

(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, except for family members as defined in 7 CFR Part 718, and tenants or landlords sharing in the crop requiring storage. Any facility that is in working proximity to any commercial storage operation shall be considered to be part of a commercial storage operation; and

(6) Portable or permanent weigh scales.

(d) Loans may be approved for financing additions to or modifications of an existing storage facility with an expected useful life of at least 10 years if the county committee determines there is a need for the capacity of the structure, but not for the sole replacement of worn out items such as motors, fans, or wiring.

(e) Loans may be approved for new storage and handling components of a pre-owned structure provided the completed facility has a useful life of at least 10 years. The pre-owned structure must be purchased and moved to a new storage location. Eligible items for such a loan include costs such as new bin rings or roof panels needed to make a purchased pre-owned structure useable, new aeration systems, site preparation, construction off-farm paid labor cost, foundation material and off-farm paid labor. Ineligible items for such a loan include the cost of purchasing and moving the used structure.

(f)(1) Paragraphs (a) and (b) of this section shall not apply to sugar-related loans made under this part.

(2) For sugar-related loans, the loan amount may include costs associated with the purchase, installation, building, improving, remodeling or renovating an eligible storage or handling facility. Eligible facilities include the following:

(i) New conventional-type bins or silos designed for and used to store raw or refined sugar, having a useful life of at least 15 years;

(ii) New flat-type storage structures including a permanent concrete floor, designed for and used to store raw or refined sugar, having a useful life of at least 15 years;

(iii) New storage structures designed for and used to store in-process sugar, having a useful life of at least 15 years.

(iv) Permanently affixed sugar handling equipment determined by the CCC to be needed and essential to the proper functioning of the sugar storage system;

(v) Safety equipment CCC requires such as lighting, and inside and outside ladders;

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

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

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

(3) For sugar-related loans, storage and handling equipment that is not eligible for loans, includes:

(i) Portable handling equipment and portable augers;

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

(iii) Used or pre-owned structures or handling equipment;

(iv) Structures that are not suitable for storing raw or refined sugar;

(v) Weigh scales.

(4) For sugar-related loans, loans may be approved for financing additions to or modifications of an existing storage facility with an expected useful life of at least 15 years if CCC determines there is a need for the capacity of the structure.

[66 FR 4612, Jan. 18, 2001, as amended at 67 FR 54938, Aug. 26, 2002]

§ 1436.7 Loan term.

The maximum term of the loan shall be 7 years from the date a promissory note and security agreement are executed, except in the case of a sugar-related loan in which case CCC, at its discretion, may authorize a loan of 15 years. The minimum term of a sugar-related loan is 7 years. No extensions of

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the loan term will be granted. The loan balance and all related costs are due 7 years from the date of the execution of the promissory note and security agreement, except in the case of a sugar-related loan, in which case such balance and costs are due 15 years from the date of the promissory note and security agreement are executed.

[67 FR 54939, Aug. 26, 2002]

§ 1436.8 Security for loan.

(a) Except as agreed to by CCC, 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 the laws of the state where the collateral is located. 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 attach to the collateral if it is or will become a fixture. If any such prior lien on the realty will attach to the collateral, a severance agreement must be obtained in writing from each holder of such a lien, including all government or USDA agencies. No additional liens or encumbrances may be placed on the storage facility after the loan is approved unless CCC approves otherwise in writing.

(b) For loan amounts exceeding \$50,000, or where the aggregate outstanding loan balance will exceed \$50,000 or for loans where the approving committee determines as a result of financial analysis that additional security is required, a lien on the real estate parcel on which the farm storage facility is located will be required in the form of a real estate mortgage, deed of trust, or other security instrument approved by the United States Department of Agriculture's Office of General Counsel. CCC's interest in the real estate shall be superior to all other liens and is the first lien that secures the amount of the loan. A loan will be considered to be adequately secured when the real estate security for the loan is at least equal to the loan amount. If the real estate is covered by a prior lien, a lien waiver may be obtained by means of a subordination

agreement approved for use in the State by USDA's Office of General Counsel. CCC will not require such an agreement from any agency of the Department of Agriculture. Loans may be secured by a junior lien on real estate when the loan is adequately secured and a severance agreement is obtained from prior lien holders.

(c) Title insurance or a title opinion is required for loans secured by real estate.

(d) Real estate liens may cover 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 has sufficient value based on the fair market value of the acreage at the time of the application as determined by the county committee, to insure repayment of the loan.

(e) Notwithstanding the preceding subsections of this section, a borrower, in lieu of such liens as are otherwise required by those subsections, may provide a letter of credit, bond, or other form of security, as approved by CCC.

(f) 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.

(g) The cost of loan closings by attorneys, title opinions, title insurance, title searches, filing and recording all real estate liens, fixture filings and later subordinations will be paid by the borrower. CCC shall pay such costs relating to credit reports, collateral lien searches, and filing and recording financing statements for the collateral.

(h) For sugar-related facility loans, in addition to the above requirements, additional security, including real estate, chattels, crops in storage, and other assets owned by the applicant, is required if necessary to adequately secure the loan. A sugar-related loan will be considered to be adequately secured when the CCC determined value of security for the loan is at least equal to 125 percent of the loan amount.

(i) For sugar-related facility loans, paragraph (g) is not applicable. The