

Borrowers. Moreover, the only enforcement of a Modernization Plan pursuant to RELRA is denial of a loan to a Borrower that is not participating in the Modernization Plan. Therefore, to a considerable extent, Modernization Plan requirements are conditional upon the availability of federal capital and cost recovery mechanisms.

19. Comment Summary. Several commenters argued that RELRA did not give RUS the authority to require a modernization of the national communications infrastructure. These commenters noted that this is contrary to the Communications Act of 1934 objective of consolidating federal authority over telecommunications into one agency.

Response. Through various financing programs and technical initiatives, the REA, now RUS, has been instrumental in the modernization of the national rural telecommunications infrastructure. The provisions of RELRA as set forth in this final rule will continue that modernization.

20. Comment Summary. One commenter pointed out that since a Borrower-developed Modernization Plan can only apply to Borrowers, the rule should make that clear.

Response. Language has been added to § 1751.102(c) to clarify that a Borrower-developed plan will only apply to Borrowers.

21. Comment Summary. One commenter said that Borrower-developed plans can affect others, and proposed that RUS require that Borrowers allow outside participation in development of a plan.

Response. RUS encourages all Plan Developers to include outside participation, but does not believe it is necessary for Borrower groups to be required to include outside participation.

22. Comment Summary. One commenter expressed concern that Modernization Plan requirements would threaten universal service because it would require Borrowers and non-Borrowers to build infrastructure whether or not it met customer needs.

Response. The regulation has been revised to alleviate this concern. RUS performs feasibility studies to ensure that the proposed construction does not threaten the viability of a Borrower.

23. Comment Summary. One commenter suggested that in the balance between cost and improved service, cost is clearly secondary to RUS.

Response. RUS is concerned with improved service to rural subscribers at reasonable prices. RUS strongly feels that communications infrastructure is essential to rural economic

development. The real cost of failing to provide this infrastructure is a failing rural economy, decline in rural subscribers and less revenue to the rural telecommunications provider.

24. Comment Summary. Many commenters found the approximate restatement of a part of RELRA in § 1751.106(a) to be confusing and vague. It uses terms that do not seem to apply to any communications industry segment such as "video images" and "proper routing of information to subscribers".

Response. This language has been clarified to show that § 1751.106(a) is a restatement of RELRA while the balance of the section implements the law.

25. Comment Summary. One commenter proposed that RUS should automatically grant lien accommodations for Borrowers that do not meet the minimum requirements of their State Modernization Plan.

Response. RUS disagrees. To do so would negate RELRA's purpose of improving and modernizing telecommunications and might jeopardize the security of RUS loans.

26. Comment Summary. One commenter proposed that RUS review Modernization Plans within 30 days without exception, and asserts that as written the rule allows RUS to postpone denial until it is too late for a developer to resubmit a plan for approval.

Response. Both Plan Developers and RUS face difficult schedules as a result of this regulation. RUS has developed an internal processing procedure intended to deal with the estimated 45 Modernization Plans that could be received simultaneously. It is the intent of RUS to process all Modernization Plans within 30 days of receipt of the proposed Modernization Plan. If the submission of the proposed Plan is timely, this will not be a problem.

27. Comment Summary. One commenter noted that RELRA places no time limit on RUS as to promulgation of a final rule. This commenter suggested that RUS should wait for further congressional direction.

Response. RUS was required under RELRA to issue the interim regulation, and RUS wishes to respond to the public by issuing a final rule that implements the requirements of RELRA in a reasonable and effective manner. Without this final rule, the interim rule remains in effect.

28. Comment Summary. One commenter asked why the rule does not apply to RUS electric borrowers and grant recipients who may compete with RUS telephone Borrowers either directly or through a subsidiary.

Response. As written, the Modernization Plan will serve as requirements for all telephone Borrowers seeking new financing. Modernization Plans developed by the States may expand coverage to others in the telecommunications industry.

List of Subjects in 7 CFR Part 1751

Loan programs—communications, Telecommunications, Telephone.

For reasons set forth in the preamble, chapter XVII of Title 7 of the Code of Federal Regulations is amended by revising part 1751 to read as follows:

PART 1751—TELECOMMUNICATIONS SYSTEM PLANNING AND DESIGN CRITERIA, AND PROCEDURES

Subpart A—[Reserved]

Sec.

1751.1–1751.99 [Reserved]

Subpart B—State Telecommunications Modernization Plan

1751.100 Definitions.

1751.101 General.

1751.102 Modernization Plan Developer; eligibility.

1751.103 Loan and loan advance requirements.

1751.104 Obtaining RUS approval of a proposed Modernization Plan.

1751.105 Amending a Modernization Plan.

1751.106 Modernization Plan; requirements.

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—[Reserved]

§§ 1751.1–1751.99 [Reserved]

Subpart B—State Telecommunications Modernization Plan

§ 1751.100 Definitions.

As used in this subpart:

Bit rate. The rate of transmission of telecommunications signals or intelligence in binary (two state) form in bits per unit time, e.g., Mb/s (megabits per second), kb/s (kilobits per second), etc.

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

Emerging technologies. New or not fully developed methods of telecommunications.

Modernization Plan (State Telecommunications Modernization Plan). A State plan, which has been approved by RUS, for improving the telecommunications network of those Telecommunications Providers covered