

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice FSFL-125

For: State and County Offices

General Eligibility Requirements for New FSFL Commodities

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

FSFL's provide low-interest financing for producers to build or upgrade farm storage and handling facilities.

Notice FSFL-121 issued on August 17, 2015, announced new eligible FSFL commodities.

The Secretary has recently determined there is a need for on-farm storage, drying, and handling equipment for additional commodities. Therefore, using authority provided in the 2008 Act, the following new storable commodities are added as eligible for FSFL:

- aquaculture
- floriculture
- hops
- maple sap
- meat and poultry
- milk (bulk tanks)
- rye
- butter, eggs, cheese, and yogurt.

Policy and procedure included in this notice are effective immediately.

Note: Specific commodity and guidance for all new eligible FSFL commodities will be addressed in separate FSFL notices.

Disposal Date	Distribution
September 1, 2016	State Offices; State Offices relay to County Offices

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1 Overview (Continued)

B Purpose

This notice provides:

- authorization to State and County Offices to accept CCC-185's (dated 1- 11-16) for the new commodities
- borrower eligibility requirements
- CCC-185 approval requirements
- pertinent loan information
- 1-FSFL references for FSFL policy and procedure.

Note: A separate FSFL notice will be issued providing guidance for entering CCC-185 information in DLS.

See the following national notices for additional specific commodity guidance.

New Eligible FSFL Commodity	National Notice
Aquaculture	FSFL-127
Floriculture	FSFL-128
Hops	FSFL-129
Maple sap	FSFL-130
Meat and poultry	FSFL-131
Milk	FSFL-132
Butter, eggs, cheese and yogurt	FSFL-133

Note: Rye was added to 1-FSFL as an eligible commodity.

C Contact

State specialists with questions about this notice shall contact Toni Williams by either of the following:

- e-mail at **toni.williams@wdc.usda.gov**
- telephone at 202-720-2270.

2 Eligible Borrowers

A Basic Requirements

[7 CFR 1436.5] Eligible borrower means any person who, as a landowner, landlord, operator, producer, leaseholder, tenant, or sharecropper, meets **all** of the following eligibility requirements:

- demonstrates compliance with NEPA according to 40 CFR Parts 1500 through 1508
- is in compliance with USDA provisions for HEL and WC according to 7 CFR Part 12
- has no delinquent Federal nontax debt as defined by DCIA of 1996 **unless** the delinquent debt is resolved before FSFL is disbursed
- has **not** been convicted under Federal or State law for a disqualifying controlled substance violation according to 1-CM, Part 30 or a crop insurance violation under 7 CFR Part 718
- is a producer of an eligible FSFL commodity

Note: County Offices **must** review FSA-578's, including late-filed, to ensure that the producer is a producer of eligible FSFL commodities.

- has a satisfactory credit history as determined by CCC
- demonstrates the ability to pay the downpayment and repay the debt resulting from FSFL
- demonstrates a need for increased storage capacity, **unless** the borrower is submitting CCC-185 only for handling and drying equipment or renovating structure
- provides proof of multi-peril crop insurance offered under the Federal Crop Insurance Program or NAP on applicable eligible FSFL commodities; or participates in either MPP-Dairy or Dairy Livestock Gross Margin (LGM) when the FSFL is for a milk bulk tank
- demonstrates compliance with any applicable local zoning, land use, and building codes for the applicable farm storage facility structures
- provides all-peril structural insurance and, if **required**, flood insurance.

Note: If the county flood map is updated, either before **or** after FSFL disbursement, and the flood map indicates FSFL is in an area requiring flood insurance, the borrower **must** immediately purchase insurance. This also applies if it is later discovered that flood insurance should have been **required** before FSFL disbursement.

2 Eligible Borrowers (Continued)

A Basic Requirements (Continued)

STC's have the authority to:

- establish a more restrictive policy and re-delegate authority to COC only for provisions provided in this subparagraph
- approve a producer's waiver to self-certify to the storage capacity need on CCC-185 for FSFL's with an aggregate outstanding balance equal to \$50,000, or less, on a Statewide basis, **not** a case-by-case basis.

Note: 2-CP, subparagraph 322 C provides that State and County Offices may spot check any producer **not** identified on the national producer selection list if there is reason to question the producer's compliance with any program provisions.

B Determining Reasonable Production/Yield

COC's:

- **must** determine reasonable production/yield for each applicable commodity included on CCC-185 for a storage facility
- may review, if available, STC NAP yield determinations
- may use the following resources in determining a reasonable yield:
 - ARS publications
 - detailed producer records
 - credible online sources generally accepted by the industry
 - land-grant university located in the State or neighboring State
 - NIFA in the State.

Contact the Cooperative Extension Service at the State's land-grant university or where relevant, a local laboratory to assist with reasonable production/yields, and determining needed storage capacity for each applicable commodity when that information **cannot** be reasonably furnished by the applicant.

2 Eligible Borrowers (Continued)

B Determining Reasonable Production/Yield (Continued)

State Offices can contact PSD for assistance, if unable to find a yield for an eligible commodity.

Requests for guidance are encouraged when the producer's operation is unusual or if the applicant is seeking to increase the operation's storage capacity to support a growing demand. DAFP review of the situation may result in waivers of certain FSFL provisions that restrict the producer's eligibility for FSFL.

C Eligible Items for FSFL's

The net costs for FSFL's may include the following:

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

D Ineligible Structures and Components

The following, but not limited to, are **ineligible** for FSFL's:

- processing equipment
- portable handling and cooling equipment
- portable or permanent weigh scales
- portable structures, including structures on wheels
- portable storage containers
- structures of temporary nature
- components and/or structures determined by STC or COC that are not suitable for the applicable commodity storage.

3 CCC-185's and Approvals

A Submitting CCC-185's

CCC-185's **must** be submitted to the administrative FSA County Office:

- that maintains the records of the farm or farms applicable to the applicant requesting FSFL
- where the facility will be located, if farm records have **not** been established in a County Office.

Upon request, the applicant **must** furnish information and documentation as STC or COC deems reasonably necessary to support the application, according to subparagraph B.

Submitting CCC-185 does **not** ensure approval nor does it create any liability on behalf of CCC. Borrowers who authorize delivery, site preparation, or construction actions without an approved loan, do so at their own risk and may be determined ineligible for the requested FSFL.

Note: See 1-FSFL (Rev. 2), paragraph 11 for provisions when a producer has started actions before FSFL approval.

B Approval Requirements

FSFL approval requirements for new eligible commodities are the same as for all other FSFL's.

Applicants requesting FSFL's are required to submit the following with the loan application:

- \$100 loan application fee per applicant or borrower
- balance sheet prepared within the last 90 calendar days
- income and expense projections for the borrower's farm operation
- cost estimates and building plans
- proof of crop insurance, NAP coverage, MPP-Dairy participation, or LGM participation
- exact location and size of the structure for the environmental evaluation
- planting and crop history records if not already available in the County Office.

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

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

4 Other Pertinent Loan Information

A Crop Insurance, NAP Requirement, LGM or MPP

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

- commodities stored in the 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 the loan applicant.

STC's are authorized to:

- establish State-wide policy for minimum requirements for MPP coverage
- approve one-year waivers if the insurance sales period has ended.

Notes: The producer's waiver request and determination must be filed in the producer's FSFL file folder.

If it is determined insurance is not available for the applicable commodity, the producer may request a waiver and COC may approve or disapprove.

B Structural Insurance Requirement

To protect CCC's interest in collateral, County Offices shall require **all** borrowers to:

- obtain all-peril structural insurance on all storage structures and components receiving FSFL financing
- list CCC as a loss payee
- ensure insurance coverage equals or exceeds the outstanding FSFL balance.

C FSFL Security

All FSFL's are secured by CCC-186, FSFL Promissory Note and Security Agreement covering the farm storage facility. CCC-186's **must**:

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

4 Other Pertinent Loan Information (Continued)

D Additional Security Requirements

Unless STC requires additional security for FSFL's with an aggregate outstanding balance of \$50,000 to \$100,000, additional security is only required for FSFL:

- amounts exceeding \$100,000
- where the aggregate outstanding loan balance of all loans to a borrower exceeds \$100,000.

E FSFL Topics and References

The following are topics and references provided in 1-FSFL. These provisions are applicable to all FSFL commodities.

IF the FSFL program topic is...	THEN see 1-FSFL (Rev. 2)...
application fees	paragraph 58.
depositing application fees	paragraph 301, and 2-FSFL, paragraph 33.
approvals	paragraph 154.
approval authority	paragraph 10.
borrower requirements	paragraph 35.
facility purpose and useful life	paragraph 5.
insurance requirements	paragraphs 96, 97, and 98.
issuing payments for lien searches and recording fees	paragraph 302.
partial and final disbursements	paragraph 170.
security requirements	paragraph 120.
software	2-FSFL.
terms and interest rates	paragraphs 59 and 61.
useful life of facilities	paragraph 5.

Important: FSFL lien searches and recording fees must be properly recorded in NRRS according to 1-FSFL (Rev. 2), paragraph 302 and 1-FI.

F FSFL Forms

See Notice FSFL-126 for guidance about revised CCC-185 (dated 1-11-16), CCC-185-1 Continuation, and new CCC-185-D.

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5 Action

A State Office Action

State Offices shall:

- ensure that County Offices are following procedures provided in this notice
- assist County Offices with questions about this notice
- contact PSD with any questions about this notice
- contact NIFA and land-grant universities in their State, when necessary, to assist with reasonable yields and determining capacity of eligible FSFL commodities.

B County Office Action

County Offices shall:

- begin accepting CCC-185's (1-11-16) for new eligible FSFL commodities, according to this notice, and specific commodity related FSFL notices (see subparagraph 1 B)
- comply with procedure in this notice, 1-FSFL, and 2-FSFL
- complete required CCC-195 checklists for **all** FSFL's
- contact the State Office for guidance if there are questions or concerns about the policy and procedure in this notice on determining:
 - reasonable production/yield
 - capacity of the storage facility
 - eligible components, storage structures, and equipment.