

For: State and County Offices

**Changes to Farm Storage Facility Loan (FSFL) Program
Resulting From Publication of Final Rule**

Approved by: Deputy Administrator, Farm Programs



1 Overview

A

Background

FSFL was implemented on May 11, 2000, with the publication of an interim rule in the Federal Register.

The interim rule provided for a 60-day comment period ending on June 12, 2000. On the basis of the comments and suggestions received, CCC proposed several changes to program provisions and added further provisions effective with the publication of a final rule on January 18, 2001.

B

Purpose

This notice provides the major changes to program provisions that became effective on the date of publication of the final rule.

<p>Disposal Date</p> <p>January 1, 2002</p>	<p>Distribution</p> <p>State Offices; State Offices relay to County Offices</p>
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Notice FSFL-18

2 Changes to FSFL Provisions

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Eligible Storage and Handling Equipment Changes

1-FSFL will be amended to provide that eligible storage or handling equipment now includes:

- re-manufactured oxygen-limiting storage structures built to the original manufacturer's design specifications using original manufacturer's rebuild kits designed for whole grain storage or other than whole grain storage and having a useful life of at least 10 years
- new structures that are upright, bunker-type, horizontal, or open silo structures designed for whole grain storage or other than whole grain storage and having a useful life of at least 10 years

Note: Facility loan commodities now include corn, grain sorghum, oats, wheat, or barley harvested as other than whole grain. However, flat storage structures to store facility loan commodities harvested as dry hay are not eligible for loans.

- permanently affixed grain handling equipment and grain drying equipment determined by COC to be needed and essential to the proper functioning of a grain storage system (without a loan for storage structures)
 - existing storage renovated according to 1-FSFL, subparagraph 12 C without an increase in storage capacity
 - safety equipment as required by CCC and meeting OSHA requirements such as lighting, and inside and outside ladders.
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B

Structures for Commercial Purposes

Storage structures for commercial purposes remain ineligible for loan. However, the definition of commercial purpose has been changed to the storage and handling of grain, whether paid or unpaid, for persons other than the loan applicant, except for family members and tenants or landlords sharing in the crop requiring storage.

Furthermore, any facility that is in working proximity to any commercial storage operation shall be considered to be a commercial storage operation.

Note: The provision to allow STC's to make exceptions to the commercial definition provision has been removed.

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2 Changes to FSFL Provisions (Continued)

C

Changes to Limits per Loan and per Borrower

1-FSFL will be amended to provide that:

- the maximum principal amount of any loan shall not exceed \$100,000 for each borrower signing the note and security agreement
- the aggregate outstanding balance of all facility loans for any one borrower signing the note and security agreement may not exceed \$100,000
- the number of borrowers for loan limit purposes will be equivalent to ‘persons’ determined for FSA program purposes on CCC-502.

Example: A partnership, recognized by FSA, consisting of 3 members, applies for a loan and demonstrates a need for additional grain storage. The loan may be made to the partnership, however, each member is determined to be a ‘person’ and is willing to sign the note and security agreement on behalf of the partnership. The loan limit in this case shall be \$300,000.

D

Retroactive Provision

The interim rule included a provision about the time period of February 2 through May 30, 2000, during which producers could have taken purchase actions and still be allowed to apply and be considered for a loan. This provision has been removed from the final rule. Effective on the publication date of the final rule, COC’s shall not approve applications for loans from producers who made purchase decisions during the retroactive period.

E

Real Estate Lien Requirement

1-FSFL will be amended to provide that a real estate lien is required to secure a loan:

- for amounts exceeding \$50,000
 - where the aggregate outstanding loan balance for a borrower will exceed \$50,000.
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2 Changes to FSFL Provisions (Continued)

F

Delinquent Installment Policy

1-FSFL will be amended to provide that if installments are not paid by the due date:

- a demand letter will be mailed to the debtor on the day after the due date describing actions that may be taken against the debtor if the installment is not paid within 30 calendar days of the due date
- 2 subsequent demand letters will be issued at 30 calendar day intervals if the installment is not paid
- debtors may reschedule the installment by submitting a cash flow statement for CCC approval demonstrating that the installment can be paid within 180 calendar days of the due date
- collection action may be taken against a debtor's pro rata share of payments due any entity which the borrower participates in, either directly or indirectly
- collection action may be taken against related persons or entities, irrespective of the debtors share when CCC determines that the debtor has established an entity or reorganized, transferred ownership, or changed their operation for the purpose of avoiding payment of the debt.

Note: Delinquent installments cannot be moved out of FSFL status to claims status. This is because a portion of the outstanding principal balance is not due and because collateral that could be foreclosed upon exists.

G

Liquidation and Foreclosure Policy

If a demand for payment is not received by the due date:

- CCC may call the loan and initiate foreclosure proceedings by issuing a liquidation letter to the borrower
 - CCC may sell the collateral or land securing a loan whenever CCC has declared the entire indebtedness immediately due and payable
 - the debtor may voluntarily agree to allow removal of the collateral to facilitate sale by signing an agreement for sale
 - if the debtor objects to removal of collateral, the law of the State where the collateral exists will be used to foreclose on the property.
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2 Changes to FSFL Provisions (Continued)

H

Assumptions

Assumption by another borrower of FSFL may be approved:

- subject to COC approval and the subsequent borrower's ability to show a satisfactory credit history
 - when the collateral is sold by CCC to an otherwise eligible borrower
 - when the current borrower will convey the collateral or property securing the loan to another eligible borrower
 - when the borrower is dead, incompetent, or missing and an eligible borrower wants to assume the loan.
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Crop Insurance Requirement

1-FSFL will be amended to provide that crop insurance is required only for crops of economic significance. Crop of economic significance means any insurable facility loan commodity that contributes 10 percent or more of the total expected value of all crops grown by the loan applicant.

Exception: If the expected liability under the catastrophic level of crop insurance for a crop is equal to or less than the administrative fee for the crop, that crop shall not be economically significant.

3 Action

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County Office Action

County Offices shall:

- publicize the contents of this notice by all available means
 - process applications for structures purchased during the retroactive period if the application was signed before the date the final rule was published
 - disapprove any applications for structures purchased during the retroactive period if the application is signed on or after the date the final rule was published
 - not process any loan assumptions until further policy and applicable software is issued
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3 Action (Continued)

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**County Office
Action
(Continued)**

- not dataload any applications for loans for structures to store silage until software with structure codes is installed
 - not dataload any applications for loan amounts exceeding \$100,000 until further notice.
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