

## Commodity Credit Corporation, USDA

## § 1436.9

(4) Structures that are not suitable for storing the facility loan commodities for which a need is determined; and

(5) Storage structures to be used for commercial purposes. Commercial purpose is defined as the storage and handling of grain, whether paid or unpaid, for persons other than the loan applicant. State FSA committees may allow, subject to the approval of the Deputy Administrator, Farm Programs, FSA, exceptions to this requirement if an applicant is otherwise eligible and the intent and purpose of the Farm Storage Facility Loan program is being met. Any facility that is in working proximity to any commercial storage operation, shall be considered to be part of a commercial storage operation.

(d) Loans may be approved for financing additions to more modifications of an existing storage facility to increase storage capacity if the county FSA committee determines that the modification is necessary to increase the storage capacity of the unit and is not for maintenance, repair, or replacement of items such as motors, fans, or wiring.

### § 1436.7 Term of loan.

The maximum term of the loan shall be 7 years from the date of execution of a promissory note and security agreement. No extensions of the loan term will be granted.

### § 1436.8 Security for loan.

(a) All loans shall be secured by a promissory note and security agreement covering the farm storage facility. The promissory note and security agreement shall grant CCC a security interest in the collateral and shall be perfected in the manner specified in accordance with applicable state law. CCC's security interest in the collateral shall constitute the sole security interest in such collateral except for prior liens on the underlying realty that by operation of law attaches to the collateral if it is or becomes a fixture. If any such prior lien on the realty will attach to the collateral, a waiver, severance, or subordination of such lien must be obtained in writing from each person having an interest in the

real estate on which the collateral is to be located. No additional liens or encumbrances may be placed on the storage facility after the loan is approved unless CCC approves otherwise in writing.

(b) A lien on the real estate on which the farm storage facility is located will be required on all loans in the form of a real estate mortgage, deed of trust, or other security instrument approved by the CCC. For loan amounts exceeding \$50,000, CCC's interest in the real estate shall be superior to all other lien holders. If the real estate is covered by a prior lien, a lien may be obtained by means of a subordination agreement prescribed by CCC. CCC will not require such an agreement from any agency of the Department of Agriculture.

(c) Real estate liens may cover an acreage of land separate from the collateral if a lien on the underlying real estate is not feasible and if:

(1) The borrower owns the separate acreage; and

(2) The acreage is large and valuable enough, in the approving authority's opinion, to insure repayment of the loan.

(d) Notwithstanding paragraphs (a), (b) and (c) of this section, a borrower, in lieu of such liens as are otherwise required by those paragraphs, may provide a letter of credit, bond, or other form of security, as approved by CCC.

(e) If an existing structure is remodeled and an addition becomes an attached, integral part of the existing storage structure, CCC's security interest shall include the existing storage structure.

(f) The cost of filing and recording all real estate liens and later subordinations will be paid by the borrower. CCC shall pay such costs relating to filing and recording financing statements.

### § 1436.9 Loan amount and loan application approvals.

(a) The cost on which the loan shall be based is the net cost of the eligible facility, accessories, and services to the applicant after discounts and rebates, not to exceed a maximum per-bushel cost established by the State FSA committee.