

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. 110-234, 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.

**(3) Eligible projects**

A project shall be eligible for assistance under this section if at the time of the application—

(A) at least 75 percent of the interconnection points serve such eligible rural areas; and

(B) the Secretary determines that the proposed middle mile network will be capable of supporting retail broadband service meeting the maximum broadband buildout requirement established under section 950bb(e)(4) of this title for the residents within the proposed service territory.

**(e) Limitation on grants**

In making grants under this section, the Secretary shall—

(1) not provide any grant in excess of 20 percent of the total project cost; and

(2) provide grants only to those projects which serve rural areas where population density or geographic characteristics make it in-

feasible to construct middle mile broadband systems without grant assistance.

**(f) Terms, conditions, and adequacy of security**

All loans and loan guarantees provided under this section shall be made subject to such terms, conditions, and adequacy of security requirements as may be imposed by the Secretary. If the middle mile infrastructure would not provide adequate security due to long-term leasing arrangements, the Secretary shall require substitute security in such form and substance as are acceptable to the Secretary.

**(g) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2018 through 2023.

(May 20, 1936, ch. 432, title VI, § 602, as added Pub. L. 110-234, title VI, § 6111, May 22, 2008, 122 Stat. 1203, and Pub. L. 110-246, § 4(a), title VI, § 6111, June 18, 2008, 122 Stat. 1664, 1965; amended Pub. L. 115-334, title VI, § 6202, Dec. 20, 2018, 132 Stat. 4734.)

**Editorial Notes****CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

**AMENDMENTS**

2018—Pub. L. 115-334 amended section generally. Prior to amendment, section related to National Center for Rural Telecommunications Assessment.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Enactment 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. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

**§ 950bb-2. Innovative Broadband Advancement Program****(a) In general**

The Secretary shall establish a program to be known as the “Innovative Broadband Advancement Program”, under which the Secretary may provide a grant, a loan, or both to an eligible entity for the purpose of demonstrating innovative broadband technologies or methods of broadband deployment that significantly decrease the cost of broadband deployment, and provide substantially faster broadband speeds than are available, in a rural area.

**(b) Rural area**

In this section, the term “rural area” has the meaning provided in section 950bb(b)(3) of this title.

**(c) Eligibility**

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

(1) submit to the Secretary an application—

(A) that describes a project designed to decrease the cost of broadband deployment, and substantially increase broadband speed