

### § 1781.3

the NRCS and other appropriate State and Federal agencies.

#### **§ 1781.3 Authorities, responsibilities, and delegation of authority.**

(a) NRCS provides technical and financial assistance to sponsoring local organizations for developing WS and RCD area plans and for individual RCD measures or projects and watershed works of improvement. The watershed work plan for developing, operating, and maintaining watershed works of improvement must be agreed upon by sponsoring local organizations and NRCS. When approved, it is the basis for extending technical and cost sharing assistance from watershed funds. The RCD area plan is prepared for the development of the RCD area by sponsoring local organizations with assistance from NRCS and other agencies, endorsed by the Governor or by the agency designated by the Governor, and accepted by the Secretary of Agriculture or his delegate. It includes objectives, planned courses of action, and RCD measures or projects to be developed. It is amended as necessary to include continuing activities and needs in the RCD area.

(b) RUS receives and processes applications for WS loans and NRCS WS advances and RCD loans and makes and services such loan and advances. WS loans are made by RUS from either Public Law 534 (78th Cong.) funds authorized in the Flood Control Act of 1944 (33 U.S.C. 701 *et seq.*) or Public Law 566 (83rd Cong.) funds authorized in the Watershed Protection and Flood Prevention Act of 1954 (68 Stat. 666) to cover a part or all of the local cost for a watershed work of improvement.

(c) WS loans and WS advances may be made to project sponsors in watershed project areas for which:

(1) A watershed work plan has been approved administratively or by resolutions adopted by the Committee on Agriculture and Forestry of the Senate and by the Committee on Agriculture of the House of Representatives; and

(2) Federal assistance has been authorized for the installation of works of improvement by the Administrator of NRCS.

(d) RCD loans may be made in areas authorized for RCD program assistance

### 7 CFR Ch. XVII (1-1-03 Edition)

by the Secretary of Agriculture and for which an RCD plan design or area plan has been accepted by the State NRCS Conservationist.

(e) *Delegation of authority.* The Rural Development State Director is authorized to approve WS and RCD loans subject to limitations in RUS Staff Instruction 1780-1 and conditions of this part. The Rural Development State Director is authorized to relegate authority in accordance with this part to the Chief, Community Programs; or other members of the State Office staff.

(f) NRCS is responsible for providing technical and financial assistance to sponsoring local organizations for planning and developing WS and RCD areas. This includes development of WS and RCD plans and WS works of improvement and RCD measures or projects.

(g) RUS is responsible for making and servicing WS loans and advances and RCD loans.

(h) The NRCS-RUS Agreements in RUS Bulletin's 1781 and 1781-2 include further responsibilities and functions of NRCS and RUS in WS and RCD areas.

#### **§ 1781.4 Definitions.**

(a) *Watershed (WS) project.* An authorized area in which watershed assistance from NRCS and other U.S. Department of Agriculture (USDA) agencies including WS loans and advances may be provided. Watershed assistance is provided in two types of watershed projects identified by the Public Law under which they are authorized.

(1) *Public Law-534 Watershed.* One of the 11 watersheds authorized by Congress in the Flood Control Act of 1944 (33 U.S.C. 701 *et seq.*), Public Law 78-534 as amended.

(2) *Public Law-566 Watershed.* A small watershed of not more than 250,000 acres authorized in accordance with the Watershed Protection and Flood Prevention Act, August 4, 1954, Public Law 83-566 as amended.

(b) *Resource Conservation and Development (RCD) area.* An area in which RCD program assistance from NRCS and other USDA agencies has been authorized. It usually includes all or part of more than one county and may be co-terminous with substate planning and

development areas. RCD loans are authorized under Section 32 of Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011).

(c) *Watershed plan*. A plan agreed upon by sponsoring local organizations and the NRCS for developing, operating, and maintaining watershed works of improvement.

(d) *RC&D measure plan*. A plan document for a land area, directly controlled or under the jurisdiction of the sponsoring public bodies or public non-profit organization. It involves one of the measure purposes eligible for RC&D cost sharing assistance. The document sets forth what will be done, how, when and by whom, and involves RC&D technical and/or financial assistance.

(e) *RCD area plan*. A plan prepared by sponsoring local organizations with assistance from NRCS and other agencies for the development of the RCD area which has been endorsed by the Governor or his designated agency and accepted by the Secretary of Agriculture or his delegate. It includes objectives, planned courses of action, and RCD measures to be developed. It is amended as necessary to include continuing activities and needs in the RCD area.

(f) *Watershed works of improvement*. Structural, nonstructural, and land treatment measures included in a watershed plan which are to be installed in a watershed project.

(g) *RCD measure or project*. An activity or development indicated in the RCD area plan as being needed to achieve RCD area goals and objectives.

(h) *Cost sharing*. The WS and RCD legislative authorities provide for sharing certain costs of installing WS works of improvement or RCD measures by the Federal Government and by sponsoring local organizations. Federal cost sharing from WS and RCD funds is provided by NRCS for certain WS works of improvement and RCD measures. Information on amounts, purposes, and procedures for cost sharing is available from the NRCS.

(i) *Local cost*. The part of the cost of a WS work of improvement or a RCD measure or project that is to be paid by a sponsoring local organization.

(j) *Public agency or public body*. A State agency or department or instru-

mentality, county, municipality or other political subdivision or instrumentality of a State or agencies or districts created by or pursuant to State law for making improvements of a public nature or providing public services such as soil and water conservation districts, irrigation districts, drainage districts, flood prevention and control districts, school districts, other special purpose districts, municipal corporations or similar governmental units.

(k) *Non-profit corporation*. Mutual and other irrigation, water users, water supply, drainage, or waste disposal companies or associations, ditch companies, grazing, recreation and forestry associations and similar associations and organizations generally designated as private corporations operating on a non-profit basis. They may be organized and chartered under special law, general nonprofit corporation law, or general profit corporation law, if operated on a nonprofit basis under adequate charter, bylaw, mortgage or supplementary agreement provisions which will assure continued operation in that manner.

(l) *Sponsoring local organization*. A local public agency or body or a local nonprofit corporation having authority under State law to plan, develop, maintain and operate WS works of improvement or RCD measures or projects included in a WS or RCD area plan. The name of the sponsoring local organization must be included in the plan and sponsorship must be evidenced by execution of the plan.

(m) *Watershed loan*. A loan made by RUS from watershed funds to a sponsoring local organization to develop a WS work of improvement.

(n) *RCD loan*. A loan made by RUS from RCD funds to a local sponsoring organization to develop a RCD measure or project. RCD loans are made from RCD funds to enable sponsoring local organizations to provide a part or all of the local share of cost for an RCD measure.

(o) *Watershed advance*. A loan made from NRCS watershed construction funds to develop a future water supply or for the preservation of a site for a work of improvement authorized in a watershed plan.

## § 1781.5

(p) *Future water supply.* Water storage capacity in a reservoir with related facilities for release or withdrawal of water to meet future needs for municipal or industrial use.

(q) *Preservation of sites.* Acquisition to assure their availability for planned developments. Land, easements, or rights-of-way essential to preserve sites for watershed works of improvement or RCD measures.

(r) *Processing office.* Means the office designated by the Rural Development State Director to accept and process applications for WS and RCD loans and advances.

### § 1781.5 Eligibility.

To be eligible for a WS loan, WS advance, or an RCD loan, the sponsoring local organization must meet the following requirements as applicable. Questions on eligibility will be referred to the Regional Attorney, OGC for legal advice prior to development of a loan docket.

(a) Be named in the WS or RCD plan as a sponsor of the development to be financed.

(b) Be legally organized and established in the WS or RCD area with legal authority, responsibility and capability to develop and operate the facility for which assistance is requested.

(c) Have authority under and comply with Federal, State and local laws on such matters as:

(1) Organizing, installing, operating, and maintaining proposed WS works of improvement or RCD measures or projects.

(2) Borrowing money, giving security, levying taxes, making assessments or raising revenues for operation and maintenance of the facility and repayment of loans.

(3) Land use zoning.

(4) Acquiring necessary property, lands, and rights.

(5) Obtaining approval of construction plans and specifications by appropriate Federal, State, and local agencies and construction facilities.

(6) Health and sanitation standards, water pollution control, and environmental regulations.

(7) Design and installation standards.

## 7 CFR Ch. XVII (1-1-03 Edition)

(8) Public service commission or similar State public body rules and regulations.

(d) Be financially sound and capable of providing service essential to the rural development needs of the area.

(e) If it is a nonprofit corporation.

(1) Membership should be broadly based and representative of the area benefiting from the facility. Membership on the governing board of the corporation will be limited to those living in the area to be benefited unless for justifiable reasons the Rural Development State Director gives prior approval for other than local residents to serve on the board of directors.

(2) The corporation must propose a facility which will primarily serve or generate other substantial, tangible benefits for farmers and other residents of the area. In the case of a recreational development at least two-thirds of the membership must be farmers and other residing in the area.

(3) Nonprofit corporations will not be formed to serve an area which could be served by a public agency which has adequate authority to provide the needed service unless prior approval of the National Office is obtained.

### § 1781.6 Loan purposes.

(a) *WS and RCD loans.* WS and RCD loans may be used for:

(1) Water development, storage, treatment and conveyance to farms for irrigation and other farm use, including farmstead, livestock, orchard, and crop spraying.

(2) Drainage systems and facilities in farm areas to sustain agricultural production or protect farmers and rural residents from water damage.

(3) Agricultural water management practices for annual streamflow stabilization, recharging ground water reservoirs, and conserving water supplies by management and control of vegetation along waterways and in drainage basins.

(4) Soil conservation and water control facilities such as dikes, terraces, detention reservoirs, stream channels, ditches, and other special land treatment and stabilization measures needed to protect farms and rural residents from water damage, provided such facilities cannot be installed or improved