunded Mandates

This proposed rule contains no Federal mandates (under the regulatory provisions of title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Background

The telecommunications industry is becoming increasingly competitive. The Telecommunications Act of 1996 (Public Law 104–104) and regulatory actions by the Federal Communications Commission (FCC) are drastically altering the regulatory and business environment of all telecommunications systems, including RUS borrowers. At the same time, changes in overall business trends and technologies continue to place pressure on RUS-financed systems to offer a wider array of services and to operate more efficiently.

The Telecommunications Act of 1996 mandates that universally available and affordable telecommunications services, including advanced services, be made available to all US citizens—whether in rural areas or city centers, affluent or poor communities. RUS supports this mandate and the goal that, with the assistance of advanced telecommunications technology, rural citizens be provided the same economic, educational, and health care benefits available in the larger metropolitan areas. RUS believes that the most expeditious way to bring the full range of telephone services to rural areas is to make certain providers of advanced services, in addition to providers of local exchange services, eligible for RUS financing.

RUS regulations currently contain criteria for RUS to consider in determining whether telecommunications service is reasonably adequate (7 CFR 1735.12(c), Nonduplication). However, these criteria do not recognize certain technological and other factors that are currently employed to determine adequate service. RUS is proposing separate criteria for local exchange carriers and providers of specialized telecommunications service. These revised criteria for determining ''reasonably adequate service'' are derived primarily from RUS policies related to telecommunications carriers generally, the Telecommunications Act of 1996, and FCC rules and regulations.

Under the Telecommunications Act of 1996, all incumbent local exchange carriers (ILECs) are automatically considered eligible telecommunications carriers (ETCs). An ETC is certified by the regulatory commission having jurisdiction, which makes it eligible to receive universal service support. Each State regulatory commission will name at least one ETC for every area. In return for universal service support, the ETC must make available an FCC-specified level of service throughout a designated area. Furthermore, an ETC must agree to advertise basic services in a specific area and offer service to everyone in that area.

If a LEC that has not previously borrowed from RUS applies for financing, RUS is proposing to lend only to those LECs that are ETCs within the State or tribal jurisdiction in which their financed facilities are to be located, LECs that have made commitments, satisfactory to RUS, to become ETCs, or LECs that commits to act as ETCs with respect to the area coverage requirements as described in § 1735.11. ETCs are eligible for universal service support and have accepted the obligations of being an ETC. ETC status, therefore, both enhances loan feasibility and promotes area wide coverage.

The Governor of RTB utilizes RUS policies in carrying out RTB's loan program. Therefore, these policy revisions would apply to loans made by RTB, as well.

RUS proposed amending certain provisions of 7 CFR part 1735 in a Proposed Rule published on February 11, 2000 at 65 FR 6922. Subsequently, RUS continued to review and analyze the rapidly developing telecommunications environment and decided to propose further revisions of certain provisions of 7 CFR part 1735, including portions of §§ 1735.2, 1735.10(c), 1735.12, and 1735.14 as published on February 2, 2000. RUS requests comments on all provisions published in this Supplemental Proposed Rule. Those proposed amendments published first on February 11, 2000, but revised again by this supplement will be subject to the procedures, including those concerning public comments, applicable hereto.

List of Subjects in 7 CFR Part 1735

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

For the reasons set forth in the preamble, 7 CFR chapter XVII is proposed to be amended as follows:

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

1. 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.*

2. In § 1735.2, as proposed to be amended February 11, 2000, at 65 FR 6923, revise the definition of Mobile telecommunications service and add the following definitions in alphabetical order to read as follows:

§ 1735.2 Definitions.

* * * * *

Exchange access means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

* * * * *

Local exchange carrier (LEC) means an organization that is engaged in the provision of telephone exchange service or exchange access.

* * * * *

Mobile telecommunications service means radio communication voice service between mobile and land or fixed stations, or between mobile stations.

Modernization Plan (State Telecommunications Modernization Plan) means a State plan, which has been approved by RUS, for improving the telecommunications network of those telecommunications providers covered by the plan. A Modernization Plan must conform to the provisions of 7 CFR part 1751, subpart B.

* * * * *

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

* * * * *

Specialized telecommunications service means any telephone service other than telephone exchange service, exchange access, or mobile telecommunications service.

* * * * *

Telecommunications means the transmission or reception of voice, data, sounds, signals, pictures, writings, or signs of all kinds, by wire, fiber, radio, light, or other visual or electromagnetic means.

Telephone exchange service means: (1) Service provided primarily to fixed locations within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge; or (2) Comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

* * * * *

3. Revise § 1735.10(c), as proposed to be revised February 11, 2000, at 65 FR 6923, to read as follows:

§ 1735.10 General.

* * * * *

(c) A borrower receiving a loan to provide mobile telecommunications services or special telecommunications services shall be considered to be participating in the state telecommunications plan (TMP) with respect to the particular loan so long as the loan funds are not used in a manner that, in RUS' opinion, is inconsistent with the borrower achieving the goals set forth in the plan, except that a borrower must comply with any portion of a TMP made applicable to the borrower by a state commission with jurisdiction.

* * * * *

4. In § 1735.12, as proposed to be amended at 65 FR 6923, revise paragraph (c) and add paragraph (f) to read as follows:

§ 1735.12 Nonduplication.

* * * * *

(c) RUS shall consider the following criteria for any wireline local exchange service or similar fixed-station voice service provided by a local exchange carrier (LEC) in determining whether such service is reasonably adequate:

(1) The LEC is providing area coverage as described in § 1735.11.

(2) The LEC is providing all one-party service or, if the State commission has mandated a lower grade of service, the LEC is eliminating that service in accordance with the requirements of the Telecommunications Act of 1996, 47 U.S.C. 151 *et seq.*

(3) The LEC's network is capable of providing transmission and reception of data at a rate of at least 1,000,000 bits per second (1 Mbps) with reasonable modification to any subscriber who requests it.

(4) The LEC makes available custom calling features (at a minimum, call waiting, call forwarding, abbreviated dialing, and three-way calling).

(5) The LEC is able to provide E911 service to all subscribers, when requested by the government entity responsible for this service.

(6) The LEC is able to offer local service with blocked toll access to those subscribers who request it.

(7) The LEC's network is capable of accommodating Internet access at speeds of at least 28,800 bits per second (28.8 Kbps) via modem dial-up from any subscriber location.

(8) There is an absence of frequent service interruptions.

(9) The LEC is interconnected with the public switched network.

(10) No Federal or State regulatory commission having jurisdiction has determined that the quality, availability, or reliability of the service provided is inadequate.

(11) Services are provided at reasonably affordable rates.

(12) Any other criteria the Administrator determines to be applicable to the particular case.

* * * * *

(f) RUS shall consider the following criteria for any provider of a specialized telecommunications service in determining whether such service is reasonably adequate:

(1) The provider of a specialized telecommunications service is providing area coverage as described in § 1735.11.

(2) An adequate signal strength is provided throughout the largest practical portion of the service area.

(3) There is an absence of frequent service interruptions.

(4) The quality and variety of service provided is comparable to that provided in nonrural areas.

(5) The service provided complies with industry standards.

(6) No Federal, State, or local regulatory commission having jurisdiction has determined that the quality, availability, or reliability of the service provided is inadequate.

(7) Services are provided at reasonably affordable rates.

(8) Any other criteria the Administrator determines to be applicable to the particular case.

5. In § 1735.14, as proposed to be amended at 65 FR 6924, remove ''and'' at the end of paragraph (c)(1), remove the period at the end of paragraph (c)(2) and add ''; and'' in its place, and add new paragraph (c)(3) to read as follows:

§ 1735.14 Borrower eligibility.

* * * * *

(c) * * *

(3) If a local exchange carrier, must be either an eligible telecommunications carrier (ETC) within the State or tribal jurisdiction in which the RUS-financed facilities are to be located, a LEC that has made a commitment, satisfactory to RUS, to become an ETC within the State or tribal jurisdiction in which the financed facilities are to be located, or a LEC that commits to act as an ETC in such a manner as to meet the area coverage requirements as described in § 1735.11.

Dated: May 12, 2000.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 00–12657 Filed 5–24–00; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1710

RIN 2550–AA09

Releasing Information; Electronic Freedom of Information Amendment

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is proposing to amend its regulations to reflect the changes to the Freedom of Information Act (FOIA) made by the Electronic Freedom of Information Act Amendments Act of 1996 (1996 Act) and to revise the method of computing fees. The proposal provides for: electronic FOIA requests; access to records published or released under FOIA in electronic format; expedited processing of FOIA requests upon a showing of compelling need; publication of responses to FOIA requests that are likely to become repeat requests; aggregation of clearly related requests by a single requester or group of requesters acting in concert; informing the requester of the volume of requested material withheld and the extent of deletions both in publicly available records and records released in response to a FOIA request; and a method for computing fees that is based upon the classification of the employee performing the work as executive, professional, or clerical.

DATES: Written comments regarding the proposed rulemaking must be received by July 24, 2000.

ADDRESSES: All comments concerning the proposed rule should be addressed to Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Fourth Floor, Washington, DC 20552. Alternatively, comments may be submitted via electronic mail to: *RegComments@ofheo.gov.* Copies of all communications received will be available for public inspection and copying at the address above.

FOR FURTHER INFORMATION CONTACT: Dorothy J. Acosta, Associate General Counsel, 1700 G Street NW, Fourth Floor, Washington, DC 20552, telephone (202) 414–6924 (not a toll-free number). The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION: On December 23, 1998, OFHEO issued a final rule governing the release of information to the public, which, among other things, implemented the requirements of the Freedom of Information Act (FOIA). 63 FR 70998, Dec. 23, 1998. At the time of the publication of the final regulation, OFHEO noted that Congress had enacted the Electronic Freedom of Information Act Amendments of 1996 (1996 Act)[1] to provide for public access to information in an electronic format and for other purposes and announced that these amendments would be implemented by a separate rulemaking. Although certain of the 1996 Act's amendments that did not involve access to records in an electronic format were included in the final regulation, such as the extension of the time limit for the initial agency response from ten (10) to 20 days, this proposed regulation implements the remainder of the amendments and proposes a new method for computing fees. The 1996 Act amendments that are reflected in this proposal are: (1) The requirement to make requested documents available in the form or format specified by the requester, provided the document is readily reproducible in that form or format; (2) the requirement to make publicly available copies of records released in response to FOIA requests that are likely to become the subject of subsequent requests for substantially the same records; (3) the requirement for electronic access to records required to be made public by 5 U.S.C. 552(a)(2) that were created after November 1, 1996; (4) the requirement to provide expedited processing of FOIA requests upon a showing of compelling need by the requester and in such other cases as the agency may determine; (5) the requirement to indicate the extent of any deletion made in released records and publicly available records; (6) the requirement to inform the requester of the estimated volume of material withheld; and (7) the provision for aggregating clearly related requests as a single request when such a request would constitute an ''unusual circumstance'' justifying an extension of the response time. Although the 1996 Act authorized agencies to promulgate regulations providing for multi-tracking of FOIA requests based on the amount of time or work (or both) involved in processing requests, OFHEO has elected not to propose such regulations at this time. Thus far, the volume of FOIA requests has not been so great that a multi-tracking system is needed.

[1] Pub. L. 104–231, 110 Stat. 3048.