

For: State and County Offices

CCC-185's Submitted Before August 17, 2009

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

In May 2000, the FSFL Program was re-established under the authority of the CCC Charter Act at 15 U.S.C. 714 et seq. The Food, Conservation, and Energy Act of 2008 (2008 Act), Section 1614 included additional provisions to the FSFL Program. FSFL regulations with the provisions mandated in the 2008 Act will be published on August 18, 2009, and went into effect on August 17, 2009.

PSD has received numerous questions about CCC-185's submitted on or after June 18, 2008, the day the 2008 Act became law, and before August 17, 2009. Approving CCC-185's is required **before** construction can begin on the facility. During the period of time when the 2008 Act became law and FSFL regulations were published, many producers found it necessary to request FSFL's under policies in effect at that time.

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

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1 Overview (Continued)

B Purpose

This notice:

- informs State and County Offices of the procedure to follow when CCC-185's were submitted before August 17, 2009, and the producer wants to obtain FSFL under provisions authorized by the 2008 Act
- provides information for submitted CCC-185's that have:
 - been approved and disbursed
 - not been approved and construction not started
 - been approved and construction has started
- pertains **only** to the commodities eligible before August 17, 2009

Note: CCC-185's for hay, renewable biomass, and fruit and vegetable storage facilities can only be accepted beginning August 17, 2009.

- obsoletes Notice FSFL-59 to correct reissued FSFL notice numbers that were cross references in the obsolete notice.

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.

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2 Approved and Disbursed CCC-185's

A CCC-185's Approved and Disbursed

If CCC-185 was submitted, approved, and disbursed under the policy in effect before August 17, 2009, and FSFL was limited because of the \$100,000 maximum per borrower, a producer can submit a new CCC-185 for the difference in the total cost of the structure and the initial FSFL amount. The borrower requests an additional FSFL to cover the additional construction costs because of the increased limit.

IF all of the following are true...	THEN the...
<p>CCC-185:</p> <ul style="list-style-type: none"> • was submitted on or after June 18, 2008 <p style="margin-left: 40px;">Note: The 2008 Act became law on June 18, 2008.</p> <ul style="list-style-type: none"> • has been: <ul style="list-style-type: none"> • approved • constructed • disbursed • was disbursed for \$100,000 or less if producer had another outstanding FSFL, after construction was completed 	<ul style="list-style-type: none"> • producer: <ul style="list-style-type: none"> • may submit a new FSFL for the difference between the total cost minus both the 15 percent down payment and the initial FSFL principal • is required to pay a new FSFL application fee • must submit updated figures for a new financial analysis • new FSFL would: <ul style="list-style-type: none"> • require a waiver authorizing approval according to 1-FSFL, subparagraph 10.5 C • have the interest rate in effect when new CCC-185 is approved • have term applicable to total of this FSFL and the initial FSFL amount • have a separate installment payment due each year; with the two FSFL's, the borrower would have 2 installment payments due each year.

All collateral security requirements for the new FSFL **must** be met before FSFL disbursement.

The initial FSFL and the new FSFL may be in different FY's because FY is determined by FSFL approval date.

Example: The initial FSFL was approved on September 19, 2008, and is FY 2008 FSFL. The new FSFL is approved on October 6, 2009, and is FY 2010 FSFL.

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2 Approved and Disbursed CCC-185's (Continued)

B Example

In this example, the total cost of the structure exceeded \$100,000, and the initial FSFL was limited because of the \$100,000 maximum per borrower.

IF all of the following apply...	THEN the...										
<p>FSFL:</p> <ul style="list-style-type: none"> • CCC-185 was submitted by an individual producer on July 1, 2008, for \$100,000 • cost a total of \$200,000, but the producer was limited to \$100,000 per individual entity • was approved by COC for \$100,000 on July 15, 2008 • construction was completed and FSFL No. 2008-00005 for \$100,000 was disbursed on October 30, 2008 	<ul style="list-style-type: none"> • borrower: <ul style="list-style-type: none"> • submits a new CCC-185 on August 17, 2009, for \$70,000, as follows: <table border="0" style="margin-left: 20px;"> <tr> <td>total cost of bin:</td> <td align="right">\$200,000</td> </tr> <tr> <td>required 15% down payment:</td> <td align="right">- 30,000</td> </tr> <tr> <td>total maximum FSFL:</td> <td align="right"><u>\$170,000</u></td> </tr> <tr> <td>minus initial FSFL:</td> <td align="right"><u>- 100,000</u></td> </tr> <tr> <td>maximum for new FSFL:</td> <td align="right"><u>\$ 70,000</u></td> </tr> </table> • pays a new FSFL application fee • requests a 10 year FSFL term <p align="center">Note: The term of the already disbursed FSFL cannot be changed.</p> <ul style="list-style-type: none"> • submits updated documentation for a new financial analysis <ul style="list-style-type: none"> • new FSFL would: <ul style="list-style-type: none"> • require a waiver authorizing approval • have the interest rate in effect when the new CCC-185 is approved • have a separate installment payment due each year. 	total cost of bin:	\$200,000	required 15% down payment:	- 30,000	total maximum FSFL:	<u>\$170,000</u>	minus initial FSFL:	<u>- 100,000</u>	maximum for new FSFL:	<u>\$ 70,000</u>
total cost of bin:	\$200,000										
required 15% down payment:	- 30,000										
total maximum FSFL:	<u>\$170,000</u>										
minus initial FSFL:	<u>- 100,000</u>										
maximum for new FSFL:	<u>\$ 70,000</u>										

C Partial Disbursement Option

The partial disbursement option would **not** be available because, in this case, the new FSFL would be considered the final disbursement.

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3 CCC-185 Submitted But Not Approved and Construction Not Started

A CCC-185 Submitted, Not Approved, and Construction Not Started

The following table outlines the options available when CCC-185 has been submitted, but **not** approved, and the construction has **not** started.

IF all of the following are true...	THEN the...
<p>FSFL:</p> <ul style="list-style-type: none"> • CCC-185 was submitted at any time • has not been approved • construction has not started 	<ul style="list-style-type: none"> • producer: <ul style="list-style-type: none"> • may withdraw, in writing, the original CCC-185 and submit a new CCC-185 under the policy in effect on August 17, 2009 • must pay the required new FSFL application fee • must undergo a new financial analysis if FSFL term and amounts are changed and submit new financial documentation if previously submitted documentation is over 90 calendar days old • new FSFL would: <ul style="list-style-type: none"> • be approved by COC or STC depending on the approval authority for total principal amount • have the interest rate in effect when new CCC-185 is approved • have a term applicable to the total principal.

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3 CCC-185 Submitted But Not Approved and Construction Not Started (Continued)

B Example

In this example, the producer submitted CCC-185 for FSFL, but has **not** submitted all of the required documentation needed for approval, and construction of the facility has **not** started. The total cost is greater than the original FSFL \$100,000 limit and the producer is requesting the additional amount.

IF all of the following are true...	THEN the...						
<p>FSFL:</p> <ul style="list-style-type: none"> • CCC-185 was submitted by an individual producer on July 15, 2009, for \$100,000 • was limited to \$100,000, but the total cost of the facility was \$150,000 • has not been approved because the producer has not submitted all of the required documentation needed for FSFL approval • construction has not started 	<ul style="list-style-type: none"> • producer: <ul style="list-style-type: none"> • withdraws, in writing, the original CCC-185 • submits a new CCC-185 on August 17, 2009 for \$127,500 FSFL, under the policy in effect on August 17, 2009 <table style="margin-left: 40px; border-collapse: collapse;"> <tr> <td style="padding-right: 20px;">total cost of bin</td> <td align="right">\$150,000</td> </tr> <tr> <td>required 15% down payment</td> <td align="right"><u>- 22,500</u></td> </tr> <tr> <td>total maximum FSFL</td> <td align="right"><u>\$127,500</u></td> </tr> </table> • pays a new FSFL application fee • requests a 10 year FSFL term • requests a partial disbursement • submits all the required documentation needed for FSFL approval including documentation needed for the financial analysis <ul style="list-style-type: none"> • new FSFL: <ul style="list-style-type: none"> • can be approved in the normal manner <p style="margin-left: 40px;">Note: FSFL with a total principal amount between \$100,000.01 and \$250,000 require DD review followed by COC approval.</p> • would have the interest rate in effect when CCC-185 is approved. 	total cost of bin	\$150,000	required 15% down payment	<u>- 22,500</u>	total maximum FSFL	<u>\$127,500</u>
total cost of bin	\$150,000						
required 15% down payment	<u>- 22,500</u>						
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3 CCC-185 Submitted But Not Approved and Construction Not Started (Continued)

C Partial FSFL Disbursement

Submitting a new CCC-185 will give the producer the option of requesting a partial disbursement.

County Offices shall:

- follow the instructions in Notice FSFL-65 for entering 2 new FSFL's into the FSFL software and withdraw the initial FSFL according to 1-FSFL, subparagraph 319 E
- inform the producer that there will be 2 separate FSFL's with 2 annual installment payment due dates.

4 CCC-185 Approved, Construction Started or Complete, But Not Disbursed

A CCC-185 Approved, Not Disbursed, and Construction Started or Completed

If CCC-185 was submitted and approved under the policy in effect before August 17, 2009, and construction is underway or completed, but FSFL has **not** been disbursed, the following option is available for the producer.

IF all of the following are true...	THEN the...
<p>FSFL:</p> <ul style="list-style-type: none"> • application was submitted on or after June 18, 2008 • application was approved • has been constructed or construction is underway • has not been disbursed 	<ul style="list-style-type: none"> • producer: <ul style="list-style-type: none"> • may withdraw, in writing, the original CCC-185 and submit a new CCC-185 under the policy in effect on August 17, 2009 • must pay the required new loan application fee • must undergo a new financial analysis if FSFL term and amounts are changed and submit new financial documentation if what was previously submitted is over 90 calendar days old • new FSFL would: <ul style="list-style-type: none"> • require a waiver authorizing approval according to 1-FSFL, subparagraph 10.5 C because construction is underway or complete • have the interest rate in effect when new CCC-185 is approved • have a term applicable to total FSFL principal.

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4 CCC-185 Approved, Construction Started or Complete, But Not Disbursed (Continued)

A CCC-185 Approved, Not Disbursed, and Construction Started or Completed (Continued)

STC can request a waiver to approve FSFL’s described in this subparagraph with total principal amounts of \$250,000 or less where the initial FSFL was approved, but withdrawn to submit a new CCC-185 under the policy in effect on August 17, 2009.

B Example

In this example, CCC-185 was submitted, approved, construction was completed or underway, but FSFL has **not** been disbursed. The producer is requesting a partial disbursement to cover the costs of construction underway.

IF all of the following are true...	THEN the ...
<p>FSFL:</p> <ul style="list-style-type: none"> • CCC-185 is submitted by an individual producer on May 20, 2009, for a \$75,000 FSFL • was approved by COC for \$75,000 on June 4, 2009 • facility construction began July 27, 2009. 	<ul style="list-style-type: none"> • borrower: <ul style="list-style-type: none"> • on August 17, 2009, withdraws the original CCC-185 and submits a new CCC-185 for a \$75,000 • pays a new loan application fee • is not required to submit new financial documentation because the financial documentation is not over 90 calendar days old and FSFL amount and terms have not changed • requests a partial disbursement when the foundation has been poured • new FSFL would: <ul style="list-style-type: none"> • require a waiver authorizing approval according to 1-FSFL, subparagraph 10.5 C • have the interest rate in effect when the new CCC-185 is approved • have 2 separate installment payments due each year, 1 for the partial and another for the final.

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4 CCC-185 Approved, Construction Started or Complete, But Not Disbursed (Continued)

C Partial Disbursement

Submitting a new CCC-185 will give the producer the option of requesting a partial disbursement.

County Offices shall follow the instructions in Notice FSFL-65 for entering the new FSFL into the FSFL software. The initial FSFL **must** be withdrawn according to the procedure in 1-FSFL, subparagraph 319 E, allowing the obligated funding to be returned.

5 Action

A State Offices

State Offices shall:

- ensure that County Offices are following the procedure in this notice
- assist County Offices with questions they have about this notice
- contact PSD with any questions about this notice and FSFL policy in effect on August 17, 2009.

B County Offices

County Offices shall:

- comply with the policy and procedures in this notice effective immediately
- review with producers requesting to withdraw an approved CCC-185, the following:
 - the interest rate of the new FSFL will be the rate in effect when the new CCC-185 is approved
 - the new interest rate may be higher than the interest rate already applicable to the initial approved FSFL
 - the approval process may be longer than normal because it may be necessary to request a waiver for approval
- follow the instructions in Notice FSFL-65 for entering the new FSFL or FSFL's into the FSFL software; the initial approved CCC-185 **must** be withdrawn according to 1-FSFL, subparagraph 319 E, allowing the obligated funds to be returned.