

Commodity Credit Corporation, USDA

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county committee. The State FSA committee shall also:

(1) Correct, or require the county FSA committee to correct, any action taken by such county FSA committee that is not in accordance with the regulations of this part; and

(2) Require the county FSA committee to withhold taking any action that is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county FSA committee shall preclude the Executive Vice President, CCC, or a designee, or the Administrator, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by the State or county FSA committee.

(e) The Deputy Administrator, Farm Programs, FSA, may authorize State and county FSA committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the Farm Storage Facility Loan Program.

(f) A representative of CCC may execute Farm Storage Facility Loan Program applications and related documents only under the terms and conditions determined and announced by CCC. Any such document that is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by CCC, shall be null and void.

(g) The Deputy Administrator may suspend this program at any time when it appears that there is no shortage of storage that needs to be addressed or where some other reason shall arise for which it appears that the program goals can be achieved more efficiently in a manner different from that provided for this part.

§ 1436.3 Definitions.

The following definitions shall be applicable to the program authorized by this part and will be used in all aspects of administering this program:

Aggregate outstanding balance means the sum of the outstanding balances of all loans disbursed to the applicant.

Assumption means the act or agreement by which one borrower takes over or assumes the mortgage debt of another borrower.

Collateral means the storage structure, drying equipment or handling equipment securing the loan.

Consent, disclaimer, severance, or subordination agreement means an agreement under which a party may consent to the security interest of another in property, disclaim security interest in property, or subordinate security interest in property to the interest of another party.

Facility loan commodity means wheat, rice, soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, crambe, other oilseeds as determined and announced by CCC, corn, grain sorghum, oats, or barley harvested as whole grain.

Financing statement means a document that gives legal notice of a lien on chattel property when properly filed or recorded.

Non-movable or non-salable collateral means either collateral the county committee determines cannot be sold and moved to a new location because of the type of construction or collateral that has deteriorated to the point that it has no sale recovery value.

Person means any individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise, or other legal entity who is, or whose members are, a citizen or citizens of, or legal resident alien in the United States.

Uniform Commercial Code means the multi-state code of laws covering commercial transactions such as sales, negotiable instruments, and secured transactions.

§ 1436.4 Availability of loans.

(a) An application for a loan shall be submitted to the administrative county office that maintains the records of the farm or farms to which the application applies. Upon request, the applicant shall furnish information and documents as the state or county committee deems reasonably necessary to support the application. This may include financial statements, receipted

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bills, invoices, purchase orders, specifications, drawings, plats, or written authorization of ingress and egress.

(b) Producers who authorize actions without an approved loan, do so at their own risk and without creating any liability on behalf of CCC except for producers who between February 2, 2000 and May 11, 2000 took action based on the announcement of the program. Such action may include, but is not limited to, entering into purchase contracts, purchases of materials, taking delivery of parts, site preparation, and construction.

§ 1436.5 Eligible borrowers.

(a) The term “eligible borrower” means any person who, as landowner, landlord, operator, producer, tenant, leaseholder, or sharecropper:

(1) Has a satisfactory credit history, and demonstrates an ability to repay the debt arising under this program;

(2) Has no delinquent Federal debt defined by the Debt Collection Improvement Act of 1996;

(3) Is a producer of a facility loan commodity;

(4) Demonstrates a need for increased storage capacity;

(5) Provides proof of crop insurance from FCIC or a private company;

(6) Is in compliance with USDA provisions for highly erodible land and wetlands conservation according to 7 CFR part 12;

(7) Demonstrates compliance with any applicable local zoning, land use, and building codes for the applicable farm storage facility structures;

(8) Provides proof of flood insurance if CCC determines such insurance is necessary to protect the interests of CCC, and proof of all peril structural insurance, to CCC annually; and

(9) Demonstrates compliance with the National Environmental Policy Act regulations at 40 CFR, parts 1500 through 1508.

(b) [Reserved]

§ 1436.6 Eligible storage facilities for handling equipment.

(a) Loans may be made only for the purchase and installation of eligible storage facilities and permanently affixed drying and handling equipment, or for the remodeling of existing stor-

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age facilities or permanently affixed drying and handling equipment as provided in this section. Eligible storage and handling facilities shall include the following:

(1) New conventional-type cribs or bins designed and engineered for whole grain storage and having a useful life of at least 10 years;

(2) Oxygen-limiting and other upright silo-type structures designed for whole grain storage and having a useful life of at least 10 years; and

(3) Flat-type storage structures for which the primary use is to store whole grain.

(b) The calculation of the loan amount may include costs associated with building or improving an eligible storage and handling facility, including:

(1) Permanently affixed grain handling equipment and grain drying equipment, including perforated floors considered to be essential to the proper functioning of the grain storage system;

(2) Safety equipment such as lighting, inside and outside ladders;

(3) Equipment to improve, maintain, or monitor the quality of stored grain, such as cleaners, moisture testers, and heat detectors;

(4) Electrical equipment, including labor and materials for installation, such as lighting, motors, and wiring integral to the proper operation of the grain storage and handling equipment; and

(5) Concrete foundations, aprons, pits, and pads (including site preparation, labor and materials) essential to the proper operation of the grain storage and handling equipment.

(c) Ineligible storage and handling equipment with respect to which no loans for installation or related costs shall be disbursed under this part include:

(1) Portable grain drying equipment and portable augers;

(2) Structures of a temporary nature that require the weight or bulk of the stored commodity to maintain its shape (such as fences or bags);

(3) Structures that are bunker-type, horizontal, or open silos;