

## § 1943.17

the contract terms. The deed must be held in trust by a bonded agent until transferred to the buyer. Upon buyer's default, the seller must give the Agency written notice of the default and a reasonable opportunity to cure the default. Any sums advanced by the Agency must be repaid by the borrower.

(b) Make capital improvements. Examples of items that the Agency may authorize the use of FO funds for include, but are not limited to, the construction, purchase and improvement of farm dwellings, service buildings, and facilities that can be made fixtures to the real estate. In the case of leased property, the borrower must have a lease to ensure use of the improvement over its useful life or to ensure that the borrower receives compensation for any remaining economic life upon termination of the lease.

(c) Promote soil and water conservation and protection. Examples include the correction of well-defined, hazardous environmental conditions, and the construction or installation of tiles, terraces, and waterways.

(d) Pay closing costs.

(e) Refinance a bridge loan if the following conditions are met:

(1) The applicant obtained the loan to be refinanced to purchase a farm after a direct FO was approved;

(2) Direct FO funds were not available to fund the loan at the time of approval;

(3) The loan to be refinanced is temporary financing; and

(4) The loan was made by a commercial or cooperative lender.

[62 FR 9356, Mar. 3, 1997, as amended at 62 FR 28619, May 27, 1997; 68 FR 7698, Feb. 18, 2003]

### § 1943.17 Loan limitations.

(a) An FO loan will not be approved if:

(1) The total outstanding direct FO, Soil and Water (SW) or Recreation (RL) loan principal balance including the new loan owed by the applicant will exceed the lesser of \$200,000 or the market value of the farm or other security.

(2) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation cannot be conducted due to the distance between tracts or due to inad-

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equated rights-of-way or public roads between tracts.

(3) The limitation found in § 1943.29 (b) of this subpart is exceeded.

(b) Loans may not be made for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in exhibit M to subpart G of part 1940 of this chapter. Refer to FmHA Instruction 2000-LL, "Memorandum of Understanding Between FmHA or its successor agency under Public Law 103-354 and U.S. Fish and Wildlife Service," for assistance in implementation.

(c) The purpose of the loan is to finance a nonfarm enterprise.

[53 FR 35692, Sept. 15, 1988, as amended at 58 FR 48282, 48288, Sept. 15, 1993; 59 FR 25800, May 18, 1994; 62 FR 9356, Mar. 3, 1997; 68 FR 62224, Nov. 3, 2003]

### § 1943.18 Rates and terms.

(a) *Terms of loans.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure the loan will be adequately secured, taking into account the probable depreciation of the security. The loan approval official will also consider the repayment ability of the applicant, as reflected in the completed Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan," or other similar plan of operation acceptable to FmHA or its successor agency under Public Law 103-354, when setting the term. In any case, there must be an interest payment scheduled at least annually in accordance with the FMI for Form FmHA or its successor agency under Public Law 103-354 1940-17, "Promissory Note." Loans may have reduced annual installments scheduled, of at least partial interest, for the first five years.

(b) *Interest rate.* Upon request of the applicant, the interest rate charged by FmHA or its successor agency under Public Law 103-354 will be the lower of the interest rates in effect at the time of loan approval or loan closing. If the applicant does not indicate a choice, the loan will be closed at the interest