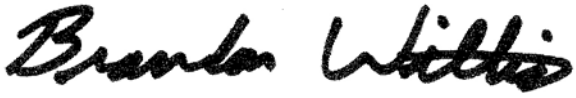
UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Notice FSFL-57

For: State and County Offices

Hay and Renewable Biomass Included as Eligible FSFL Commodities

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

FSFL regulations incorporating the changes mandated by the Food, Conservation, and Energy Act of 2008 (the 2008 Act), will be published as a final rule in FR on August 18, 2009.

The 2008 Act added hay and renewable biomass as eligible FSFL commodities

Effective August 17, 2009, producers may begin submitting CCC-185's for hay and renewable biomass storage facilities under the new provisions provided in FSFL regulations found at 7 CFR Part 1436.

Note: 1-FSFL will be amended to incorporate the changes detailed in this notice.

B Purpose

This notice informs State and County Offices of the changes to the FSFL Program specific to hay and renewable biomass, including the following:

- definition of "hay"
- definition of "renewable biomass"
- eligible FSFL borrowers
- determining borrower storage needs
- eligible structures and equipment
- CCC-185 submissions
- CCC-185 approval requirements
- FSFL security
- crop and structural insurance.

Disposal Date	Distribution
January 1, 2010	State Offices; State Offices relay to County Offices

1 Overview (Continued)

C Contact

State specialists with questions about this notice shall contact DeAnn Allen by either of the following:

- e-mail to **deann.allen@wdc.usda.gov**
- telephone at 202-720-9889.

2 General Information About FSFL's for Hay and Renewable Biomass

A Definition of Hay

Hay is defined as a grass or legume that has been cut and stored, and includes the following:

- commonly used grass mixtures including the following:
  - brome
  - costal Bermuda
  - fescue grass
  - orchard grass
  - rye grass
  - timothy grass
  - other native grass species prevalent in the region
- forage legumes including the following:
  - alfalfa
  - clovers
- grain legumes for hay are also included, and are defined as hay where the entire plant, including the seeds, is harvested at maturity and used for animal feed; examples are:
  - lentils
  - peanuts
  - peas
  - soybeans.

2 General Information About FSFL's for Hay and Renewable Biomass (Continued)

B Definition of Renewable Biomass

Renewable biomass is defined as any organic matter that is available on a renewable or recurring basis **used for producing energy in the form of heat; electricity; and liquid, solid, or gaseous fuels**. Renewable biomass includes the following:

- algae
- crop residue including, but **not** limited to:
  - corn stover
  - orchard prunings
  - various straws and hulls
- plants and trees **excluding old growth timber**
- renewable plant materials as follow:
  - feed grains
  - other agricultural commodities including, but **not** limited to:
    - soybeans
    - switch grass
- vegetative waste material including, but **not** limited to:
  - food waste
  - wood residues
  - wood waste
  - yard waste.

Note: Manure from any source is not an acceptable commodity for FSFL.

2 General Information About FSFL's for Hay and Renewable Biomass (Continued)

C FSFL Eligible Borrower Basic Requirements

An eligible borrower for a hay and renewable biomass FSFL **must** adhere to the same requirements as all other FSFL borrowers.

FSFL borrower requirements are as follows:

- produces an eligible hay and renewable biomass commodity
- has a satisfactory credit rating as determined by CCC
- possess no delinquent nontax Federal debt
- demonstrates the ability to repay the FSFL debt
- demonstrates a need for a hay or renewable biomass storage facility
- annually provides proof of multi-peril crop insurance offered under the Federal Crop Insurance Program or NAP on all eligible FSFL commodities, including hay and renewable biomass stored in the FSFL-funded facility
- provides all peril insurance and, if applicable, flood insurance with CCC as a loss payee
- is in compliance with USDA provisions for HEL and WC
- demonstrates compliance with NEPA
- demonstrates compliance with any applicable local zoning, land use, and building codes
- has **not** been convicted of a controlled substance violation.

2 General Information About FSFL's for Hay and Renewable Biomass (Continued)

D Major FSFL Changes

The following table lists topics and references the paragraph in Notice FSFL-56 that provides detailed information applicable to that topic. These provisions are applicable to FSFL's for hay and renewable biomass.

IF FSFL Program topic is…	THEN see Notice FSFL-56…
amounts and borrower requirements	paragraph 5.
application fees	paragraph 9.
approval period extensions	subparagraph 10 E.
CCC-185's	subparagraph 2 D.
changes to farming operations	subparagraph 10 B.
facility purpose	subparagraph 10 F.
no resale collateral values	subparagraph 10 C.
partial and final disbursements	paragraph 6.
portion of structure not used for FSFL commodity storage	subparagraph 10 G.
severance agreements	paragraph 7.
software	subparagraph 2 C.
terms and interest rates	paragraph 4.
useful life of facilities	subparagraph 10 A.

3 Storage Need Requirements for Hay and Renewable Biomass

A Determining Storage Needs

Applicants **must** show a need for the hay and renewable biomass produced as determined by the following formula.

Step	Action
1	Determine the average of the applicant's share of the acres farmed for the most recent 3 years for hay and renewable biomass commodities requiring storage at the proposed location. **Notes:** County Offices must use FSA-578's for determining the average acreage of each eligible fruit and vegetable, whenever possible. Late-filed FSA-578's may be accepted for FSFL purposes only.
2	Multiply by a yield determined reasonable by COC **Notes:** If State and County Offices are unable to determine an annual yield for any of the hay and renewable biomass commodities with the assistance of CSREES, land-grant universities, or available ARS publications, contact PSD. The unit of measure for hay and renewable biomass commodities will be in tons.

3 Storage Need Requirements for Hay and Renewable Biomass (Continued)

A Determining Storage Needs (Continued)

Step	Action
3	Multiply by 2, for 2 years production.
4	Determine hay and renewable biomass storage needed with the assistance of CSREES, Land-grant university, or ARS publications (subparagraph B).
5	Subtract existing hay and renewable biomass storage capacity to determine remaining storage need.
6	Compare capacity of proposed hay and renewable biomass storage facility with the storage needed to determine if applicant is eligible for additional cold storage (subparagraph C).

B Determining Storage Needed for Bales of Hay and Renewable Biomass

An applicant's needed storage can be determined with CSREES and land-grant university assistance or with the worksheet in Exhibit 1.

Applicable laws, regulations, construction codes, and zoning restrictions may also affect the size of a facility and where it can be located.

The applicant shall provide the County Office with 1 of the following:

- dimensions of the facility to convert into cubic feet of available space

- capacity of the proposed structure in pounds or tons from the contractor constructing the storage facility.

COC's shall use 1 of the following conversion factors and the worksheet in Exhibit 1 to determine the capacity of a proposed facility if using either of the following dimensions:

- 1 pound of hay requires 0.125 cubic feet of space
- 1 short ton of hay requires 250 cubic feet of space.

Note: These factors shall be used to determine the storage capacity of a structure unless the applicant supplies the County Office with detailed documentation of a higher yield.

3 Storage Need Requirements for Hay and Renewable Biomass (Continued)

C Determining Proposed Structure Capacity

The following Cooperative Extension Service publications may also assist State and County Offices in determining the capacity of a proposed structure:

- Oklahoma State University publication BAE-1716, "Round Bale Hay Storage", available at **http://osufacts.okstate.edu/docushare/dsweb/Get/Document-1772/BAE-1716web.pdf**

- Ohio State University publication titled, "Worksheet for Sizing Hay Storage Pads and Calculating FGD Needs", available at **http://ohioline.osu.edu//aex-fact/pdf/0332.pdf**.

4 Types of Structures Allowed for Hay and Renewable Biomass

A Eligible Structures

All FSFL-financed storage structures for hay and renewable biomass commodities **must be used** for the purpose for which it was constructed, assembled, or installed for the entire FSFL term.

FSFL eligible storage structures for hay and renewable biomass commodities:

- **must** have a useful life of at least 15 years
- include new structures suitable for storing:

    - hay that are built according to acceptable design guidelines from CSREES or land-grant universities

    - renewable biomass that are built according to acceptable industry guidelines.

4 Types of Structures Allowed for Hay and Renewable Biomass (Continued)

A Eligible Structures (Continued)

If CCC determines there is a need for the storage capacity of a structure, a hay and renewable biomass FSFL may be approved for:

- financing an addition or modification to an existing facility suitable for storing hay and renewable biomass with an expected useful life of 15 years

- new components of a pre-owned structure provided the completed facility has a useful life of at least 15 years; the pre-owned structure **must** be purchased and moved to a new storage location, as follows:

  - eligible items for FSFL on a pre-owned structure may include:

    - off farm paid labor costs
    - foundation materials

  - ineligible items for FSFL on a pre-owned structure may include:

    - cost of the used structure
    - moving the used structure.

Borrowers are **required** to submit a building plan to the County Office for any hay or renewable biomass storage structure requested for FSFL.

Note: The building plan does **not** have to be professionally prepared, but **must** include the following:

- type of structure or building design
- exact size and shape of proposed facility
- access
- details of site preparation
- base materials.

Many of the land-grant universities have detailed building plans for hay and many of the renewable biomass storage structures available online.

4 Types of Structures Allowed for Hay and Renewable Biomass (Continued)

B Eligible Components

FSFL's for hay and renewable biomass storage structures may include the following:

- safety equipment meeting Occupational Safety and Health Administration requirements
- equipment to maintain and monitor the quality of stored eligible hay and renewable biomass commodities, such as heat detectors
- electrical equipment
- concrete aprons essential to proper facility operation
- flooring:
  - suitable for the region where the facility is located
  - designed according to acceptable guidelines from CSREES or land-grant universities.

    Note: In some regions of the country, CSREES and land-grant universities do **not** recommend storing hay and renewable biomass commodities on concrete. Acceptable alternatives have been developed that include using compacted coarse gravel or small rock.

C Eligible Items FSFL

The net costs for hay and renewable biomass storage facility loans may include the following:

- approved electrical lighting and wiring
- archaeological study or attorney fees
- eligible equipment to maintain and monitor commodity quality
- installation costs
- new material and labor for concrete pads or other approved and acceptable flooring
- off-farm paid labor
- purchase price and sales tax of new structure or materials
- shipping and delivery charges
- site preparation costs.

5 CCC-185's and Approvals

A Submitting CCC-185's

CCC-185's for hay and renewable biomass storage structures **must** be submitted to the administrative FSA County Office:

- that maintains the records of the farm or farms applicable to CCC-185
- where the facility will be located if the commodities will be produced on land that does not have farm records established in a County Office.

Upon request, the applicant **must** furnish information and documents as STC or COC deems reasonably necessary to support CCC-185. This may include, but is **not** limited to, the following:

- bill estimates
- drawings
- financial statements
- invoices
- plats
- purchase orders
- receipts
- specifications
- written authorization of access.

Submitting CCC-185 does **not** ensure approval nor does it create any liability on behalf of CCC. Borrower's who authorize delivery, site preparation, or construction actions without an approved CCC-185, do so at their own risk.

B CCC-185 Approval Requirements

CCC-185 approval requirements for hay and renewable biomass FSFL's are the same as for all other FSFL's.

An applicant for a hay and renewable biomass FSFL is **required** to submit the following with CCC-185:

- $100 per applicant FSFL application fee
- balance sheet prepared within the last 90 calendar days
- cost estimates and building plans
- exact location and size of the structure for environmental evaluation
- income and expense projections for the borrowers farming operation
- planting and crop history records, if not already available in the County Office
- proof of crop insurance.

5 CCC-185's and Approvals (Continued)

B CCC-185 Approval Requirements (Continued)

For CCC-185's not supported by existing farm records, the applicant **must** provide all documentation required for the applicant to be determined an eligible borrower, to the County Office including, but **not** limited to the following:

- AD-1026
- CCC-10
- CCC-902.

C Approval Authority

To protect the financial interests of CCC, approval authority for FSFL's is as follows.

IF the total FSFL principal 1/ amount is…	THEN the approval authority is…
$100,000 or less	COC.
$100,000.01 to $250,000	COC approval **after** DD review. 2/
$250,000.01 to $500,000	STC.

1/ For FSFL's with a partial and final disbursement, the two FSFL amounts are combined.

2/ DD's **must** review **all** CCC-185's with a total principal amount between $100,000.01 and $250,000. FSFL approval date will be the date COC approves FSFL **after** DD review.

Exceptions: STC **will approve all** renewable biomass CCC-185's.

FSFL approval authority for all FSA employees and their relatives, as required in 1-FSFL, subparagraph 2 F is still applicable.

For FSFL's where STC approval is required, the approval date on which interest is determined will be the date STC approves FSFL and signs CCC-185, page 2, item 15.

After STC has approved an FSFL for renewable biomass, the following information **must** be immediately submitted by the State Office specialist to DeAnn Allen, FSFL Program Manager at **deann.allen@wdc.usda.gov**:

- renewable biomass commodity for which facility is approved
- type of storage approved
- capacity of storage facility
- county, FY, and FSFL number
- total FSFL amount approved.

6 Security

A FSFL Security

All FSFL's will be secured by CCC-186 covering the farm storage facility.

CCC-186's **must**:

- grant CCC a security interest in the collateral
- be perfected according to the laws of the State where the collateral is located.

B Additional Security Requirements

Additional security is required on FSFL's as follows:

- exceeding $50,000
- when the aggregate outstanding loan balance of all loans to a borrower exceeds $50,000
- when COC determines that additional security is required as a result of financial analysis
- for $50,000 or less with no resale collateral value as determined by CCC (Notice FSFL-56, subparagraphs 8 B and 10 C).

  Note: A facility consisting of only a concrete or permanently installed pad has **no** resale collateral value and **must** have additional security.

See 1-FSFL, paragraph 14 for the approved forms of security.

See Notice FSFL-56, subparagraph 8 C for policy on real estate liens and liens on separate pieces of collateral.

7 Insurance

A Crop Insurance or NAP Requirement

Multi-peril crop insurance or NAP is **required** on **all**:

- commodities stored in FSFL-funded facility, whether economically significant or **not**
- insurable facility loan commodities of economic significance on all farms operated by the borrower in the county where the storage facility is located.

Crop of economic significance is defined as any insurable FSFL commodity that contributes 10 percent or more of the total expected value of all crops grown by FSFL applicant.

If multi-peril crop insurance or NAP is **not** available for some of the renewable biomass commodities, then COC minutes **must** document the unavailability of multi-peril crop insurance or NAP for each FSFL to which this applies.

B Structural Insurance

To protect CCC's interest in collateral, County Offices shall:

- require **all** borrowers to obtain all peril insurance on all storage structures receiving FSFL financing
- annually verify the following:
  - CCC is listed as a loss payee
  - amount of coverage always equals or exceeds the outstanding FSFL balance
- take action to call FSFL when borrowers do not maintain insurance.

8 Action

A State Offices

State Offices shall:

- insure that County Offices are following the procedure in this notice
- assist County Offices with questions they may have about this notice
- contact PSD with any questions about this notice and the new FSFL provisions
- contact CSREES and land-grant universities in their State to assist with implementing the provisions for storage facilities for hay and renewable biomass.

B County Offices

County Offices shall:

- begin accepting CCC-185's for storage facilities for hay and renewable biomass commodities according to this notice beginning August 17, 2009
- comply with the policy and procedures in this notice and Notice FSFL-56 effective immediately
- complete CCC-195 for **all** FSFL's; CCC-195 is being updated to reflect new policy and procedure and will be available soon; continue to use the current version until notified that the revised CCC-195 is available
- contact the State Office for guidance if there are questions or concerns about the policy and procedure in this notice
- contact the State Office for guidance on determining:
    - eligible storage structures and equipment
    - reasonable yield
    - storage capacity of a storage facility (subparagraph C)
    - storage need for hay and renewable biomass.

8 Action (Continued)

C COC Action

The applicant shall provide the County Office with either of the following:

- dimensions of the facility to convert into cubic feet of available space

- capacity of the proposed structure in pounds or tons from the contractor constructing the storage facility.

COC's shall use either of the following conversion factors and the worksheet in Exhibit 1 to determine the capacity of a proposed facility if using the dimensions:

- 1 pound of hay requires 0.125 cubic feet of space
- 1 short ton of hay requires 250 cubic feet of space.

Note: COC-established conversion factors shall be used to determine the storage capacity of a structure unless the applicant supplies detailed documentation of a higher yield to the County Office.

Example Worksheet for Determining Hay Storage Capacity in a Structure

The following is a blank example worksheet for determining hay storage capacity in a structure.

Worksheet for Determining Hay Storage Capacity in a Structure

1) Average acres of hay planted: _____

2) COC determined reasonable yield: _____ Tons per acre

3) Production: _____ Average acres of hay x _____ Tons Per Acre = _____ Tons x 2 years production = _____ Tons of storage needed for 2 years production

4) Size of proposed structure: _____ ft. x _____ ft. x _____ft. = _____ cu. ft.
   Width Length Height to Plate

5) Tons of storage: _____ cu. ft. of storage divided by 250 cu. ft./ton = _____ tons of storage in proposed structure

   Use either of these conversion factors: 1 pound of hay requires 0.125 cubic feet of space **or** 1 short ton of hay requires 250 cubic feet of space.

   Note: COC's shall use either of these conversion factors unless the applicant supplies the County Office detailed documentation of a higher yield.

6) Compare the tons of storage in proposed structure with the tons of storage needed For 2 years production minus the existing hay storage to determine if applicant is eligible for additional storage.

   Tons of storage needed for 2 Years production: _____

   Tons of storage in proposed structure: _____

   Existing hay storage: _____

Example Worksheet for Determining Hay Storage Capacity in a Structure

The following is a completed example worksheet for determining hay storage capacity in a structure.

Worksheet for Determining Hay Storage Capacity in a Structure

1) Average acres of hay planted: 20

2) COC determined reasonable yield: 4 Tons per acre

3) Production: 20 Average acres of hay x 4 Tons Per Acre = 80 Tons x 2 years

   production = 160 Tons of storage needed for 2 years production

4) Size of proposed structure: 24 ft. x 48 ft. x 18 ft. = 20,736 cu. ft.
   Width Length Height to Plate

5) Tons of storage: 20,736 cu. ft. of storage divided by 250 cu. ft./ton = 82.9 tons of storage in proposed structure

   Use either of these conversion factors: 1 pound of hay requires 0.125 cubic feet of space **or** 1 short ton of hay requires 250 cubic feet of space.

   Note: COC's shall use either of these conversion factors unless the applicant supplies the County Office detailed documentation of a higher yield.

6) Compare the tons of storage in proposed structure with the tons of storage needed For 2 years production minus the existing hay storage to determine if applicant is eligible for additional storage.

   Tons of storage needed for 2 Years production: 160

   Tons of storage in proposed structure: 83

   Existing hay storage: 0