

Stat. 4029; amended Pub. L. 102-237, title VII, §703(c), Dec. 13, 1991, 105 Stat. 1881; Pub. L. 103-354, title II, §235(a)(12), (13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104-127, title VII, §781(b), Apr. 4, 1996, 110 Stat. 1151.)

Editorial Notes

AMENDMENTS

1996—Par. (7). Pub. L. 104-127 struck out par. (7) which read as follows: “administer a Rural Business Incubator Fund (as established under section 950aa-1 of this title) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.”

1994—Pub. L. 103-354 struck out “of REA Administrator” at end of section catchline and substituted “Secretary” for “Administrator” in introductory provisions and par. (3).

1991—Pars. (6) to (8). Pub. L. 102-237 inserted “and” at end of par. (6), redesignated par. (8) as (7), and struck out former par. (7) which read as follows: “review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, to which the amendment relates, see section 1101(b)(8) of Pub. L. 102-237, set out as a note under section 1421 of this title.

§ 950aa-1. Repealed. Pub. L. 104-127, title VII, § 781(a), Apr. 4, 1996, 110 Stat. 1151

Section, act May 20, 1936, ch. 432, title V, §502, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, §2345, 104 Stat. 4030; amended Dec. 13, 1991, Pub. L. 102-237, title VII, §703(d), 105 Stat. 1881; Oct. 13, 1994, Pub. L. 103-354, title II, §235(a)(13), 108 Stat. 3221, provided for establishment of Rural Business Incubator Fund.

SUBCHAPTER VI—RURAL BROADBAND ACCESS

§ 950bb. Access to broadband telecommunications services in rural areas

(a) Purpose

The purpose of this section is to provide grants, provide loans, and provide loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas.

(b) Definitions

In this section:

(1) Broadband service

The term “broadband service” means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.

(2) Incumbent service provider

The term “incumbent service provider”, with respect to an application submitted under this section, means an entity that, as of the date of submission of the application, is

providing broadband service to not less than 5 percent of the households in the service territory proposed in the application.

(3) Rural area

(A) In general

The term “rural area” means any area other than—

- (i) an area described in clause (i) or (ii) of section 1991(a)(13)(A) of this title; and
- (ii) in the case of a grant or direct loan, a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.

(B) Urban area growth

The Secretary may, by regulation only, consider an area described in section 1991(a)(13)(F)(i)(I) of this title to not be a rural area for purposes of this section.

(C) Exclusion of certain populations

Such term does not include any population described in subparagraph (H) or (I) of section 1991(a)(13) of this title.

(c) Grants, loans, and loan guarantees

(1) In general

The Secretary shall make grants, shall make loans, and shall guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

(2) Priority

(A) In general

In making grants, making loans, and guaranteeing loans under paragraph (1), the Secretary shall—

- (i) give the highest priority to applications for projects to provide broadband service to unserved rural communities that do not have any residential broadband service of at least—

(I) a 10-Mbps downstream transmission capacity; and

(II) a 1-Mbps upstream transmission capacity;

- (ii) give priority to applications for projects to provide the maximum level of broadband service to the greatest proportion of rural households in the proposed service area identified in the application;

(iii) provide equal consideration to all eligible entities, including those that have not previously received grants, loans, or loan guarantees under paragraph (1); and

- (iv) with respect to 2 or more applications that are given the same priority under clause (i), give priority to an application that requests less grant funding than loan funding.

(B) Other

After giving priority to the applications described in clauses (i) and (ii) of subparagraph (A), the Secretary shall then give priority to applications—

- (i) for projects to provide broadband service to rural communities—

(I) with a population of less than 10,000 permanent residents;

(II) that are experiencing outmigration and have adopted a strategic community investment plan under section 2008v(d) of this title that includes considerations for improving and expanding broadband service;

(III) with a high percentage of low income families or persons (as defined in section 1471(b) of title 42);

(IV) that are isolated from other significant population centers; or

(V) that provide rapid and expanded deployment of fixed and mobile broadband on cropland and rangeland within a service territory for use in various applications of precision agriculture; and

(ii) that were developed with the participation of, and will receive a substantial portion of the funding for the project from, 2 or more stakeholders, including—

(I) State, local, and tribal governments;

(II) nonprofit institutions;

(III) community anchor institutions, such as—

(aa) public libraries;

(bb) elementary schools and secondary schools (as defined in section 7801 of title 20);

(cc) institutions of higher education; and

(dd) health care facilities;

(IV) private entities;

(V) philanthropic organizations; and

(VI) cooperatives.

(3) Grant amounts

(A) Definition of development costs

In this paragraph, the term “development costs” means costs of—

(i) construction, including labor and materials;

(ii) project applications; and

(iii) other development activities, as determined by the Secretary.

(B) Eligibility

To be eligible for a grant under this section, in addition to the requirements of subsection (d), the project that is the subject of the grant shall—

(i) be carried out in a proposed service territory in which not less than 90 percent of the households are unserved; and

(ii) not concurrently receive any other broadband grant administered by the Rural Utilities Service.

(C) Maximum

Except as provided in subparagraph (D), the amount of any grant made under this section shall not exceed—

(i) 75 percent of the total project cost with respect to an area with a density of fewer than 7 people per square mile;

(ii) 50 percent of the total project cost with respect to an area with a density of 7 or more and fewer than 12 people per square mile; and

(iii) 25 percent of the total project cost with respect to an area with a density of 12 or more and 20 or fewer people per square mile.

(D) Secretarial authority to adjust

The Secretary may—

(i) make grants of up to 75 percent of the development costs of the project for which the grant is provided to an eligible entity if the Secretary determines that the project serves—

(I) an area of rural households described in paragraph (2)(A)(i); or

(II) a rural community described in any of subclauses (I) through (IV) of paragraph (2)(B)(i); and

(ii) make modifications of the density thresholds described in subparagraph (C), in order to ensure that funds provided under this section are best utilized to provide broadband service in communities that are the most rural in character.

(E) Applications

The Secretary shall establish an application process for grants under this section that—

(i) permits a single application for a grant and a loan under subchapter I, II, or this subchapter that is associated with such grant; and

(ii) provides a single decision to award such grant and such loan.

(F) Density determinations

When determining population density under this section, the Secretary shall prescribe a calculation method which—

(i) utilizes publicly available data; and

(ii) includes only those areas in which the applicant is able to meet the service requirements under this section, as determined by the Secretary.

(4) Fees

In the case of loan guarantees issued or modified under this section, the Secretary shall charge and collect from the lender fees in such amounts as to bring down the costs of subsidies for guaranteed loans, except that such fees shall not act as a bar to participation in the programs nor be inconsistent with current practices in the marketplace.

(d) Eligibility

(1) Eligible entities

(A) In general

To be eligible to obtain a grant, loan, or loan guarantee under this section, an entity shall—

(i) demonstrate the ability to furnish or improve service in order to meet the broadband buildout requirements established under subsection (e)(4) in all or part of an unserved or underserved rural area;

(ii) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require; and

(iii) agree to complete buildout of the broadband infrastructure described in the

application by not later than 5 years after the initial date on which assistance under this section is made available.

(B) Limitation

An eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States may not receive an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated under subsection (j) for the fiscal year.

(2) Eligible projects

(A) In general

Except as provided in subparagraphs (B) and (C), assistance under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application of the eligible entity is submitted—

(i) not less than 50 percent (in the case of loans or loan guarantees provided in accordance with subsection (g)(1)(A)) of the households in the proposed service territory are unserved or have service levels below the minimum acceptable level of fixed broadband service, whether terrestrial or wireless, established under subsection (e); and

(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.

(B) Exception to percent requirement

Subparagraph (A)(i) shall not apply to the proposed service territory of a project if a loan or loan guarantee has been made under this section to the applicant to provide broadband service in the proposed service territory.

(C) Exception to incumbent service provider requirement

(i) In general

Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider in the portion of a proposed service territory in which the provider is upgrading broadband service to meet the minimum acceptable level of broadband service established under subsection (e) for the existing territory of the incumbent service provider.

(ii) Exception

Clause (i) shall not apply if the applicant is eligible for funding under another subchapter of this chapter.

(3) Equity and market survey requirements

(A) In general

The Secretary may require an entity to provide a cost share in an amount not to exceed 10 percent of the amount of the grant, loan, or loan guarantee requested in the application of the entity, unless the Secretary determines that a higher percentage is required for financial feasibility.

(B) Market survey

(i) In general

The Secretary may require an entity that proposes to have a subscriber projec-

tion of more than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

(ii) Less than 20 percent

The Secretary may not require an entity that proposes to have a subscriber projection of less than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

(iii) Information

Information submitted under this subparagraph shall be—

(I) certified by the affected community, city, county, or designee; or

(II) demonstrated on—

(aa) the broadband map of the affected State if the map contains address-level data; or

(bb) the National Broadband Map if address-level data is unavailable.

(4) State and local governments and Indian tribes

Subject to paragraph (1), a State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) and an Indian tribe shall be eligible for assistance under this section to provide broadband services to a rural area.

(5) Technical assistance and training

(A) In general

The Secretary may provide to eligible entities described in paragraph (1) that are applying for assistance under this section for a project described in subsection (c)(2)(A)(i) technical assistance and training—

(i) to prepare reports and surveys necessary to request grants, loans, and loan guarantees under this section for broadband deployment;

(ii) to improve management, including financial management, relating to the proposed broadband deployment;

(iii) to prepare applications for grants, loans, and loan guarantees under this section; or

(iv) to assist with other areas of need identified by the Secretary.

(B) Funding

Not less than 3 percent and not more than 5 percent of amounts appropriated to carry out this section for a fiscal year shall be used for technical assistance and training under this paragraph.

(e) Broadband service

(1) In general

Subject to paragraph (2), for purposes of this section, the minimum acceptable level of broadband service for a rural area shall be at least—

(A) a 25-Mbps downstream transmission capacity; and

(B) a 3-Mbps upstream transmission capacity.

(2) Adjustments

At least once every 2 years, the Secretary shall review, and may adjust through notice

published in the Federal Register, the minimum acceptable level of broadband service established under paragraph (1) and broadband buildout requirements under paragraph (4) to ensure that high quality, cost-effective broadband service is provided to rural areas over time.

(3) Prohibition

The Secretary shall not establish requirements for bandwidth or speed that have the effect of precluding the use of evolving technologies appropriate for rural areas.

(4) Broadband buildout requirements

(A) In general

The term “broadband buildout requirement” means the level of internet service an applicant receiving assistance under this section must agree, at the time the application is finalized, to provide for the duration of any project-related agreement between the applicant and the Department.

(B) Broadband buildout requirements further defined

Subject to subparagraph (C), the Secretary shall establish broadband buildout requirements for projects with agreement lengths of—

- (i) 5 to 10 years;
- (ii) 11 to 15 years;
- (iii) 16 to 20 years; and
- (iv) more than 20 years.

(C) Requirements

In establishing the broadband buildout requirements under subparagraph (B), the Secretary shall—

- (i) utilize the same metrics used to define the minimum acceptable level of broadband service under paragraph (1);¹
- (ii) establish such requirements to reasonably ensure—
 - (I) the repayment of all loans and loan guarantees; and
 - (II) the financed network is technically capable of providing broadband service for the lifetime of any project-related agreement.

(D) Substitute service standards for unique service territories

If an applicant shows that it would be cost prohibitive to meet the broadband buildout requirements established under this paragraph for the entirety of a proposed service territory due to the unique characteristics of the proposed service territory, the Secretary and the applicant may agree to utilize substitute standards for any unserved portion of the project. Any substitute service standards should continue to consider the best technology available to meet the needs of the residents in the unserved area.

(f) Technological neutrality

For purposes of determining whether to provide assistance for a project under this section, the Secretary shall use criteria that are technologically neutral.

¹ So in original. Probably should be followed by “and”.

(g) Terms and conditions for loans and loan guarantees

(1) In general

Notwithstanding any other provision of law, a loan or loan guarantee under this section shall—

(A) bear interest at an annual rate of, as determined by the Secretary—

(i) in the case of a direct loan, a rate equivalent to—

- (I) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or
- (II) 4 percent; and

(ii) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

(B) have a term of such length, not exceeding 35 years, as the borrower may request, if the Secretary determines that the loan is adequately secured.

(2) Recurring revenue

The Secretary shall consider the existing recurring revenues of the entity at the time of application in determining an adequate level of credit support.

(h) Adequacy of security

(1) In general

The Secretary shall ensure that the type and amount of, and method of security used to secure, any loan or loan guarantee under this section is commensurate to the risk involved with the loan or loan guarantee, particularly in any case in which the loan or loan guarantee is issued to a financially strong and stable entity, as determined by the Secretary.

(2) Determination of amount and method of security

In determining the amount of, and method of security used to secure, a loan or loan guarantee under this section, the Secretary shall consider reducing the security in a rural area that does not have broadband service.

(i) Payment assistance for certain loan and grant recipients

(1) Use of grant funds

The Secretary may use the funds appropriated for a grant under this subchapter for the cost (as defined by section 661a of title 2) of providing assistance under paragraph (2).

(2) Payment assistance

When providing a grant under this subchapter, the Secretary, at the sole discretion of the Secretary, may make—

(A) a subsidized loan, which shall bear a reduced interest rate at such a rate as the Secretary determines appropriate to meet the objectives of the program; or

(B) a payment assistance loan, which shall—

(i) require no interest and principal payments while the borrower is—

(I) in material compliance with the loan agreement; and

(II) meeting the milestones and objectives of the project agreed to under paragraph (3); and

(ii) require such nominal periodic payments as the Secretary determines to be appropriate.

(3) Agreement on milestones and objectives

With respect to payment assistance provided under paragraph (2), before entering into the agreement under which the payment assistance will be provided, the applicant and the Secretary shall agree to milestones and objectives of the project.

(4) Amendment of milestones and objectives

The Secretary and the applicant may jointly agree to amend the milestones and objectives agreed to under paragraph (3).

(5) Considerations

When deciding to utilize the payment assistance authority under paragraph (2) the Secretary shall consider whether or not the payment assistance will—

(A) improve the compliance of the grantee with any commitments made through the grant agreement;

(B) promote the completion of the broadband project;

(C) protect taxpayer resources; and

(D) support the integrity of the broadband programs administered by the Secretary.

(6) Limitations on payment assistance

The Secretary may not make a payment assistance loan under paragraph (2)(B) to an entity receiving a grant under this section that is also the recipient of a loan under subchapter I or II that is associated with such grant.

(j) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section \$350,000,000 for each of fiscal years 2019 through 2023, to remain available until expended.

(2) Allocation of funds

(A) In general

From amounts made available for each fiscal year under this subsection, the Secretary shall—

(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

(B) Amount

The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as—

(i) the number of communities with a population of 2,500 inhabitants or less in the State; bears to

(ii) the number of communities with a population of 2,500 inhabitants or less in all States.

(C) Unobligated amounts

Any amounts in the reserve established for a State for a fiscal year under subparagraph

(B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

(k) Termination of authority

No grant, or loan, or loan guarantee may be made under this section after September 30, 2023.

(May 20, 1936, ch. 432, title VI, § 601, as added Pub. L. 107–171, title VI, § 6103(a), May 13, 2002, 116 Stat. 415; amended Pub. L. 108–199, div. A, title VII, § 772, Jan. 23, 2004, 118 Stat. 40; Pub. L. 110–234, title VI, § 6110(a), May 22, 2008, 122 Stat. 1199; Pub. L. 110–246, § 4(a), title VI, § 6110(a), June 18, 2008, 122 Stat. 1664, 1960; Pub. L. 113–79, title VI, § 6104(a), Feb. 7, 2014, 128 Stat. 851; Pub. L. 115–334, title VI, §§ 6201, 6301(b), Dec. 20, 2018, 132 Stat. 4729, 4748.)

Editorial Notes

CODIFICATION

The authorities provided by each provision of, and each amendment made by, Pub. L. 115–334, as in effect on Sept. 30, 2023, to continue, and authorities to be carried out, until the later of Sept. 30, 2024, or the date specified in the provision of, or amendment made by, Pub. L. 115–334, see section 102(a) of Pub. L. 118–22, set out in an Extension of Agricultural Programs note under section 9001 of this title.

The authorities provided by each provision of, and each amendment made by, Pub. L. 110–246, as in effect on Sept. 30, 2012, to continue, and the Secretary of Agriculture to carry out the authorities, until the later of Sept. 30, 2013, or the date specified in the provision of, or amendment made by, Pub. L. 110–246, see section 701(a) of Pub. L. 112–240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–334, § 6201(1), substituted “provide grants, provide loans, and provide loan guarantees” for “provide loans and loan guarantees”.

Subsec. (b)(3)(A)(ii). Pub. L. 115–334, § 6201(2), inserted “in the case of a grant or direct loan,” before “a city”.

Subsec. (b)(3)(C). Pub. L. 115–334, § 6301(b), added subpar. (C).

Subsec. (c). Pub. L. 115–334, § 6201(3)(A), substituted “Grants, loans, and” for “Loans and” in heading.

Subsec. (c)(1). Pub. L. 115–334, § 6201(3)(B), substituted “shall make grants, shall make loans, and shall guarantee loans” for “shall make or guarantee loans”.

Subsec. (c)(2) to (4). Pub. L. 115–334, § 6201(3)(C), added pars. (2) to (4) and struck out former par. (2) which related to priority in making loans or loan guarantees.

Subsec. (d)(1)(A). Pub. L. 115–334, § 6201(4)(A)(i)(I), substituted “grant, loan, or” for “loan or” in introductory provisions.

Subsec. (d)(1)(A)(i). Pub. L. 115–334, § 6201(4)(A)(i)(II), added cl. (i) and struck out former cl. (i) which read as follows: “demonstrate the ability to furnish, improve in order to meet the minimum acceptable level of broadband service established under subsection (e), or extend broadband service to all or part of an unserved rural area or an area below the minimum acceptable level of broadband service established under subsection (e);”.

Subsec. (d)(1)(A)(ii). Pub. L. 115–334, § 6201(4)(A)(i)(III), substituted “an application” for “a loan application”.

Subsec. (d)(1)(A)(iii). Pub. L. 115-334, § 6201(4)(A)(i)(IV), struck out “loan” before “application” and substituted “infrastructure” for “service”, “5” for “3”, and “assistance under this section is” for “proceeds from the loan made or guaranteed under this section are”.

Subsec. (d)(1)(B). Pub. L. 115-334, § 6201(4)(A)(ii), substituted “(j)” for “(k)”.

Subsec. (d)(2)(A). Pub. L. 115-334, § 6201(4)(B)(i), substituted “assistance” for “the proceeds of a loan made or guaranteed” and “of the eligible entity” for “for the loan or loan guarantee” in introductory provisions.

Subsec. (d)(2)(A)(i). Pub. L. 115-334, § 6201(4)(B)(ii), substituted “50 percent (in the case of loans or loan guarantees provided in accordance with subsection (g)(1)(A))” for “15 percent” and “level of fixed broadband service, whether terrestrial or wireless,” for “level of broadband service”.

Subsec. (d)(3)(A). Pub. L. 115-334, § 6201(4)(C), substituted “grant, loan, or” for “loan or”.

Subsec. (d)(4). Pub. L. 115-334, § 6201(4)(D), substituted “assistance” for “a loan or loan guarantee”.

Subsec. (d)(5) to (10). Pub. L. 115-334, § 6201(4)(E), added par. (5) and struck out former pars. (5) to (10), which related to notice requirements, paperwork reduction, preapplication process, reporting by entities receiving assistance under this section, loan default and deobligation of awards, and service area assessment, respectively.

Subsec. (e)(1)(A). Pub. L. 115-334, § 6201(5)(A)(i), substituted “25-Mbps” for “4-Mbps”.

Subsec. (e)(1)(B). Pub. L. 115-334, § 6201(5)(A)(ii), substituted “3-Mbps” for “1-Mbps”.

Subsec. (e)(2). Pub. L. 115-334, § 6201(5)(B), struck out subpar. (A) designation and heading before “At least once”, inserted “and broadband buildout requirements under paragraph (4)” after “(1)”, and struck out subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “In making an adjustment to the minimum acceptable level of broadband service under subparagraph (A), the Secretary may consider establishing different transmission rates for fixed broadband service and mobile broadband service.”

Subsec. (e)(4). Pub. L. 115-334, § 6201(5)(C), added par. (4).

Subsec. (f). Pub. L. 115-334, § 6201(6), substituted “provide assistance” for “make a loan or loan guarantee”.

Subsec. (g)(2), (3). Pub. L. 115-334, § 6201(7), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “In determining the term and conditions of a loan or loan guarantee, the Secretary may—

“(A) consider whether the recipient is or would be serving an area that is unserved or has service levels below the minimum acceptable level of broadband service established under subsection (e); and

“(B) if the Secretary makes a determination in the affirmative under subparagraph (A), establish a limited initial deferral period or comparable terms necessary to achieve the financial feasibility and long-term sustainability of the project.”

Subsec. (i). Pub. L. 115-334, § 6201(8), added subsec. (i) and struck out former subsec. (i). Prior to amendment, text read as follows: “Notwithstanding any other provision of this chapter, the proceeds of any loan made or guaranteed by the Secretary under this chapter may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this chapter if the use of the proceeds for that purpose will support the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.”

Subsec. (j). Pub. L. 115-334, § 6201(8), (11), redesignated subsec. (k) as (j) and struck out former subsec. (j) which related to reports to Congress on participation in loan and loan guarantee program.

Subsec. (k). Pub. L. 115-334, § 6201(11), redesignated subsec. (l) as (k). Former subsec. (k) redesignated (j).

Subsec. (k)(1). Pub. L. 115-334, § 6201(9), substituted “\$350,000,000” for “\$25,000,000” and “2019 through 2023” for “2008 through 2018”.

Subsec. (l). Pub. L. 115-334, § 6201(11), redesignated subsec. (l) as (k).

Pub. L. 115-334, § 6201(10), substituted “grant, or loan, or” for “loan or” and “2023” for “2018”.

2014—Subsec. (c)(2). Pub. L. 113-79, § 6104(a)(1), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “In making or guaranteeing loans under paragraph (1), the Secretary shall give the highest priority to applicants that offer to provide broadband service to the greatest proportion of households that, prior to the provision of the broadband service, had no incumbent service provider.”

Subsec. (d)(1)(A)(i). Pub. L. 113-79, § 6104(a)(2)(A), added cl. (i) and struck out former cl. (i). Prior to amendment, text read as follows: “demonstrate the ability to furnish, improve, or extend a broadband service to a rural area;”.

Subsec. (d)(2)(A)(i). Pub. L. 113-79, § 6104(a)(2)(B)(i), added cl. (i) and struck out former cl. (i). Prior to amendment, text read as follows: “not less than 25 percent of the households in the proposed service territory is offered broadband service by not more than 1 incumbent service provider; and”.

Subsec. (d)(2)(B). Pub. L. 113-79, § 6104(a)(2)(B)(ii), struck out “25” before “percent” in heading.

Subsec. (d)(2)(C). Pub. L. 113-79, § 6104(a)(2)(B)(iii)(I), struck out “3 or more” before “incumbent” in heading.

Subsec. (d)(2)(C)(i). Pub. L. 113-79, § 6104(a)(2)(B)(iii)(II), added cl. (i) and struck out former cl. (i). Prior to amendment, text read as follows: “Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider that is upgrading broadband service to the existing territory of the incumbent service provider.”

Subsec. (d)(3)(B)(iii). Pub. L. 113-79, § 6104(a)(2)(C), added cl. (iii).

Subsec. (d)(5). Pub. L. 113-79, § 6104(a)(2)(D), added par. (5) and struck out former par. (5) which related to notice requirement.

Subsec. (d)(8) to (10). Pub. L. 113-79, § 6104(a)(2)(E), added pars. (8) to (10).

Subsec. (e). Pub. L. 113-79, § 6104(a)(3), added pars. (1) and (2), redesignated former par. (2) as (3), and struck out former par. (1) which read as follows: “The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).”

Subsec. (g)(2). Pub. L. 113-79, § 6104(a)(4), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “In determining the term of a loan or loan guarantee, the Secretary shall consider whether the recipient is or would be serving an area that is not receiving broadband services.”

Subsec. (j)(1). Pub. L. 113-79, § 6104(a)(5)(A), inserted “, including any loan terms or conditions for which the Secretary provided additional assistance to unserved areas” before semicolon at end.

Subsec. (j)(7). Pub. L. 113-79, § 6104(a)(5)(B)–(D), added par. (7).

Subsecs. (k)(1), (l). Pub. L. 113-79, § 6104(a)(6), substituted “2018” for “2012”.

2008—Pub. L. 110-246, § 6110(a), amended section generally, substituting provisions authorizing loans and loan guarantees for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas and terminating such authority on Sept. 30, 2012, for provisions authorizing similar loans and loan guarantees and terminating such authority on Sept. 30, 2007.

2004—Subsec. (b)(2). Pub. L. 108-199 amended heading and text of subsec. (b)(2) generally. Prior to amendment, text read as follows: “The term ‘eligible rural community’ means any incorporated or unincorporated place that—

“(A) has not more than 20,000 inhabitants, based on the most recent available population statistics of the Bureau of the Census; and

“(B) is not located in an area designated as a standard metropolitan statistical area.”

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–246, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

Pub. L. 110–234, title VI, §6110(c), May 22, 2008, 122 Stat. 1203, and Pub. L. 110–246, §4(a), title VI, §6110(c), June 18, 2008, 122 Stat. 1664, 1964, provided that: “The amendment made by subsection (a) [amending this section] shall not apply to—

“(1) an application submitted under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) (as it existed before the amendment made by subsection (a)) that—

“(A) was pending on the date that is 45 days prior to the date of enactment of this Act [June 18, 2008]; and

“(B) is pending on the date of enactment of this Act [June 18, 2008]; or

“(2) a petition for reconsideration of a decision on an application described in paragraph (1).”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of this title.]

REGULATIONS

Pub. L. 110–234, title VI, §6110(b), May 22, 2008, 122 Stat. 1203, and Pub. L. 110–246, §4(a), title VI, §6110(b), June 18, 2008, 122 Stat. 1664, 1964, provided that: “The Secretary [of Agriculture] may implement the amendment made by subsection (a) [amending this section] through the promulgation of an interim regulation.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of this title.]

Pub. L. 107–171, title VI, §6103(b), May 13, 2002, 116 Stat. 418, provided that:

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [May 13, 2002], the Secretary of Agriculture shall promulgate such regulations as are necessary to implement the amendment made by subsection (a) [enacting this section].

“(2) PROCEDURE.—The promulgation of the regulations shall be made without regard to—

“(A) the notice and comment provisions of section 553 of title 5, United States Code;

“(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

“(C) chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’).

“(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.”

TRANSITION RULE

Pub. L. 115–334, title VI, §6213, Dec. 20, 2018, 132 Stat. 4746, provided that: “For the period beginning on the date of the enactment of this Act [Dec. 20, 2018] and ending on the date that is one year after such date of enactment, with respect to the implementation of the rural broadband access program under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) and the Community Connect Grant Program under section 604 of such Act [7 U.S.C. 950bb–3], as added by section 6204 of this Act, the Secretary [of Agriculture] shall use the regulations in existence as of the day before the date of enactment of this Act that are applicable to the program involved, until the Secretary issues a final rule implementing the provisions of, and amendments made by, this title [see Tables for classification] that apply to that program.”

§ 950bb–1. Expansion of middle mile infrastructure into rural areas**(a) Purpose**

The purpose of this section is to encourage the expansion and extension of middle mile broadband infrastructure to connect underserved rural areas to the backbone of the Internet.

(b) Middle mile infrastructure

For the purposes of this section, the term “middle mile infrastructure” means any broadband infrastructure that does not connect directly to end-user locations (including anchor institutions) and may include interoffice transport, backhaul, Internet connectivity, data centers, or special access transport to rural areas.

(c) Grants, loans, and loan guarantees

The Secretary shall make grants, loans, and loan guarantees to eligible applicants described in subsection (d) to provide funds for the construction, improvement, or acquisition of middle mile infrastructure to serve rural areas.

(d) Eligibility**(1) Eligible applicants****(A) In general**

To be eligible to obtain assistance under this section, an eligible entity shall—

(i) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(ii) agree to complete build-out of the middle mile infrastructure described in the application by not later than 5 years after the initial date on which proceeds from the assistance provided under this section are made available; and

(iii) submit to the Secretary a plan to ensure the viability of the project by—

(I) connecting, assisting with connecting, or enabling the connection of retail broadband systems that serve rural areas within the proposed service territory to the middle mile infrastructure project in an affordable and economically competitive manner;

(II) leasing or selling sufficient capacity prior to project approval; and

(III) complying with any other requirements imposed by the Secretary.

(B) Additional end user broadband programs

Entities that receive assistance to construct, improve, or acquire middle mile infrastructure under this section shall be eligible to apply for additional funds under this subchapter to provide for retail broadband service to end users.

(2) Eligible service territories

The proceeds of assistance provided under this section may be used to carry out a project in a proposed service territory only if, as of the date the application for assistance under this section is submitted, there is not adequate middle mile infrastructure available to support broadband service for eligible rural communities that would be provided access to the middle mile infrastructure.