

§ 1781.7

(iii) To build or relocate roads, bridges, utilities, fences, and other improvements when necessary to acquire rights-of-ways or to construct or operate the facility.

(17) Services and fees. To pay costs for services for any purposes listed under this section such as:

(i) Fees or other legal expenses for establishing a water right through appropriation, agreement, permit, or court decree.

(ii) Purchase of water stock or membership in an incorporated water users' association to acquire a water supply.

(iii) Costs of labor, technical or professional services, and fees to be incurred in obtaining the loan and in planning and completing the facilities or services to be financed with loan funds.

(iv) Services such as those listed in paragraph (a)(16) of this section.

(b) *RCD loans*. Purposes for which RCD loans may be made in addition to those included in paragraph (a) of this section are:

(1) *Solid waste management*. Lands, equipment and facilities to collect, transport, and dispose of solid waste in sanitary landfills for which NRCS is providing technical assistance.

(2) *Shifts-in-land use*. Lands for uses such as grazing, forestry, wildlife, natural areas and parks, greenbelts, and other open spaces.

(3) *Purchase existing facilities*. Purchase existing facilities for shift-in-land use, soil and water development, conservation, control and use when it is determined that purchase is necessary to provide efficient service through a facility owned and operated by a public agency (or a nonprofit corporation in a rural area), or the owner is either unwilling or unable to make improvements, enlargement, or extensions needed to provide significant additional or improved service for present users or for a new group of users at reasonable rates.

(c) *NRCS watershed advances*. NRCS watershed advances are loans that may be made from NRCS construction funds for the following purposes included in a watershed work plan agreement:

(1) To pay construction costs including cost of engineering and related services for increasing reservoir capac-

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ity (including intake and outlet structures) for a future water supply for municipal, domestic, industrial, or agricultural uses.

(2) To preserve sites for authorized watershed works of improvement by acquiring land, easements, and rights-of-ways or other property rights.

§ 1781.7 Loan and advance limitations and obligations incurred before loan closing.

(a) *WS and RCD loan limitations*. (1) Loans will not be used for:

(i) Land treatment measures on individual farms except as provided in § 1781.6(a)(5)(iv).

(ii) Buildings and facilities to be used for lodging, dining or entertainment purposes.

(iii) Building industrial parks or constructing facilities in them, or establishing private industrial or commercial enterprises, or purchasing land to be used primarily for industrial purposes.

(iv) Paying costs allocated to structural measures for flood prevention.

(v) Facilities for the production and harvesting of fish and wildlife such as hatcheries, rearing ponds, and related facilities other than those under natural conditions.

(vi) Facilities primary for treatment and distribution of water or for sewerage, collection and treatment for domestic or industrial use or for municipal or community systems.

(vii) Electric generating, transmission, and distribution facilities, except when provided as part of the minimum basic facilities for recreation and fish and wildlife developments authorized in § 1781.6(a)(7).

(viii) Storm and sanitary sewers and solid waste disposal facilities other than authorized in § 1781.6(b)(1).

(ix) Payment for a tract of land, easements, or rights-of-ways on which NRCS will share the cost if the amount to be paid with loan funds exceeds the difference between the NRCS share and the value on which the NRCS share is based.

(x) Purchasing tracts of land primarily for later resale to private developers or individuals for agricultural or nonagricultural use.

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(xii) Buildings for residential, commercial, or industrial, use.

(xiii) Developments on private property primarily for the benefit of the individual property owner.

(xiv) Payment of that part of the cost of facilities, improvements, and practices that could be earned by participation in agricultural conservation programs unless such cost cannot be covered by purchase orders or assignments to material suppliers or contractors. If a loan is made for such purposes for which practice or cost share payments exceed \$500, RUS will obtain an assignment on such payments to be paid on the loan.

(xv) Primarily for water and sewage treatment plants and distribution systems.

(xvi) Drainage facilities primarily for the benefit of other than rural areas.

(xvii) Any single RCD measure that requires a loan of more than \$500,000.

(xviii) The total amount of principal outstanding for all WS loans made for one or more watershed works of improvement in a single watershed project, whether made to one or more sponsoring organizations, will not exceed \$10,000,000.

(b) *Watershed advance limitations.* (1) A WS advance for future water supply will not be used for acquiring property rights including lands, easements, and rights-of-way; water rights; administration of contracts; storage capacity for immediate municipal use; pipelines from the reservoir to place of use; or for other uses such as irrigation, fish and wildlife, and recreation.

(2) A WS advance for increasing reservoir capacity for future water supply will not exceed 30 percent of the total installation cost of one structure.

(3) A WS advance for site preservation will not exceed that determined necessary by NRCS except to purchase land in excess of actual needs in accordance with the provisions of § 1781.6(a)(7).

(4) Before a project agreement is entered into, there must be satisfactory evidence that the borrower will develop the site to be acquired or will use the future water supply and that revenue will be sufficient to meet all scheduled installments.

(c) *Obligations incurred before loan closing.* (1) WS loans, WS advances, and RCD loans may be used for payment of obligations incurred before loan closing when the Rural Development State Director determines that:

(i) The obligations incurred are necessary for planned developments; and

(ii) The obligations are incurred for authorized loan purposes; and

(iii) Contracts and construction plans meet RUS and NRCS standards; and

(iv) The applicant has legal authority to incur the obligations at the time proposed; and

(v) The Rural Development State Director authorizes such action in a letter to the applicant.

(2) The Rural Development State Director's letter will specifically state that the permission is granted on the condition that RUS is not committed to make a loan and assumes no responsibility for any obligation incurred by the applicant because of the permission granted and that the loan will be closed subject to compliance with agency regulations including closing instructions of the Regional Attorney Office of the General Counsel.

§ 1781.8 Rates and terms—WS loans and WS advances and RCD loans.

(a) *Interest rates.* The interest rate for WS loans, WS advances and RCD loans will be at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest 1/8 of 1 percent.

(1) For loans, unless otherwise required by State law, interest will accrue from date of check delivery where Form RD 440-22, "Promissory Note (Association Organization)," is used. Where bonds are used interest will accrue from the applicable dates recorded on the bonds. Where multiple loan disbursements are used interest will accrue from date of check.

(2) Interest on an advance for future water supply will begin as required by State law, when water is first used from the future water storage capacity installed with advance, or ten years from the scheduled date of the completion of the facility, whichever date is the earlier.