

work when RUS financing is not involved.

(e) *State pollution control or Environmental Protection Agency standards.* Facilities will be designed, installed and operated to prevent pollution of water in excess of established standards. Effluent disposal will conform with appropriate State and Federal Water Pollution Control Standards.

(f) *Water pollution.* When repayment of a WS loan, WS advance, or RCD loan will be dependent upon income from the use or sale of water, RUS approval will be contingent upon a determination that the proposed use of stored water for recreation or municipal supply might not be permitted by a State health department because the water is being polluted from an upstream or other source.

(g) *Environmental requirements.* Actions will be taken to comply with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) in accordance with subpart G of part 1940 of this title. When environmental assessments and environmental impact statements have been prepared on WS plans or RCD area plans by NRCS, a separate environmental impact statement or assessment on WS works of improvement or RCD measures for which a WS loan, WS advance, or RCD loan is requested will not be necessary unless the NRCS environmental review fails to meet the requirements of subpart G of part 1940 of this title. The Rural Development State Director should document the action taken by NRCS in compliance with the requirements of the National Environmental Policy Act and formally adopt the impact statement or assessment if satisfactory. If a determination is made that a further analysis of the environmental impact is needed, the Rural Development State Director will make necessary arrangements with the State NRCS conservationist for such action to be taken before a loan is made.

(h) *National Historic Preservation Act.* All projects will comply with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) in accordance with RD Instruction 1901-F.

(i) *Civil Rights Act of 1964.* Recipients of WS loans, WS advances, or RCD

loans are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), which prohibits discrimination because of race, color, or national origin. Borrowers must agree not to discriminate in their operations by signing Form RD 400-4, "Nondiscrimination Agreement," before loan closing. This requirement should be discussed with the applicant as early in the negotiations as possible. Necessary actions will be taken in accordance with RD Instruction 1901-E.

(j) *Appraisals.* When required by the Rural Development State Director, appraisals will be made by an Rural Development official designated or an independent appraiser. Form RD 442-10, "Appraisal Report—Water and Waste Disposal Systems," with appropriate supplements, may be modified as needed for use with the type of facilities being appraised.

(k) *Architectural Barriers Act of 1968.* All facilities financed with RUS loans and grants which are accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with this act (42 U.S.C. 4151 *et seq.*).

#### § 1781.12 Preapplication and application processing.

(a) *WS and RCD loans—(1) Preapplications.* (i) The processing office or other person designated by the Rural Development State Director may assist the applicant in completing SF 424.1, "Application for Federal Assistance (For Non-construction)," and will forward one of SF 424.1 to the Rural Development State Director.

(ii) The Rural Development State Director will review SF 424.1 along with other necessary information and will coordinate selection of preapplications to be processed with NRCS. He will consult with NRCS State Conservationist concerning the status of the WS plan or RCD measure plan, the estimated time schedule for construction and cost of the proposed works to be installed with the loan, cost sharing funds to be made available to the applicant, and other pertinent information.

(iii) Form AD-622, "Notice of Preapplication Review Action," will be prepared and signed by the Rural Development State Director within forty-

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five (45) days from receipt of the preapplication in the processing office stating the results of the review action. An original and one copy of Form AD-622 will be sent to the processing office who will deliver the original to the applicant.

(2) *Applications.* (i) The application includes applicable forms and information indicated in RUS Instruction 1780. When the Rural Development State Director determines that an application will be further processed and Form AD-622 is delivered, he will designate a community program specialist (field), or a member of the community program staff to assist the processing office and the applicant with assembling and processing the application.

(ii) The processing office should arrange needed conferences with the applicant and its legal and engineering consultants, and when necessary, arrange for review of other Rural Development officials, and provide bulletins, forms, instructions and other assistance with assembling and processing the application. A processing checklist and time schedule will be established by using Form RD 1942-40, "Processing Check List (Public Bodies)," or Form RD 1942-39, "Processing Check List (Other than Public Bodies)." The processing office will send a letter and a copy of the processing checklist to the applicant to confirm decisions reached at the conference. The original and a copy of the processing checklist will be kept in the processing office and will be posted current as application processing actions are taken. The copy will be circulated from the processing office to the State Office for use in updating copies of the forms retained, after which it will be returned from the State Office to the processing office.

(3) *Dockets.* WS loan, WS advance, and RCD loan dockets will be developed and assembled in accordance with applicable RUS Instruction 1780.

(b) *Watershed advances.* Applications for WS advances will be developed and processed with NRCS assistance as necessary.

(1) The Rural Development State Director will arrange with the NRCS State Conservationist to be advised when a local sponsoring organization applies to NRCS for a WS advance.

(2) The Rural Development State Director will request the NRCS State Conservationist to provide information justifying the WS advance along with a written recommendation that it be made. This will include:

(i) Economic feasibility of the proposed WS advance.

(ii) Evidence of the legal authority of the sponsoring local organization to incur the obligation and make required payments.

(iii) Any limitations on the issuance of additional bonds or notes which may be imposed by the provisions of bond ordinances or on resolutions which authorize the issuance of any outstanding obligation of the sponsoring local organization.

(iv) The amount of WS advance funds to be provided, purpose for which funds will be used, and date funds will be needed.

(3) When the above information has been made available to the Rural Development State Director, he will send written recommendations concerning further action on the WS advance request to the NRCS State Conservationist including actions to be taken in the preparation of the WS advance docket.

(c) *Combination WS loans and WS advances.* If an applicant requests both a WS loan and WS advance, the application for the WS loan should indicate the amount of the WS advance needed and whether a request for it has been made to NRCS. The Rural Development State Director and the NRCS State Conservationist will coordinate applicable processing actions of such applications. When the Rural Development State Director determines that favorable consideration will be given to an application for a loan or advance, he will provide instructions to the processing office for completing and processing the appropriate docket. Any questions concerning eligibility or other legal matters should be cleared with the Regional Attorney.

(d) *Review of decision.* When it is determined that the preapplication or application cannot be given favorable consideration, the Rural Development State Director will return it to the processing office along with written

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reasons. When the processing office receives this information, it will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that the RUS Administrator may be requested to review the decision. This action will be taken in accordance with §1780.37 of this chapter.

(1) Upon receipt of the State Office copy of a review request from the applicant, the Rural Development State Director will furnish a report on the matter to the Administrator.

(2) The Administrator will notify the applicant and the Rural Development State Director in writing of his decision and the reasons therefore.

### § 1781.13 [Reserved]

### § 1781.14 Planning, options, and appraisals.

(a) WS and RCD area plans are developed by sponsoring local agencies and organizations with technical assistance from NRCS and other Federal and State agencies. These plans include WS works of improvement and RCD measures to be developed or constructed for which NRCS construction funds may be made available on a cost share basis along with funds provided by the sponsoring local organization, a portion or all of which may be obtained by a WS loan and/or WS advance or a RCD loan.

(b) Current information on the availability of cost share funds and purposes for which they may be used is provided by NRCS. The amount of NRCS cost share funds and the amount of funds to be provided by the sponsoring local organizations will be indicated in each plan. The estimated amount of WS loan, WS advance or RCD loan anticipated by the sponsoring local organization should also be included.

(c) Plans for the development or construction of individual WS works of improvement and RCD measures will normally be developed with NRCS technical assistance. In every case they will be approved by both the NRCS State conservationist and the Rural Development State Director or their designated agent when a WS loan, WS advance or RCD loan is made.

(d) Options and appraisals related to the purchase of real estate for which a WS loan, WS advance, or RCD loan is made must be developed in accordance with NRCS and RUS requirements and approved by RUS. The determination of present market value will be made in accordance with §1780.44(g) of this chapter.

### § 1781.15 Planning and performing development.

Planning and performing development will be handled in accordance with subpart C of part 1780 of this chapter and guidance from NRCS.

### § 1781.16 [Reserved]

### § 1781.17 Docket preparation and processing.

(a) *Loan dockets.* Dockets for WS loans, WS advances and RCD loans will be prepared in accordance with the applicable provisions of part 1780 of this chapter.

(1) *Time for preparation of docket.* Docket preparation may begin as soon as a preliminary draft of the watershed plan or RCD area plan, together with an estimate of costs and benefits, have been prepared with the assistance of NRCS and approved by the sponsoring local organization applicant. However, the applicant must understand that approval of the WS loan, WS advance, or RCD loan will not be determined until the work plan has been authorized for assistance by NRCS. To the extent practicable, docket preparation may be completed by that time to facilitate the availability of funds when needed.

(2) *Instructions for preparation of docket.* When the Rural Development State Director has determined that plans and other requirements are completed to the extent that preparation of the loan docket may begin, he will send the processing office a memorandum giving complete instructions for docket preparation, with a list of documents to be included in the docket.

(3) *Objectives of the docket.* The docket should include information for use in determining that:

(i) The sponsoring local organization:

(A) Has legal authority to construct and operate the proposed facility, borrow money, give security, incur debt,