

FSA
HANDBOOK

Sugar Storage Facility Loan Program

For State and County Offices

SHORT REFERENCE

12-SU

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Sugar Storage Facility Loan Program
12-SU

Amendment 1

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reason for Issuance

This new handbook has been issued to:

- authorize applicable County Offices to begin taking applications for sugar-related storage facility loans
- provide policy on administering a storage facility program for sugar processors.

Parts 1 through 7 are issued to provide loanmaking policy. Other parts that provide policy on software and loan servicing will be issued at a later date.

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Part 1 Basic Provisions

1 Overview

A Handbook Purpose

[7 CFR 1436.1] This handbook provides the terms and conditions under which CCC may provide low cost financing for processors to build or upgrade storage and handling facilities for raw and refined sugar.

B Sources of Authority

Authority for the requirements in this handbook are as follows:

- 7 CFR Part 1436
- P.L 107-171, Section 1402.

C Related FSA Handbooks

The following FSA handbooks concern the SSFL Program.

IF the area of concern is about...	THEN see...
audits and investigations	9-AO.
appeals	1-APP.
document retention period	25-AS.
approved abbreviations, signatures, and authorizations	1-CM.
environmental evaluations, assessments or impact statements	1-EQ
disbursing lien search and financing statement recording fees	1-FI.
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interest rates	50-FI.
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IRS reporting	62-FI.
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potential conflict of interest cases	22-PM.

2 Program Information

A Administering SSFL Program

[7 CFR 1436.2] SSFL Program shall be:

- administered under the general supervision of DAFP
- carried out in the field by STC's and FSA employees.

B Restrictions

STC's and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of this handbook unless authorized to do so by DAFP.

C Determinations

No provision or delegation to STC shall preclude the Executive Vice President, CCC, or a designee, or the Administrator, FSA, or a designee, from:

- determining any question arising under SSFL Program
- reversing or modifying any determination made by STC.

D Waivers

DAFP may authorize STC's to waive or modify deadlines and other program requirements in cases where lateness or failure to meet these other requirements does not adversely affect the SSFL operation. STC's without authority to act, may prepare a request for waiver to the applicable program requirement.

2 Program Information (Continued)

E Execution

The authority to approve all loan forms and documents prepared according to this handbook may be redelegated in writing:

- by STC to SED, except CCC-185-SU and those applications in which SED has a monetary interest
- by SED to State Office employees and Federal and non-Federal County Office employees, except those applications in which the person approving has a monetary interest.

Note: Questionable cases may be referred to the next higher authority for determination. Potential conflict of interest cases shall be handled according to 22-PM.

F Approved SSFL Supplies or Vendors

The SSFL regulations do not provide for the creation of a list of approved SSFL equipment suppliers or vendors. Potential conflict of interest cases shall be handled according to 22-PM.

3-9 (Reserved)

Part 2 Basic Loanmaking Policies**10 Loan Availability****A Signup**

[7 CFR 1436.4] County Offices shall accept CCC-185-SU's and supporting documents:

- at any time during normal office hours
- from processors in person or by FAX if FSA-237 is on file according to 1-CM.

B Where to Apply

Applications from eligible borrowers for a loan shall be submitted to the administrative County Office that maintains the applicant's FSA records. If no such records exist, applications are submitted to either of the following County Offices:

- the office serving the headquarters location of the sugar processor
- an office designated by the State Office.

C Documentation

Upon request, the applicant shall provide information and documents as STC determines reasonably necessary to support the application. The following are examples of supporting documentation:

- financial statements
- receipted bills
- invoices
- purchase orders
- specifications
- drawings
- plats
- written authorization of access to the proposed storage site.

STC is responsible for taking appropriate action on the application.

10 Loan Availability (Continued)

D Processor Actions Before Loan Approval

STC shall **not** approve loans for applicants who begin any of the following actions before a loan can be approved:

- site preparation
- foundation construction
- structure construction
- upgrading an existing facility.

For loans that cannot be approved because of the above requirement, STC may:

- determine that all other processor eligibility, equipment eligibility, and collateral security requirements are met
- request a waiver to this requirement according to subparagraph 2 D.

11 Eligible Borrowers

A Basic Requirements

[7 CFR 1436.5] An eligible borrower is any processor of domestically produced sugarcane or sugar beets that:

- has a satisfactory credit history as determined by CCC
- demonstrates the ability to repay the debt resulting from SSFL
- is not delinquent on any Federal debt, other than tax debt under the Internal Revenue Code of 1986
- is not solely a sugar marketing cooperative or company
- demonstrates a need for increased storage capacity except if the applicant is applying only for a loan for handling equipment
- demonstrates compliance with any applicable local zoning, land use, and building codes for the applicable storage facility structures
- demonstrates compliance with the following:
 - NEPA at 40 CFR Parts 1500-1508
 - FSA's NEPA regulations at 7 CFR Part 799
- is approved by CCC to store sugar owned by CCC or pledged as security to CCC for nonrecourse loans.

11 Eligible Borrowers (Continued)

B Storage Need Requirement

Applicants shall demonstrate a need for storage capacity as determined by the following formula.

Step	Action	
1	Accept certification from the processor of the annual volume of sugar, in tons, that is typically processed.	
2	Deduct applicable current storage capacity.	
3	If applicable, add annual volume that cannot be marketed because of the effect of marketing allotments.	
4	IF result from step 3 is...	THEN...
	greater than zero	the processor is eligible for needed capacity, not to exceed the processor's proposed capacity or capacity to be upgraded.
	less than zero	notify the processor that they are ineligible. Provide appeal rights according to 1-APP.

Note: If STC determines that verification of production volume or the volume that cannot be marketed because of the effect of marketing allotments is necessary, contact PSD.

12 Eligible and Ineligible Equipment

A Eligible Storage and Handling Facilities

[7 CFR 1436.6] Loans shall only be made for purchasing and installing eligible storage facilities, permanently handling equipment, or remodeling existing facilities as follows:

- 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
- new flat-type storage structures, including a permanent concrete floor and bulkheads, designed for and used to store raw or refined sugar, having a useful life of at least 15 years
- new storage structures designed for and used to store in-process sugar, having a useful life of at least 15 years
- new electrical equipment, such as lighting, motors, and wiring, integral to the proper operation of the sugar storage and handling equipment
- new equipment to improve, maintain, or monitor the quality of stored sugar, such moisture testers and heat detectors, in conjunction with a proposed storage facility
- new concrete foundations, aprons, pits, and pads, including site preparation, labor, and material, essential to the proper operation of the sugar storage and handling equipment
- new permanently affixed sugar handling equipment determined by STC to be needed and essential to the proper functioning of a storage system (without a loan for storage structures)
- renovating existing storage according to subparagraph C without an increase in storage capacity
- safety equipment, as required by CCC, such as lighting and inside and outside ladders.

Note: County Offices are not responsible for determining that equipment meets OSHA standards.

12 Eligible and Ineligible Equipment (Continued)

B Ineligible Storage and Handling Facilities

Ineligible storage and handling equipment includes the following:

- portable handling equipment that is:
 - on wheels and can be moved from 1 storage site to another
 - not affixed or anchored to a permanent location
- structures of a temporary nature that require the weight or bulk of the commodity stored to maintain its shape, such as bags, not having a useful life of 15 years
- concrete pads without walls on which a commodity is stored
- portable or permanent weigh scales
- structures that are not suitable for storing the facility loan commodities for which a need is determined.

C Renovating Storage Structures

Loans may be approved for financing additions to or modifications of an existing storage facility if STC determines that:

- the modification is:
 - necessary to renovate the storage capacity of the unit
 - for new purchase items, such as:
 - replacing floors
 - flat storage walls and bulkheads as needed
 - handling equipment
 - replacing any deteriorated bin walls or rings, roof panels, or other roofing material and related paid labor
- the applicant meets the storage need requirement.

Note: Storage that is deteriorated to the point where it is, in STC's opinion, no longer functional for storage purposes, will not be considered as existing storage capacity according to subparagraph 11 B.

13 Term of Loan

A Maximum Term

[7 CFR 1436.7] The term of the loan shall be 15 years from the date of the execution of CCC-186-SU.

B Extensions

No extensions of the loan term are authorized.

14 Security for Loans

A Secured by CCC-186-SU's

[7 CFR 1436.8] All loans shall be secured by CCC-186-SU covering the sugar storage facility. CCC-186-SU shall:

- grant CCC a security interest in the collateral
- grant CCC a security interest in other assets used as collateral
- be executed as required by applicable State law.

B Additional Security

Additional security will be required as necessary to adequately secure the loan to the extent the CCC determined value of primary and additional security is at least equal to 125 percent of the loan amount. The following are types of acceptable additional security:

- real estate
- chattels
- crops in storage
- other available assets offered as collateral.

14 Security for Loans (Continued)

C Prior Liens on Real Estate

If prior liens on the underlying real estate attach to the collateral, County Offices shall:

- unless waived by Regional OGC, obtain a severance of this lien in writing from lien holder and each person, including the borrower, having an interest in the real estate on which the collateral is to be located

Note: See paragraph 118 for more details about severance agreements.

- not allow any additional liens or encumbrances to be placed on the storage facility after the loan is approved unless CCC approves otherwise in writing.

D Real Estate Lien Requirements

A lien on the real estate on which the sugar storage facility will be located is required if CCC can obtain a security interest in the real estate.

For loan amounts secured by real estate, 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 subordination may be obtained by a form approved for use in the State by the Regional Attorney.

If prior lien holders will not subordinate to CCC, and if the loan can be adequately secured, then CCC may approve alternative forms of security, such as:

- subsequent real estate lien position
- first lien on different realty.

14 Security for Loans (Continued)

E Form of Real Estate Lien

Real estate liens shall be in the form of a real estate mortgage, deed of trust, or other security instrument approved by CCC and according to applicable State laws.

F Real Estate Lien Guidelines

The lien should cover an acreage, including the entire parcel of real estate underlying the collateral, that is:

- sufficient, in the approving committee's opinion, to ensure the loan can be adequately secured
- a salable unit in the event of foreclosure.

G Land Separate From the Collateral

Real estate liens may cover an acreage of land separate from the collateral if an adequate lien on the underlying real estate is not available or feasible and if:

- the borrower owns the separate acreage
- the acreage of the entire parcel is sufficient enough, in the approving committee's opinion, to ensure the loan can be adequately secured
- reasons why a lien on the underlying real estate was not feasible are documented.

H Other Forms of Security

The following are other forms of security that may be considered to be acceptable by the approving committee:

- a letter of credit from a financial institution provided by the applicant in an amount sufficient to adequately secure the loan for each year of the term of the loan
- a performance bond or similar instrument.

14 Security for Loans (Continued)

I Renovated Structures

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

J Fees for Filing and Recording UCC's, Instruments, and Other Transactions

Filing and recording fees shall be paid according to the following table.

IF the transaction is...	THEN the fee is paid by...
a credit report	by the borrower or a closing agent representing the borrower.
a collateral lien search	
filing a financing statement using a UCC document	
filing a fixture filing using a UCC document	
a real estate lien search for severance agreement purposes	
termination of a financing statement using a UCC document	
filing a release or discharge of a real estate lien such as a mortgage	
filing a discharge of a severance agreement	
attorney fees related to a lien on real estate used to secure SSFL	
real estate lien, deed or title search related to a lien on real estate used to secure SSFL	
recording a severance agreement	
filing and recording a subordination agreement related to a lien on real estate used to secure SSFL	
all other instrument filing and recording transactions related to a lien on real estate used to secure SSFL	
appraisals of proposed collateral	

15 Loan Amount and Loan Approvals

A Aggregate Outstanding Balance

The aggregate outstanding balance of all facility loans for each borrower signing CCC-186-SU is unlimited.

B Loan Limit

The maximum principal amount of any loan is 85 percent of the net cost of the applicant's needed storage. There is no "not to exceed" amount as is true for the FSFL Program.

Note: Loans may be limited by the amount of SSFL funds available at the time a request for obligation of funds is made.

C Net Cost

[7 CFR 1436.9] The cost on which the loan shall be based is the net cost of the following:

- eligible facility
- accessories
- services to the applicant after discounts and rebates.

15 **Loan Amount and Loan Approvals (Continued)**

D Net Cost Items

The net cost for storage and handling equipment may include the following:

- purchase price
- sales tax
- shipping charges
- delivery charges
- site preparation costs
- installation costs
- material and labor for concrete pads
- material and labor for electrical wiring and electrical motors
- paid labor
- interest resulting from a loan related to the facility construction
- professional fees, such as fees for attorneys, archaeological studies, engineering plans, environmental studies, historic reviews, or title insurance.

Note: The net cost shall not include secondhand material or any other item that is determined by the approving authority to be ineligible for loan.

15 Loan Amount and Loan Approvals (Continued)

E Larger Capacity Than Needed

When a storage structure has a larger capacity than the applicant’s needed capacity, the net cost shall be prorated and the maximum loan amount computed as follows.

Step	Action
1	Divide the eligible net cost by the cwt. of capacity.
2	Multiply the per cwt. cost times the cwt. of capacity for which the applicant is eligible.
3	Multiply the result times .85.

Example: Applicant proposes to build a 750,000 cwt. storage bin. Net cost is \$7,500,000. Eligible storage need is 500,000 cwt. Net cost per cwt. is \$10 (\$7,500,000 bushels divided by 750,000). Eligible net cost is \$5,000,000 (\$10 times 500,000 cwt). Maximum loan amount is \$4,250,000 (\$5,000,000 times .85).

F Ineligible Space in a Flat Storage Structure

When a flat storage structure has space that is not used primarily for commodity storage, such as office space, compute the maximum loan amount as follows.

Step	Action
1	Determine a factor for eligible space by dividing the square footage that is primarily used for commodity storage by total square footage of the building.
2	Determine the total net cost of the building.
3	Multiply the result from step 2 times .85 and multiply that result times the factor from step 1.

Example: Applicant proposes to build a 75,000 square foot flat storage building. Net cost is \$75,000. Eligible storage space is 74,000 square feet. Factor for eligible space is .99 (74,000 divided by 75,000). The maximum loan amount is \$63,112.50 (\$75,000 times .85 times .99).

15 Loan Amount and Loan Approvals (Continued)

G Approvals

STC approves CCC-185-SU applications for loans and requests for increases subject to availability of loan funds.

H Approval Expiration

Loan approvals expire 8 months after the approval date, unless extended in writing for up to an additional 4 months by STC.

Note: See paragraph 123 for extensions of loan approvals.

16 Downpayment

A Minimum Downpayment

[7 CFR 1436.10] A minimum downpayment shall be:

- the difference between the net cost of the storage facility and the amount of the loan determined in paragraph 15
- made by the loan applicant to the supplier or contractor before the loan is disbursed.

B Exclusions

The downpayment shall not include any of the following:

- discount
- rebate
- credit
- deferred payment
- post-dated check
- promissory note to the supplier or contractor
- trade-in value.

17 Disbursement

A Inspection and Approval

[7 CFR 1436.11] CCC shall disburse the loan when the sugar storage facility has been:

- delivered
- constructed
- assembled
- installed
- inspected and approved by a CCC representative
- determined to be free of liens other than CCC's by a final lien search, if necessary.

Note: Partial disbursements before construction is complete are not allowed.

B Evidence of Total Cost

Disbursement will be made only if the borrower provides satisfactory evidence of the following:

- total cost of the facility
- payment of all debts on the facility in excess of the amount of the loan
- required downpayment.

C Joint Disbursement

Disbursements shall be made jointly to the borrower and the contractors or suppliers.

Exception: Disbursement may be made to the borrower if the County Office determines the borrower has paid the contractor or supplier all amounts that are due and owing with respect to the facility.

18 Interest Rate

A Rate

[7 CFR 1436.12] The interest rate for a loan shall be:

- the rate equivalent to Treasury securities of a comparable term in effect during the month of the loan approval
- in effect for the term of the loan.

B Monthly Announcements

The interest rate will be announced each month by CCC.

19 Application Fee

A County Office Action

County Offices shall not charge an application fee.

20-29 (Reserved)

Part 3 Publicizing the SSFL Program

30 Publicity Requirements

A State Office Action

State Offices shall publicize, at least once per calendar year, the availability of the SSFL Program by:

- providing press releases and fact sheets to regional news media within the State
- informing regional sugar storage facility distributors about the basic provisions of the SSFL Program
- informing regional banks and other lending institutions about the basic provisions of the SSFL Program
- providing basic program provisions on the State Internet website, if available.

31 Internet Websites

A Address for FSA Website

FSA will provide information about the SSFL Program on a fact sheet at the FSA Internet website. The address is <http://www.fsa.usda.gov/pas/publications/facts/pubfacts.htm>.

B Forms Website

Forms are available for employees at <http://intranet.fsa.usda.gov/dam/ffasforms/forms.html>.

32-41 (Reserved)

Part 4 Accepting and Preparing Applications

Section 1 Applications and Supporting Information

42 Applications

A Initial Contact

When processors inquire or wish to apply for loans, County Offices shall explain the following requirements and provisions.

IF the topic is about...	THEN see...
borrower eligibility	paragraph 11
storage need	subparagraph 11 B
eligible storage and handling facility types	paragraph 12
security types and filing fees	paragraph 14
maximum loan amount	paragraph 15
downpayment	paragraph 16
interest rate	paragraph 18
all peril insurance and flood insurance	paragraph 58
compliance with local land use law	paragraph 59
environmental evaluation and assessment	Part 4, Section 3
finalizing loans	subparagraph 115 A

B Obtaining Forms and Filing Applications

Applicants:

- may obtain CCC-185-SU and other forms from the eForms public website at <http://forms.sc.egov.usda.gov> to prepare applications
- shall not FAX signed applications because a corporate seal is required on CCC-185-SU.

42 Applications (Continued)

C Accepting Applications

County Offices shall:

- ensure that all of the following forms are complete and submitted before processing the application:
 - CCC-185-SU and supporting documents
 - financial documents according to subparagraphs 44 B and 44 C
- for applications missing information, notify the applicant in writing granting 15 calendar workdays to provide missing information.

Note: If no response within 30 calendar days, refer the application to STC for disapproval and provide appeal rights.

D Preparing CCC-185-SU

County Offices shall **not**:

- assist in preparing CCC-185-SU
- submit CCC-185-SU data to APSS until **after** the application is approved by STC.

Note: Because applicants are responsible for preparing an application, there is no automated version of CCC-185-SU.

42 Applications (Continued)

E Preparing CCC-185-SU

Applicants shall prepare CCC-185-SU according to the following instructions.

Note: These instructions are also available on the eForms public website.

Item	Instructions
1A	Enter State code. Note: The State code is obtained from the FSA office where the application will be filed.
1B	Enter county code. Note: The county code is obtained from the FSA office where the application will be filed.
1C	Leave blank until a system assigned number is available.
2A	Enter exact entity name and exact address of the applicant’s headquarters location.
2B	Enter identification number applicable to entity applying.
2C	Enter name of contact person.
2D	Enter telephone number of the contact person.
3	Enter amount requested for the loan based on accurate estimates of net costs of eligible materials. The amount should equal the lesser of net cost times 85 percent or net cost minus the downpayment.
4	Enter an itemized description of the proposed facility and associated costs. If necessary, attach an itemized list showing cost breakdown of storage, handling equipment items, materials, labor, and fees.
5A	Enter name and locations of facilities where sugar is processed. It may be necessary to enter more than 1 facility on a line for each location. Note: See subparagraph 11 B for policy on determining storage need.

42 Applications (Continued)

E Preparing CCC-185-SU (Continued)

Item	Instructions
5B	Enter whether the applicable location produces raw or refined sugar.
5C	Enter the volume in actual tons produced by the facility.
5D	Enter the total of all lines from item 5C.
5E	Enter the existing applicable capacity of all facility locations.
5F	Enter the volume in actual tons of sugar that because of marketing allotments cannot be marketed and requires storage.
5G	Enter result of item 5D minus item 5E plus item 5F. The result is additional capacity needed.
5H	Enter the capacity of the proposed structure(s).
6	Enter the date facility components were purchased or will be purchased. Provide copies of all invoices and contracts if facility has been purchased.
7	Enter name and address of company from whom the facility equipment will be or was purchased.
8	Enter date when construction will begin.
9	Enter who will construct the facility.
10	Enter date facility components will be delivered to the proposed site.
11	Enter a real estate description for the site where the facility will be constructed. This will be used on financing statements.
12A	Enter name and address of persons or entities with ownership in real estate described in item 11, if other than the applicant.
12B	Enter name and address of lienholders of the real estate described in item 11. If there are no lien holders, enter "none".

42 Applications (Continued)

E Preparing CCC-185-SU (Continued)

Item	Instructions
13	Enter data as indicated for debts, contracts, notes and mortgages payable correlated to the latest balance sheet. Attach additional sheets if necessary.
14A	Applicant certifies for DCIA compliance by checking “YES” or “NO”.
14B	Applicant certifies for receivership or bankruptcy status by checking “YES” or “NO”.
15A	Applicant affixes, if applicable, the corporate seal.
15B	Enter date of debtor’s signature
16A and 16B	Person attesting to applicant’s signature, enters signature and title.
17A	Person authorized to sign for applicant enters signature.
17B	Person authorized to sign for applicant title.
18	Provide documents described by each item.

42 Applications (Continued)

F Example of CCC-185-SU

The following is an example of CCC-185-SU.

This form is available electronically.

CCC-185-SU U.S. DEPARTMENT OF AGRICULTURE (01-09-03) Commodity Credit Corporation		FOR COUNTY FSA OFFICE USE ONLY	
LOAN APPLICATION AND APPROVAL FOR SUGAR STORAGE AND HANDLING EQUIPMENT LOAN PROGRAM		1. LOAN IDENTIFICATION NUMBER	
See Page 3 for Privacy Act Statement.		A. State Code	B. County Code
NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995.		49	057
2A. Name and Address of Loan Applicant (Headquarters Location): Consolidated Sugar LLC 53 Main Street Ogden, Utah 88402		C. Loan No. 2003/00001	
		2B. Tax Identification Number 16-0011-1231	
		2C. Contact Person Mr. John Sugarman	
		2D. Telephone Number (Include Area Code): 801 334 8989	
		3. Requested Loan Amount: \$ 7,000,000	
4. Itemized Description of Proposed Facility and Associated Costs including professional service fees (if necessary, attach detailed list) 1-5000,000 Cwt. capacity Weibull type storage bin with handling equipment and storage environment controls, including cost of site preparation, materials and labor, construction, and fees such as closing cost fees, environment assessment fees, engineering, and appraisals. See the attached list.			
5. Facility Equipment described in Item 4 is needed for the storage or handling of projected production as follows:			
A. Facility Name and Location	B. Enter Whether Production is Raw or Refined	C. Total Production (Cwt.)	
Ogden Processing Plant	Refined beet sugar	2,000,000	
D. Total Production from Item 5C ➡		2,000,000	
E. Existing Storage Capacity ➡		1,000,000	
F. Volume That Cannot be Marketed Because of Marketing Allotment ➡		0	
G. Result of 5D minus 5E plus Item 5F ➡		1,000,000	
H. Capacity of Proposed Storage Structure(s) ➡		500,00	
6. Date Facility Components Purchased (MM-DD-YYYY) 9/1/2003	7. Name and Address of Company Where Facility Components Purchased Weibull of Canada 1800 Main Street Calgary,		
8. Date To Begin Construction of Facility (MM-DD-YYYY) 10/1/2003	9. Name and Address of Company To Construct Facility Chicago Bridge & Iron Co. 85 Main Street Chicago, IL		
10. Date Facility Equipment Was or Will Be Delivered to the Site (MM-DD-YYYY) 9/15/2003	11. Location of Real Estate on Which Facility Equipment Was or Will Be Erected or Installed Ogden, Utah 10 Acres N1/2 of SE/4 of section 7, Weber County		
12A. Name and Address of Persons or Entities with Ownership Interests in Real Estate in Item 11 (If Other than Applicant) None	12B. Name and Address of Lienholder(s) of The Real Estate identified in Item 11 First Security Bank 12 Center Street Ogden, UT		

42 Applications (Continued)

F Example of CCC-185-SU (Continued)

CCC-185-SU (01-09-03) Page 2 of 3

13. SCHEDULE OF INSTALLMENT DEBTS, CONTRACTS, NOTES AND MORTGAGES PAYABLE CORRELATED TO LATEST BALANCE SHEET
 DATED 07/01/03 (* Attach additional sheet if necessary.)

A. CREDITOR	B. ORIGINAL LOAN AMOUNT (\$)	C. LOAN BALANCE (\$)	D. DATE OF LOAN (MM-DD-YYYY)	E. INTEREST RATE (\$)	F. MATURITY DATE (MM-DD-YYYY)	G. M - MONTHLY O - QUARTERLY A - ANNUAL PAY	H. CURRENT?		I. SECURITY
							YES	NO	
CCC	500,000	500,000	10/21/2002	3.25	7/1/2003	a.	✓		stored sugar
First Security	1,000,000	875,000	10/1/2001	6.0	8/30/2005	m.	✓		10 acres real estate
National Leasing Corp	500,000	499,000	10/1/2002	6.25	10/1/2006	m.	✓		6 tractor trailers

14. APPLICANT'S CERTIFICATION:

The Applicant certifies that the statements made on this application are true, complete and correct to the best of the applicant's knowledge and belief, and made in good faith to obtain a loan. Section 1001 of Title 18, United States Code provides for criminal penalties to those who provide false statements on loan applications.

A. Is your company or firm delinquent on any federal non tax debt? YES NO
 (If "YES", provide details in the Remarks section on Page 3)

B. Has your company or firm ever been in receivership or bankruptcy? YES NO

15A. Applicant's Seal 15B. Date Applicant Signed (MM-DD-YYYY)
4/1/2003

16A. Attest: (Name) Samuel J Waterhouse	17A. By: (Applicant's Signature)
16B. Title: Chief Financial Officer	17B. Title: President and CEO

18. ATTACH THE FOLLOWING IF NOT ALREADY SUBMITTED:

- A. ATTACH BUSINESS PLAN that should as a minimum include description of business or project, management experience, products or services, proposed use of funds, community benefits, type and number of jobs, availability of labor or raw materials or supplies, names of any corporate parents, affiliates, subsidiaries and describe relationship, including products, between borrower, parent, affiliates, etc.
- B. For companies listed on major stock exchanges and or subject to the Securities and Exchange Commission regulations, a copy of Form 10-K, "Annual Report Pursuant to Section 13 or 15D of the Act of 1934."
- C. Architectural or Engineering Plans. (If applicable)
- D. Cost estimates and forecasts of contingency funds to cover cost increases or project changes.
- E. Financial Statements; (1) At least 3 years historical income statements and balance sheets (if an existing business), including parents, affiliate and subsidiary firms, Annual Audits if available; (2) Current (not more than 90 days old) balance sheet and profit and loss statement (if an existing business); (3) Pro-forma balance sheet (at startup); 4) 2 years of projections: income statements, balance sheets and cash flow statements supported by a list of assumptions (monthly first year, quarterly for 2nd year).
- F. Record of any pending of final regulatory or legal (civil or criminal) action against the business, parent, affiliate, proposal guarantors, subsidiaries, principal stockholders, officers, and directors.
- G. If your collateral consists of (1) Land and Building, (2) Machinery and Equipment, (3) Furniture and Fixtures, (4) Accounts Receivable, (5) Inventory, (6) Other, please provide an itemized list (labeled Exhibit A) that contains serial and identification numbers for all articles that had an original value of greater than \$500. Include a legal description of Real Estate Offered as collateral.

42 Applications (Continued)

F Example of CCC-185-SU (Continued)

CCC-185-SU (01-09-03)		Page 3 of 3	
19. CCC APPROVAL			
<p><i>A loan is approved by CCC for the approximate amount shown in Item 19A below, but not to exceed the amount authorized in the program regulations. Such loan shall be repayable in the number of equal annual installments shown in Item 19B. This approval shall become null and void 8 months after the date hereof unless the loan funds have been disbursed or this approval has been extended in writing by the State FSA Committee. Loan funds will not be disbursed until final costs have been determined, facility has been constructed and CCC has inspected and approved in accordance with program regulations.</i></p>			
A. Loan Amount Approved By CCC Pending Funding	B. Number of Loan Installments	C. Final Loan Approval Expiration Date (MM-DD-YYYY)	D. Date CCC Contacted Loan Applicant of Final Expiration Date (MM-DD-YYYY)
\$ 7,000,000	15	4/15/2004	8/17/2003
20A. Signature of State Committee Chairperson or Designee			20B. Date (MM-DD-YYYY)
			8/15/2003
21. FSA County Office Name and Address (Including Zip Code):		22. Security Required: When loan approved, enter type of security that approving committee is requiring lien, (UCC and chattel or real estate or other). Enter size of tract covered by real estate lien, if required.	
Weber County FSA Office 2871 S. Commerce Way Ogden, UT 84401		Silo and all handling and environmental equipment 10 acres real estate All processing equipment All accounts receivable	
Telephone Number (Including Area Code): 801 629-0575			
23. Remarks:			
24. FEDERAL EQUAL CREDIT OPPORTUNITY ACT STATEMENT			
The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.			
<p>NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the following information is 7 CFR Part 1436, Title 7, Code of Federal Regulations and the Commodity Credit Corporation Charter Act, 15 U.S.C. 714 et. seq. The information will be used to determine eligibility for CCC financing for storage. Furnishing the requested information is voluntary; however, without it CCC financing under the program cannot be provided. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p>			
<p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D. C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</p>			

42 Applications (Continued)

G Loan Folders

County Offices shall:

- prepare a separate 6-position or similar folder for each CCC-185-SU
- file all applicable documents in the folder
- safeguard the original CCC-186 and security documents in a custody file according to 25-AS.

43 Processing an Application

A County Office Action

County Offices shall process an application as follows.

Step	Action
1	Obtain a complete application with supporting documentation.
2	Conduct a lien search when there is a sufficient description of equipment and file financing statement on the collateral.
3	Inform the applicant that he or she must obtain a CCC-approved attorney or a title company for title clearance, real estate lien searches, and/or loan closing.
4	Obtain a credit history report to submit for financial analysis.
5	Obtain CCC-190 for waivers of prior liens on collateral such as the storage structure, if applicable.
6	Obtain CCC-297 from holders of liens on real estate underlying the intended storage facility, including the borrower.
7	Verify compliance with DCIA of 1996.
8	Complete FSA-850 and, if necessary, according to Section 3, conduct EA.
9	Verify whether the site is located in a flood hazard area and if flood insurance is necessary by completing FEMA 81-93.
11	Verify compliance with National Historic Preservation Act.
12	Work with the State Office to obtain an appraisal of the collateral offered to secure the loan from a certified commercial appraiser.
13	Verify compliance with local land-use laws.
14	Submit complete application by overnight mail to STC for consideration. Retain a copy of the case file at the County Office.

44 Financial Analysis**A Obtaining Balance Sheets and Cash Flow Statements**

Applicants shall provide financial statements, acceptable according to subparagraph B, to assist FSA in determining:

- that the applicant has the financial ability to:
 - make the downpayment
 - timely repay the loan
- whether STC should approve or disapprove the loan
- the level and type of collateral security needed.

B Acceptable Balance Sheets and Cash Flow Statements

At a minimum, applicants shall submit the following financial statements:

- at least 3 years historical income statements and balance sheets
- annual audits of historical income statements and balance sheets
- current balance sheet and profit and loss statement not more than 90 calendar days old
- pro-forma balance sheet (at startup of a company, if applicable)
- 2 years of financial projections using the following:
 - income statements
 - balance sheets
 - cash flow statements.

44 Financial Planning (Continued)

C Obtaining Other Supporting Documents

To support financial analysis, applicants shall submit the following:

- a business plan that describes the following:
 - the proposed storage facility project including a firm estimate of cost
 - management experience
 - the names of corporate parents, affiliates, and subsidiaries
 - a forecast of funds available to finance construction
 - if applicable, bridge loan amount, term, and applicable interest rate
- an itemized list of assets proposed to be used as collateral to secure the loan
- for companies subject to SEC regulations, a copy of form 10-K
- a record of any pending or final regulatory or legal action against the business.

D Obtaining Verification of Debts and Assets

County Offices shall:

- verify debts and assets
- prepare FSA-440-32 for each applicant creditor according to FSA-440-32 instructions.

44 Financial Planning (Continued)

E State Office Action

To obtain recommendations about applicant's creditworthiness and ability to repay, State Offices shall forward the complete case file by overnight mail to the following:

Director, PSD
USDA, Farm Service Agency
STOP 0512
1400 Independence Ave. SW, Room 4095-S
Washington, DC 20350.

F National Office Action

The National Office will:

- analyze statements for the year applicable to the required downpayment to determine whether funds are available to cover the required downpayment
- prepare a recommendation to STC about the applicant's ability to pay the required downpayment.
- analyze 2 year's of projected financial statements to determine that funds are available to repay the applicable SSFL installment due
- prepare a recommendation to STC about the applicant's ability to repay the required installments
- prepare recommendations about proposed collateral.

Note: Funds available to repay debt shall be at least equal to 110 percent of the projected SSFL installment amount.

45 (Reserved)

46 Credit History and Federal Delinquent Debt Reports

A Obtaining and Paying for Credit Reports

State or County Offices shall:

- request credit reports from appropriate credit reporting agencies
- pay for the cost of the credit report by 1 of the following methods:
 - obtain a check from the applicant and submit it to the credit reporting agency
 - pay for the credit report with a properly coded CCC check and seek reimbursement from the applicant.

B Analyzing Credit History Reports

The National Office will:

- analyze credit reports to detect:
 - patterns of late payments or nonpayments
 - bankruptcy and foreclosures
 - heavy use of short-term or high-interest loans or credit cards
- use pertinent information from the financial statements and credit history reports to prepare creditworthiness recommendations to STC.

46 Credit History and Federal Delinquent Debt Reports (Continued)

C Delinquent Federal Debtors

County Offices shall identify processors who are delinquent on Federal debts according to DCIA of 1996 by:

- reviewing SSFL applicant certification to DCIA compliance on CCC-185-SU
- using any electronic tool available to CCC to identify delinquent debtors.

Note: Attach a screenprint of the results of any applicable electronic search for delinquent debtors.

STC's shall not approve SSFL's for delinquent Federal debtors, unless they become nondelinquent before the loan is disbursed.

For borrowers that are entities, such as corporations and partnerships, and a member of this entity is determined to be DCIA delinquent, STC's:

- may approve the borrowing entity for SSFL
- shall instruct the County Office to:
 - offset the delinquent member's pro rata share of the loan if the member is delinquent at the time the loan is to be disbursed
 - apply the offset amount to the delinquent DCIA debt.

47 **Obtaining and Filing UCC Financing Statements**

A County Office Action

County Offices shall:

- if applicable according to State law, obtain the applicant's signature on the applicable manual UCC form at the time of application and before the storage equipment is delivered
- prepare manual or electronic UCC forms according to State law as soon as an adequate description of the collateral is available using data from a current CCC-10 prepared according to paragraph 49
- perform a lien search at applicant's expense to determine that no other liens are filed on the collateral and subsequent searches as necessary
- document the lien search on FSA-440-13 or similar form
- obtain lien waivers on CCC-190 if other liens are found on the collateral
- file UCC forms according to State law before, or as soon as possible after, the equipment is delivered to the proposed location
- obtain filing, recording, continuation or termination fees from the applicant
- file UCC continuation forms **before** original UCC forms expire.

48 Federal Judgement Liens

A Background

U.S.C. Title 28, Section 3201, enacted in 1999, provides that a debtor with a judgement lien against the debtor's property as a result of debt to the United States shall not be eligible to receive any grant or loan which is made by the Federal Government until the judgement is paid in full or otherwise satisfied.

B Outstanding Federal Judgement Liens

The SSFL applicant and anyone who will sign CCC-186-SU shall not have any outstanding unpaid judgements liens obtained by the United States in any court.

Exception: Such judgements do not include those filed as a result of action in the United States Tax Courts.

C County Office Action

County Offices shall:

- perform searches of recorded judgement dockets and applicable real estate records to identify applicants who may have outstanding Federal judgement liens
- refer SSFL applications, for applicants who have unresolved Federal judgement liens filed against them, for STC disapproval
- continue loan processing if applicants prove they have satisfied Federal judgement liens
- not use SSFL proceeds to pay Federal judgement liens.

49 Completing CCC-10**A Applicability**

Processors applying for SSFL's at USDA Service Centers are required to provide specific information on CCC-10. CCC-10 will:

- serve as CCC's or FSA's notice of intent to perfect its security interest
- identify the debtor's exact full legal name, and if the debtor is an entity, the type and location of the entity
- identify the jurisdiction in which CCC will conduct lien searches
- authorize CCC to file financing statements before executing a security agreement.

B Obtaining Authorization

County Offices shall:

- if a current CCC-10 is not already filed, obtain a signed CCC-10
- be sure processors understand that:
 - applicable collateral for loans is not described on CCC-10
 - CCC-10 remains in effect until the processor notifies CCC or FSA of any changes by filling out a new CCC-10
 - for UCC's filed manually that require the debtor's signature, CCC requires CCC-10 to identify the jurisdiction in which to perform lien searches
- for general partnerships and joint ventures, all members must sign CCC-10 unless an individual is authorized to act for the general partnership or joint venture, according to 1-CM
- if applicable, provide a copy of CCC-10 to other County Offices in which the processor is active
- file CCC-10's in alphabetical order in folder(s) labeled "LP 1-2 Financing Statements".

49 Completing CCC-10 (Continued)

C CCC-10 Availability

CCC-10 is available for download from the following:

- by FSA employees, from the FSA intranet at <http://intranet.fsa.usda.gov>
- by processors, with instructions, from the internet at <http://www.sc.egov.usda.gov/>.

D CCC-10 Instructions

County Offices shall prepare CCC-10 according to the following table.

Item	Instructions
Part A	Be sure the processor understands the statements in this part.
1	If the processor operates as an: <ul style="list-style-type: none"> • individual, check “INDIVIDUAL” • organization or entity, check “ORGANIZATION OF ENTITY”.
2	If the box in item 1 is checked for: <ul style="list-style-type: none"> • individual, enter applicable SSN or tax identification number • organization or entity, enter the applicable tax identification number.
3	If the box in item 1 is checked for: <ul style="list-style-type: none"> • individual, enter first, middle, last name and, if applicable, a suffix • organization or entity, enter the full legal name of the organization or entity. <p>Note: This is the name that will be used on UCC forms.</p>
4	If the box in item 1 is checked for individual, enter the first, middle, last name and, if applicable, a suffix for a spouse. <p>Note: This is the name that will be used on UCC forms for additional debtors.</p>

49 Completing CCC-10 (Continued)

D CCC-10 Instructions (Continued)

Item	Instructions
5	If the box in item 1 is checked for individual, enter the name of the State and county of the processor’s primary residence. Unless otherwise advised by OGC, this is where to file UCC forms and perform lien searches.
6	If the box in item 1 is checked for organization or entity, enter the type of organization or entity. Acceptable types are corporations, general or limited partnerships, limited liability companies, and trusts. An informal joint operation or venture is not a legal entity. Members of an informal joint operation or venture are treated as individuals.
7	If the organization or entity is registered, it must be organized under the law of a single State and must be displayed in a State public record as being organized. If the organization or entity is registered, enter the State in which the organization or entity was created and is registered. Unless otherwise advised by OGC, this is where to file UCC forms and perform lien searches.
8	If the organization or entity is not registered, enter the State where the place of business is located or where the organization or entity conducts its affairs. Unless otherwise advised by OGC, this is where to file UCC forms and perform lien searches.
9	Be sure the processor understands the statement in item 9.

49 Completing CCC-10 (Continued)

D CCC-10 Instructions (Continued)

Item	Instructions
<p>9A through 9D</p>	<p>If the box in item 1 is checked for:</p> <ul style="list-style-type: none"> • individual, processor enters signature as first, middle, last name and, if applicable, a suffix • organization or entity, producer enters the following: <ul style="list-style-type: none"> • the legal name of the organization or entity • the word “by” • processor’s signature • processor’s title. <p>Example: Sugar Processor Inc. by John H. Smith, president</p> <p>Note: For:</p> <ul style="list-style-type: none"> • general partnerships and joint ventures, all partners’ and spouses’ signatures are required • corporations, limited partnerships, and limited liability corporations, the person authorized to sign on behalf of the entity is required to sign • trusts, the trustee or trustees are required to sign • estates, the executor is required to sign.

49 Completing CCC-10 (Continued)

E Example of CCC-10

The following is an example of a completed CCC-10.

REPRODUCE LOCALLY. Include form number and date on all reproductions.		Form Approved - OMB No. 0560-0215
CCC-10 (11-20-01)	U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation Farm Service Agency	
REPRESENTATIONS FOR COMMODITY CREDIT CORPORATION OR FARM SERVICE AGENCY LOANS AND AUTHORIZATION TO FILE A FINANCING STATEMENT AND RELATED DOCUMENTS		
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a). The authority for requesting the following information is Commodity Credit Corporation Charter Act, 15 U.S.C. (714 et seq.), the Federal Agriculture Improvement and Reform Act of 1996, and Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.). The information will be used to provide loan benefits. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in denial of loan benefits. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 15 U.S.C. 714n, 18 U.S.C. 286, 287, 371, 641, 851, 1001; and 31 U.S.C. 3729, may be applicable to the information provided.		
According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0215. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.		
PART A - INTRODUCTION		
The undersigned is an applicant for a loan from the Commodity Credit Corporation (CCC) or the Farm Service Agency (FSA), or is currently indebted to CCC or FSA on account of loans previously made or will encumber, pledge or mortgage property to CCC or FSA to secure payment of a loan made or to be made by CCC or FSA. The undersigned understands that CCC or FSA will take or has taken a security interest in collateral to secure the payment of any loan made or to be made, that CCC or FSA will file or has filed a financing statement or an amended financing statement to perfect its security interest in such collateral, that the information provided in this instrument will affect the contents of the financing statement or any amended financing statement and where it will be filed and that CCC or FSA will rely upon this information provided by the undersigned. Further, the undersigned understands that CCC or FSA will continue to use this information for any future loans to be made to the undersigned until the undersigned notifies CCC or FSA of any changes. The undersigned agrees to immediately notify CCC or FSA of any changes in this information.		
PART B - REPRESENTATION OF UNDERSIGNED		
1. TYPE OF UNDERSIGNED: <input type="checkbox"/> INDIVIDUAL <input checked="" type="checkbox"/> ORGANIZATION OR ENTITY	2. SOCIAL SECURITY NUMBER OR TAX IDENTIFICATION NUMBER 16-0011-1231	
3. UNDERSIGNED'S FULL LEGAL NAME Consolidated Sugar LLC	4. SPOUSE'S FULL LEGAL NAME	
5. STATE AND COUNTY OF PRIMARY RESIDENCE IF UNDERSIGNED IS AN INDIVIDUAL	6. IF UNDERSIGNED IS AN ORGANIZATION OR ENTITY, SPECIFY THE TYPE OF ORGANIZATION OR ENTITY LLC	
7. IF UNDERSIGNED'S ORGANIZATION OR ENTITY IS A REGISTERED ORGANIZATION OR ENTITY, SPECIFY THE STATE IN WHICH THE ORGANIZATION OR ENTITY WAS CREATED. Delaware		
8. IF UNDERSIGNED'S ORGANIZATION IS A NON-REGISTERED ORGANIZATION OR ENTITY, SPECIFY THE STATE WHERE THE PLACE OF BUSINESS IS LOCATED OR WHERE THE ORGANIZATION OR ENTITY CONDUCTS ITS AFFAIRS.		
PART C - AUTHORIZATION TO FILE		
9. The undersigned authorizes CCC or FSA to file a financing statement under the name of the undersigned for collateral to be described in the financing statement and security agreement at any time following the date that this instrument is signed. By signing below, I give CCC or FSA permission to file a financing statement prior to the execution of the security agreement, as well as to file amendments and continuations of the financing statement thereafter.		
9A. SIGNATURE OF UNDERSIGNED		DATE
/s/ John Sugarman for Consolidated Sugar, LLC		11-21-01
9B. SIGNATURE OF UNDERSIGNED		DATE
9C. SIGNATURE OF UNDERSIGNED		DATE
9D. SIGNATURE OF UNDERSIGNED		DATE
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.		

50-57 (Reserved)

Section 2 Other Requirements**58 Insurance Requirements****A All Peril Structural Insurance**

To protect CCC's interest in collateral, County Offices shall:

- require borrowers to obtain all peril insurance on the storage structures, including the contents, and handling equipment, listing CCC as a loss payee
- obtain proof of all peril that lists CCC as a loss payee as soon as it is available and before the loan is disbursed
- review proof of all peril insurance provided to CCC periodically by insurance companies or borrowers.

B Flood Insurance

To protect CCC's interest in collateral, County Offices shall:

- determine whether proposed storage facility sites are located in **flood hazard** areas by viewing national flood insurance program maps
- document the review on FEMA 81-93, available on the internet at **<http://www.fema.gov/nfip/mpurfi.htm>**
- require the loan applicant to obtain flood insurance if the review documented on FEMA 81-93 indicates that flood insurance is required
- obtain proof of flood insurance coverage
- not approve loans if flood insurance is required and not obtained or not available
- review proof of insurance provided by insurance companies to be sure insurance is maintained for the life of the loan.

59 Local Land Use Law Requirements

A County Office Action

To avoid conflicts with local land use laws, County Offices shall:

- determine whether local land use laws are applicable at the proposed storage facility location by contacting local code enforcement officers
- obtain, from processors, copies of applicable:
 - building permits
 - zoning variances
 - site plans
 - environmental evaluations and assessments
 - construction permits for flood hazard areas
- use information obtained for FSA eligibility purposes and environment evaluations
- not approve loans where applicants are not in compliance with applicable local land use laws.

60-69 (Reserved)

Section 3 Environmental Evaluation and Assessment**70 Overview****A Background**

This section:

- is consistent with the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR Parts 1500-1508; the National Historic Preservation Act, 16 U.S.C. 470; and all other environmental laws, regulations, and executive orders applicable to Federal actions
- contains provisions for implementing due diligence into the loan process.

FSA shall consider environmental quality as equal with economic, social, and other relevant factors in program development and decision-making processes.

When adverse environmental impacts are identified, either direct or indirect, an examination will be made of alternative courses of action, including no action, potential environmental impacts, and any mitigation measures.

B Objectives

The primary objectives of this section are for FSA to make better decisions by:

- taking into account potential environmental impacts of proposed projects
- working with FSA applicants, other Federal agencies, Indian tribes, State and local governments, and interested citizens and organizations to formulate actions that advance the program goals in a manner that will protect, enhance, and restore environmental quality.

70 Overview (Continued)**B Objectives (Continued)**

To accomplish these objectives, identifying potentially significant impacts on the human environment is mandated to occur early in FSA's planning and decision-making processes. An environmental evaluation on FSA-850, or EA must be completed before FSA's decision on whether or not to approve the loan request. This early availability of the results of the environmental review process is intended to ensure that FSA decisions are based on an understanding of their environmental consequence, as well as the consequences of alternative courses of action.

FSA-850 or EA is to be supported by accurate analysis and will concentrate on the issues that are timely and relevant to the action in question, rather than amassing needless detail. This document and its preparation and review will be coordinated with other Federal or State agencies jointly participating in proposed actions or related actions, to avoid duplication of effort and to achieve a coordinated and timely response.

C State Environmental Policy Acts

Numerous States have enacted environmental policy acts or regulations similar to NEPA, hereafter referred to as State NEPA's. It will be the responsibility of each SEC to determine the applicable State requirements and to establish a working relationship with the State personnel responsible for their implementation. If it is determined there is a State NEPA, consult 1-EQ for further guidance on how to proceed.

71 Evaluating the Environmental Impact

A Preparing Evaluations or Assessments

FSA employees designated by the State Office, shall prepare EA on FSA-850 for loans requested for any of the following purposes:

- only for purchasing new:
 - electrical equipment, such as lighting, motors, and wiring integral to proper operation of sugar storage and handling equipment
 - new equipment to improve, maintain, or monitor the quality of stored sugar, such as moisture testers and heat detectors
- only for constructing new concrete aprons, pits, and pad essential to the proper operation of sugar storage and handling equipment
- only for purchasing:
 - permanently affixed sugar handling equipment
 - safety equipment such as lighting and ladders.

FSA employees designated by the State Office, shall prepare EA for loans requested for constructing any of the following:

- new conventional type bins or silos designed to store raw or refined sugar
- new flat-type storage structures designed to store raw and refined sugar
- new storage structures designed to store in-process sugar.

FSA-850 or EA provides the following:

- a format for assessing potential impacts and reviewing alternatives and mitigation measures when potential impacts may occur to any of the protected resources
- means for documenting FONSI, as well as compliance determinations for other applicable environmental laws, regulations, and policies.

71 Evaluating the Environmental Impact (Continued)**B Preparer Action**

In completing FSA-850 or EA, the preparer must:

- become familiar with the elements of the action, the nature of the environment to be affected, the relationship to any other Federal actions or related non-Federal actions, and the applicable environmental laws and regulations
- determine whether the action affects an environmental resource that is the subject of a special Federal consultation or coordination requirement
- incorporate either of the following:
 - comments of State, regional, and local agencies obtained through applicable permit reviews
 - implementing E.O. 12372, Intergovernmental Review of Federal Programs, into the evaluation if this review applies to the action
- address the issue of any controversy

Note: If the action is the subject of isolated environmental complaints or any questions or concerns that focus on a single impact, such as air quality, address the analysis of these complaints or questions.

- analyze the potential cumulative impacts of this action, particularly as it relates to other planned or recently approved FSA actions in the area in question
- for projects requiring EA's, allow a public comment period of 15 calendar days on the draft EA and incorporate any comments into the final EA
- for projects requiring EA's, prepare FONSI if the review results in a determination that the project will not have significant environmental impacts on the human environment.

71 Evaluating the Environmental Impact (Continued)**C Other Interested Agencies and Parties**

In completing FSA-850 or EA for an action, it is important to understand the comprehensive nature of the impacts that must be analyzed. Consideration must be given to all potential impacts associated with the action's construction, the project's operation and maintenance, the operation of all identified primary beneficiaries, and the attainment of the action's major objectives.

Once adequate data has been obtained, the review will be initiated. In completing the review, appropriate experts from State and Federal agencies, universities, and local and private groups may be contacted as necessary for their views. The preparer should communicate with these agencies or parties in the most appropriate and expeditious manner possible, depending upon the seriousness of the potential impacts and the need for formal documentation. Comments from an expert must be obtained in writing whenever required or when the potential environmental impact is either controversial, complex, major, or apparently major. When correspondence is exchanged, it will be appended to FSA-580 or EA. Document oral discussions and attach them as an exhibit to FSA-850 or EA.

At the earliest possible stage in the review process, the preparer shall identify the Federal, State, and local parties that are carrying out related activities, either planned or under way. Discussions with the applicant and FSA staff familiar with the project area should assist in this identification effort. If there is a potential for cumulative impacts, the preparer shall consult with the involved agencies to determine the nature, timing, and results of their environmental analysis. These consultations will be documented in the review and considered or adopted when making the environmental impact determination.

72 Addressing Protected Resources**A Wetlands**

The proposed action will be evaluated through a site visit, review of soil maps, and, if necessary, assistance from NRCS. NRCS has wetland definition maps, which may not be complete, to determine whether the action would:

- be located within or adjacent to a wetland
- affect the values and functions of the wetland by such means as converting, filling, draining, or directly discharging into the wetland.

No loan shall be approved for an action that involves the filling, dredging, draining, or other conversion or manipulation of a wetland. Carefully consider alternatives to avoid unnecessary adverse impacts to wetlands. If necessary, obtain NRCS assistance to determine whether wetlands will be affected.

B Flood Plains

The preparer shall make a determination as to whether flood plains will be potentially impacted by the proposed action. If potential impacts are noted after completing FSA-850, the preparer should:

- follow the provisions in 1-EQ
- indicate whether the project:
 - includes or involves an existing structure located within a 100-year flood plain (500-year flood plain if critical action)
 - would be located within a 100-year flood plain (500-year flood plain if critical action) and affect the values and functions of the flood plain by such means as converting, dredging, filling, or clearing the natural vegetation
- review the most current Flood Insurance Rate Map or Flood Insurance Study issued for the project area by FEMA.

Note: When more specific information is needed on the location of a flood plain; for example, the project site may be near the boundary of a flood plain; or for assistance in analyzing flood plain impacts, it is often helpful to contact FEMA's regional office staff.

72 Addressing Protected Resources (Continued)**B Flood Plains (Continued)**

If the proposed action is to be located within a Special Flood Hazard Area as determined by FEMA, it may be necessary to obtain a **construction permit** from the local flood plain management authority.

If a FEMA flood plain map has not been prepared for a project area, detailed assistance is normally available from any of the following agencies:

- FEMA
- FWS
- NRCS
- Corps of Engineers
- USGS
- appropriate regional or State agencies established for flood prevention purposes.

C Water Quality

Evaluate the extent to which the proposed project may:

- create shortages for or otherwise adversely affect the withdrawal capabilities of other present users of the raw water supply, particularly in terms of possible human health, safety, or welfare problems
- impair a water quality standard, including designated and/or existing beneficial uses, or would not meet applicable antidegradation requirements.

FSA will not provide financial assistance to any activity that would either impair a State water quality standard, including designated and/or existing beneficial uses that water quality criteria are designed to protect, or not meet antidegradation requirements. When necessary, the proposed activity will be modified to protect water quality standards, including designated and/or existing beneficial uses that water quality criteria are designed to protect, and meet antidegradation requirements.

72 Addressing Protected Resources (Continued)**D Sole Source Aquifer Recharge Area**

The preparer should consult the State Natural Resource Management Guide to determine whether the proposed action will impact a sole source aquifer recharge area. If the proposed action lies within or will affect a sole source aquifer recharge area as designated by EPA, contact the appropriate EPA regional office to determine whether its review is necessary. If the review is necessary, attach the results of the review. If no agreement exists with EPA, this obviates the need for EPA's review of the type of action under consideration. The NRCS Field Office Technical Guide should have the maps.

E Critical Habitat or Endangered/ Threatened Species

The proposed project will be reviewed to determine whether it impacts the habitat of endangered/threatened species (listed or proposed) by determining whether the proposed project:

- contains an endangered/threatened habitat within the project site
- is adjacent to an endangered/threatened habitat
- would affect an endangered/threatened habitat or species.

FSA will not approve any SSFL that is likely to do either of the following:

- jeopardize the continued existence of any plant or wildlife species listed by the Secretary of Interior as endangered or threatened
- destroy or adversely modify the habitats of listed species when these habitats have been determined critical to the species' existence by the Secretary of Interior, unless FSA has been granted an exemption for this proposal by the Endangered Species Committee according to the Endangered Species Act, Section 7, paragraph (h).

FSA shall follow the consultation procedures required under Endangered Species Act, Section 7 as specified in 50 CFR Part 403. See 1-EQ for further guidance on the consultation process.

72 Addressing Protected Resources (Continued)**F Wilderness**

The preparer shall consult the State Natural Resource Management Guide to determine whether the proposed action will impact designated or proposed wilderness area by determining whether the proposed action would either:

- be located in a wilderness area
- affect a wilderness area, such as by being visible from the wilderness area.

G Coastal Barriers

CBRA applies to barrier islands that Congress has designated for inclusion in CBRS. Since coastal barriers are only found in East and Gulf Coast States, no other State Offices fall under the requirements of CBRA and, therefore, shall not be concerned with the implementation procedures. The State Natural Resource Management Guides for these applicable States contain lists of the coastal barriers included in CBRS.

On coastal barriers that are included in CBRS, CBRA prohibits any new expenditures or new financial assistance by the Federal Government. See 1-EQ for a list of exceptions provided in CBRA, Section 6.

72 Addressing Protected Resources (Continued)

G Coastal Barriers (Continued)

For those actions that would be located within CBRS, either of the following steps must be taken.

<p>IF the environmental reviewer concludes that the proposed action...</p>	<p>THEN...</p>
<p>does not meet the criteria for an exception under CBRA, Section 6</p>	<p>the action must be denied by the approving official and the affected applicant must be informed of the reason for denial. If it is determined that the action may qualify for an exception, then the following step must be implemented before a decision on this question.</p>
<p>may meet the exception criteria</p>	<p>consultation shall be initiated with the Secretary of the Interior by either SED or the National Office. FSA shall request the Secretary's views as to whether the exception criteria are met and shall provide the Secretary with the following information:</p> <ul style="list-style-type: none"> • a detailed description of the action and its location • a description of the affected environment within CBRS and the impacts of the proposed action • the applicable exception criteria and FSA's reasons for believing they apply to this action • if a Section 6(a)(6) exception is claimed, FSA's reasons for believing the action to be consistent with the purposes of CBRA.

72 Addressing Protected Resources (Continued)

H Coastal Zone Management Area

For coastal or Great Lake States, the State Natural Resource Management Guide will be reviewed to determine whether the proposed action will be located in an approved Coastal Zone Management Area. If the proposed action would be located within this area and no agreement exists with the responsible State agency, this obviates the need for a consistency determination for the type of action under consideration.

Indicate if the action is within or will impact a coastal area defined as such by the State's approved Coastal Zone Management Program. If so, consult with the State agency responsible for the Coastal Zone Management Program to determine the action's consistency with the program. The results of this coordination shall be included with FSA-850 or EA.

I Wild or Scenic River

Review the State Natural Resource Management Guide to determine whether the proposed action will impact a wild or scenic river, which is proposed, designated, or identified in DOI's nation-wide inventory. An impact will occur if the proposed action meets 1 of the following criteria:

- would be located within 1-quarter mile of the river's banks
- involves withdrawing water from the river or discharging water to the river by a point source
- would be visible from the river.

FSA shall not:

- provide financial assistance or plan approval for any water resource project that would have a direct and adverse effect on the values for which a river has been either included in the National Wild and Scenic Rivers System or is designated for potential addition
- approve a project located below or above a wild, scenic, or recreational river area, or on any stream tributary thereto which will invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area.

See 1-EQ if potential impacts are noted during the completion of FSA-850 or EA.

72 Addressing Protected Resources (Continued)**J Important Farmland, Prime Forest Land, and Prime Rangeland**

Subtitle I of the Agriculture and Food Act of 1981, Pub. L. 97-98, created the Farmland Protection Policy Act. The Farmland Protection Policy Act requires:

- considering alternatives when an applicant's proposal would result in converting important farmland to nonagricultural uses
- that Federal programs, to the extent practicable, be compatible with State, local government, and private programs and policies to protect farmland.

The preparer of FSA-850 or EA shall review available important NRCS farmland maps to determine whether the general area within which the proposed action is located contains important farmland. Those actions that are determined to result in the lease, disposal, or financing of an existing farm, residential, commercial, or industrial property with no reasonably foreseeable change in land use and those actions that solely involve the renovation of existing structures or facilities would require no further review. Since these actions have no potential to convert land uses, this finding would simply be made by the preparer in completing EA for the action. Also, actions that convert important farmland through the construction of on-farm structures necessary for farm operations are exempt from the farmland protection provisions of this section.

Consult the State Natural Resource Management Guide along with NRCS maps to determine whether the proposed project will impact prime forest lands or prime rangelands. Conversions are allowed for these resources if the conversion would result from constructing on-farm structures necessary for farm operations.

K Natural Landmark

Review the State Natural Resource Management Guide to determine whether the proposed project will impact a natural landmark listed on the National Registry of Natural Landmarks.

72 Addressing Protected Resources (Continued)**L Historical and Cultural Properties**

The National Historic Preservation Act, Section 106 must be complied with for all proposed projects. Consultation in writing with either the State Historic Preservation Officer or Tribal Historic Preservation Officer is necessary for all proposed actions unless they have been exempted through a State Programmatic Agreement.

The proposed action must be reviewed to determine whether it:

- contains a historical or archaeological site within the construction site
- would affect a historical or archaeological site.

If the preparer of FSA-850 or EA disagrees with a requirement from the State Historic Preservation Officer or Tribal Historic Preservation Officer to complete an archaeological survey, SEC should be contacted for assistance. In most cases, using alternative sites or mitigation measures may eliminate the need for a survey.

See 1-EQ for further guidance about historical and archaeological properties.

M Air Quality

Review the proposed action to determine whether any emissions will be produced to include all aspects of the action, including beneficiaries' operations and known indirect effects, such as increased motor vehicle traffic, that will affect air quality.

Review the following:

- project's consistency with the State's air quality implementation plan for the area
- status of compliance with air quality standards within that region.

Cite any contacts with appropriate experts and agencies that must issue necessary permits.

72 Addressing Protected Resources (Continued)

N Environmental Justice

The proposed action will be reviewed to determine whether it complies with the provisions of Executive Order 12898, Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The proposed action must not adversely affect any low-income or minority communities. If low-income or minority communities may be affected, every effort shall be made to fully inform the communities of the proposed action and potential impact.

O Social and Economic Impacts

Review the proposed action to determine whether it would result in any adverse impacts to the local economical structure, as well as the social structure. For example, will the project increase traffic and cause the need for additional road systems in the area. Also, consider any potential benefits.

73 Responsibilities

A FSA Responsibilities

The following table lists the responsibilities of FSA Offices.

Office	Responsibility
County	Prepare FSA-850 or EA and any associated documentation.
Soil and Water Conservation District	When necessary, assists the County Office in completing FSA-850.
State	SEC shall provide: <ul style="list-style-type: none"> • training, as necessary to County Offices, on properly completing FSA-850 • any necessary support, including maps, address, and contracts, to the County Office in completing FSA-850.
National	<ul style="list-style-type: none"> • Provide training and support to SEC as needed. • Assist in completing any environmental impact statements when necessary.

73 Responsibilities (Continued)

B Applicant Responsibilities

FSA expects applicants to:

- consider the potential environmental impacts of their requests at the earliest planning stages and to develop proposals that minimize the potential to adversely impact the environment
- contact County Offices to determine FSA's environmental requirements as soon as possible after they decide to apply for SSFL
- provide information necessary to evaluate their proposal's potential environmental impacts and alternatives to them.

Example: The applicant will be required to provide a complete description of the project elements and the proposed site or sites to include location maps, topographic maps, and photographs when needed.

74 Determining Significant Impacts**A Other Actions**

In using the criteria for a significant impact, the cumulative impacts of other FSA actions planned or recently approved in the proposal's area of environmental impact, other related or similarly located Federal actions, and non-Federal related actions must be given consideration. This is particularly relevant for frequently recurring FSA actions that on an individual basis may have relatively few environmental impacts, but create a potential for significant impacts on a cumulative basis.

B Criteria for Wetlands and Flood Plains

Because the environmental values and functions of wetlands and flood plains are of critical importance to man, and because these areas are often extremely sensitive to man-induced disturbances, actions that affect wetlands and flood plains will be considered to have a significant environmental impact whenever 1 or more of the following criteria are met.

- The public health and safety are identifiably affected; that is, whenever the proposed action may affect any standards promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or similar State authorities.
- The preservation of natural systems is identifiably affected; that is, whenever the proposed action or related activities may potentially create or induce changes in the existing habitat that may affect either of the following:
 - species' diversity and stability, both flora and fauna and over the short and long term
 - ecosystem productivity over the long term.
- The proposal, if located or carried out within a flood plain, poses a greater than normal risk for flood-caused loss of life or property. Examples of these actions include facilities that:
 - produce, use, or store highly volatile, toxic, or water-reactive materials
 - contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events, such as hospitals, nursing homes, and schools.

75 Other Actions**A Emergencies**

When emergency circumstances arise that prevent implementing the provisions of this section, follow the provisions in 1-EQ.

B Monitoring

FSA staff, who normally have responsibility for the post-approval inspection and monitoring of approved projects, shall ensure that those mitigation measures that were identified in the approval stage and required to be undertaken to reduce adverse environmental impacts are effectively implemented.

FSA staff shall review the action's approval documents and consult with the preparer of the action's environmental review document before making site visits or requesting project status reports to determine whether there are environmental requirements to be monitored.

- The preparer will directly monitor actions containing difficult or complex environmental special conditions.
- Before certifying that conditions contained within offers of financial assistance have been fully met, the responsible monitoring staff will obtain the position of the preparer for those conditions developed as a result of the environmental review.
- Whenever noncompliance with an environmental special condition is detected by FSA, SEC will be immediately informed who will then take appropriate steps, in consultation with the responsible program office, to bring the action into compliance.

C Due Diligence

The release or presence of a hazardous substance, hazardous waste, or leaking underground storage tank on a property could affect the value of the property that is offered as security for a loan. Furthermore, a borrower with substantial liability associated with hazardous waste contamination or a leaking underground storage tank may indicate a severely diminished ability to repay. Therefore, due diligence will be performed for all new loans involving real estate as security, including real estate offered as additional security. Due diligence will be completed by the County Office by completing FSA-851, which is available from all SEC's.

75 Other Actions (Continued)

C Due Diligence (Continued)

If FSA determines that the property being offered as security contains possible hazardous waste contamination based on the completion of FSA-851, FSA shall notify the applicant that no further processing of their loan application can take place until 1 of the following occurs:

- the applicant provides an environmental site assessment completed by a qualified environmental professional that shows the property offered for security is not contaminated
- new noncontaminated property is offered as security for the loan or loans
- the contaminated property being offered as security has been fully remediated according to a plan approved by the appropriate regulatory agency
- the contaminated property can be subdivided, thus leaving a non-contaminated property to offer as security.

76-85 (Reserved)

Part 5 (Reserved)

86-100 (Reserved)

Part 6 Approving Committee Review of Applications

101 STC Review

A Responsibility

As the approving authority, STC shall determine:

- whether the:
 - applicant meets all eligibility requirements
 - proposed facility or renovation is eligible and needed
 - estimated production to calculate needs are reasonable
 - environmental conditions of the site would place CCC at risk
- the type of security to be required
- the conditions of approval.

B Referrals to STC

All applications will be referred to the State Office for consideration by STC. County Offices shall:

- submit originals of the complete application with supporting documentation by overnight mail
- retain a copy of the case file.

101 STC Review (Continued)

C STC Action

STC shall:

- abide by the National Office recommendation about the applicant's creditworthiness, ability to repay, and adequacy of collateral offered
- consider recommendations resulting from EA
- determine that the value of collateral offered to secure the loan is at least equal to 125 percent of the loan amount
- based upon National Office recommendations, determine a maximum allowable increase in the loan amount, that may exceed the amount requested, which is supported by the applicant's ability to repay
- approve or disapprove all applications and requests for increases referred
- indicate approval by signing CCC-185-SU
- provide the applicant with notification of disapproval and appeal rights, if applicable, according to subparagraph 116 B and 1-APP
- return entire case file to the County Office.

D Confidentiality of Applicant's Financial Information

For CCC to provide confidentiality of an applicant's financial information, STC's shall **not**:

- retain financial information, such as balance sheets and cash flow statements, provided by applicants
- discuss an applicant's financial information with anyone outside of the State Office.

102 (Reserved)

103 Completing Manual CCC-185-SU, Page 3

A Completing CCC-185-SU, Page 3

After careful consideration of CCC-185-SU, supporting documentation, and staff recommendations, STC shall complete CCC-185-SU, page 3 according to the following.

Item	Instructions
21A	<p>Enter the amount determined according to paragraph 15.</p> <p>Exception: The approving committee may enter the following:</p> <ul style="list-style-type: none"> • an amount that is less than the requested amount based on the applicant’s request <p>Note: Enter the amount and the notation “as requested by applicant” in the remarks section.</p> <ul style="list-style-type: none"> • an amount that is less than the requested amount based on a STC decision <p>Note: Enter the amount and a notation in the remarks section explaining STC’s reasons for the decision.</p> <ul style="list-style-type: none"> • an amount that is more than the requested amount based on National Office recommendations. <p>Note: List the conditions of approval in the remarks section.</p>
21B	Enter number of loan installments.
21C	Enter a date that is 8 months following the date of approval.
21D	The County Office enters the date the County Office sent the approval letter to the applicant.
22A through 22B	Approving authority shall sign and date.
23	Enter the County Office name and address.
24	<p>Enter the type of security required by the approving committee.</p> <p>Example: 1st lien on the 133-acre parcel where the facility is to be located.</p>
25	Use for any appropriate remarks, such as conditions of approval.

103 Completing Manual CCC-185-SU, Page 3 (Continued)

B Example of CCC-185-SU, Page 3

The following is an example of CCC-185-SU, page 3.

CCC-185-SU (01-09-03)		Page 3 of 3	
19. CCC APPROVAL			
<p><i>A loan is approved by CCC for the approximate amount shown in Item 19A below, but not to exceed the amount authorized in the program regulations. Such loan shall be repayable in the number of equal annual installments shown in Item 19B. This approval shall become null and void 8 months after the date hereof unless the loan funds have been disbursed or this approval has been extended in writing by the State FSA Committee. Loan funds will not be disbursed until final costs have been determined, facility has been constructed and CCC has inspected and approved in accordance with program regulations.</i></p>			
A. Loan Amount Approved By CCC Pending Funding \$ 7,000,000	B. Number of Loan Installments 15	C. Final Loan Approval Expiration Date (MM-DD-YYYY) 4/15/2004	D. Date CCC Contacted Loan Applicant of Final Expiration Date (MM-DD-YYYY) 8/17/2003
20A. Signature of State Committee Chairperson or Designee		20B. Date (MM-DD-YYYY) 8/15/2003	
21. FSA County Office Name and Address (Including Zip Code): Weber County FSA Office 2871 S Commerce Way Ogden, UT 84401 Telephone Number (Including Area Code): 801 629-0575		22. Security Required: When loan approved, enter type of security that approving committee is requiring lien. (UCC and chattel or real estate or other). Enter size of tract covered by real estate lien, if required. Silo and all handling and environmental equipment 10 acres real estate All processing equipment All accounts receivable	
23. Remarks 			
24. FEDERAL EQUAL CREDIT OPPORTUNITY ACT STATEMENT The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.			
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the following information is 7 CFR Part 1436, Title 7, Code of Federal Regulations and the Commodity Credit Corporation Charter Act, 15 U.S.C. 714 et. seq. The information will be used to determine eligibility for CCC financing for storage. Furnishing the requested information is voluntary; however, without it CCC financing under the program cannot be provided. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.			
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D. C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.			

103 Completing Manual CCC-185-SU, Page 3 (Continued)

C Distribution

County Offices shall:

- retain original acted upon and signed CCC-185-SU in the loan folder
- send a copy of the approved CCC-185-SU to the loan applicant with the loan approval letter.

104-114 (Reserved)

Part 7 Closing Loans

115 Finalizing Loans

A Steps to Finalize SSFL

County Offices shall take the following steps, not necessarily in this order, when finalizing loans.

Step	Action
1	If the loan was approved, ensure that funding transmission has taken place and return funding transmission has been received.
2	When the loan is funded, notify the applicant. See example letter in subparagraph 116 A.
3	As soon as possible, obtain evidence for and compute final net cost of facility. If the final loan amount exceeds the approved amount, return application to STC for consideration. When notified that STC has approved an increase, submit transmission for funding increase.
4	The borrower shall select a closing agent. Provide a letter to the applicant to use for requesting title clearance and legal services. See example letter in subparagraph 117 A.
5	Obtain certification of attorney, if applicable, on CCC-296. See subparagraph 117 B.
6	Require title insurance or obtain title opinion. Use CCC-299 for title opinion requests. See subparagraph 117 C.
7	See subparagraph 117 D for transmittal of title information letter.
8	Issue a notification of loan closing to the applicant. See example letter in subparagraph 117 E.
9	Inspect the facility after it is completed.
10	Prepare CCC-186-SU.
11	Issue closing letter to the agent with CCC-186-SU signed by approving official and other instructions. See example letter in subparagraph 117 F.
12	Write checks for loan proceeds. Provide to the closing agent.
13	The closing agent closes the loan and provides the loan closing statement to the County Office.

116 Examples of Loan Approval and Initial Determination Letters

A Example of Loan Approval Notification Letter

The following is an example of a loan approval notification letter.

(Date of Letter)

(Borrower Name)

(Borrower Address line 1)

(Borrower Address line 2)

Dear (Borrower Name),

Please be advised that the Commodity Credit Corporation has conditionally approved your request for a Sugar Storage Facility Loan in the amount of (Loan Amount). The loan will be repaid in equal installments over a period of 15 years and will carry an annual interest rate of (Loan Interest Rate) for the entire term. Your loan has also been funded.

Loan approval will expire (8 months after the date of approval). If you need additional time to complete construction and to submit evidence of the total cost, you must submit a request for an extension, in writing, providing evidence that the lack of completion is for reasons beyond your control.

As soon as possible, you must:

- complete construction and notify this office when the facility is ready for inspection
- provide evidence of final cost of the facility to this office
- (insert conditions of approval).

We will:

- compute the final net cost of the facility and request an increase in funding, if needed
- prepare loan and, if applicable, real estate mortgage documents
- notify you of a loan closing date.

Please keep us informed of any changes that can affect your loan approval.

Sincerely,

County Executive Director
For the (County Name) FSA County Committee

116 Examples of Loan Approval and Initial Determination Letters (Continued)

B Example of Initial Adverse Determination Letter

The following is an example of an initial adverse determination letter.

(Date of letter)

(Borrower Name)

(Borrower Address line 1)

(Borrower Address line 2)

Dear (Borrower Name),

Your request for a Sugar Storage Facility Loan from the Commodity Credit Corporation filed on (insert date of application) has been reviewed by the State FSA Committee. The request was not approved. The reason we did not approve your request for a loan is:

(Insert specific reasons for not approving the loan in plain language. Add a citation of the specific CFR reference and a reference to a specific 12-SU paragraph. Include a copy of the applicable handbook reference.)

If you disagree with the State Committee's decision, you may request reconsideration, mediation, or an appeal. (Insert rights for reconsideration, mediation, and appeal according to 1-APP, subparagraph 27 B.)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

USDA regulations prohibit discrimination in USDA programs because of your race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, disability; or because all or part of your income is derived from any public assistance program; or because you have filed a program complaint, participated in any program complaint proceeding, or opposed a prohibited practice.

116 Examples of Loan Approval and Initial Determination Letters (Continued)

B Example of Initial Adverse Determination Letter (Continued)

If you believe that you have been discriminated against for any of the reasons stated above, you may file a complaint with the Director, Office of Civil Rights, United States Department of Agriculture, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W. Washington, D.C. 20350-9410.

Thank you for your interest in the program.

Sincerely,

State Executive Director
For the (State) FSA State Committee

117 Closing Loans

A Borrower Selection of a Closing Agent

All loans shall be closed by closing agents selected and paid for by borrowers. County Offices shall provide the borrower with the following letter, modified as applicable to fit the closing circumstances, to:

- if applicable, provide a means for the loan applicant to request a title insurance policy from a title insurance company
- provide a means to request loan closing and related legal services from an attorney or a settlement company
- make clear who is to pay the closing costs.

REQUEST FOR TITLE POLICY AND LEGAL SERVICES

Date _____

The undersigned hereby requests you to issue a mortgage policy of title insurance and perform loan closing and other legal services in accordance with instructions and requirements of the Commodity Credit Corporation (CCC), including the disbursement of any funds that I am required to provide in connection with the transaction by CCC.

CCC is providing you a description of the real property to be mortgaged. It is understood that the closing cost (insert applicable statement from the following):

- has been agreed to by you and the undersigned
- will have to be agreed to by you and the undersigned
- is to be a reasonable figure to be set by you in accordance with your usual charges for comparable services
- (another statement if the above statements are not appropriate).

Subject to that understanding, the undersigned loan applicant agrees to be responsible for payment of all closing costs and the mortgagee policy of title insurance, if applicable.

It is understood that no liability or responsibility for payment of any portion of the closing costs is assumed by CCC or by any CCC representative or any officer, employee, or agency of the United States Department of Agriculture.

Signature of loan applicant

Address of loan applicant

117 Closing Loans (Continued)

B Example of CCC-296

County Offices shall obtain certification from attorneys selected for loan closings by using the following CCC-296 or a similar form approved by the Regional Attorney.

<p>This form is available electronically. CCC-296 (10-13-00)</p>	<p>Form Approved - OMB No. 0560-0204</p> <p style="text-align: center;">U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation</p> <p style="text-align: center;">FARM STORAGE FACILITY LOAN PROGRAM CERTIFICATION OF ATTORNEY</p>						
<p>TO:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: fit-content;"> Mr. John B. Lawyer 448 State Street Uptown, NY 55555 </div>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">1. NAME OF LOAN APPLICANT</td> </tr> <tr> <td style="padding: 2px;">Consolidated</td> </tr> <tr> <td style="padding: 2px;">2. AMOUNT OF LOAN</td> </tr> <tr> <td style="padding: 2px;">\$ 7,000,000</td> </tr> <tr> <td style="padding: 2px;">3. LOAN NUMBER</td> </tr> <tr> <td style="padding: 2px;">2003/00001</td> </tr> </table>	1. NAME OF LOAN APPLICANT	Consolidated	2. AMOUNT OF LOAN	\$ 7,000,000	3. LOAN NUMBER	2003/00001
1. NAME OF LOAN APPLICANT							
Consolidated							
2. AMOUNT OF LOAN							
\$ 7,000,000							
3. LOAN NUMBER							
2003/00001							
<p>You have been selected by the Loan Applicant in Item 1 to prepare a title opinion, to obtain a commitment for a mortgage policy of title insurance and/or to handle the loan closing in connection with a Commodity Credit Corporation (CCC) loan application filed by his party. If you desire to do this work, please complete the bottom portion of this form and return it to this office immediately. You are cautioned not to begin work on this case until you are notified by the CCC official that based on the information presented you have been approved by CCC.</p>							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 2px;">4. SIGNATURE OF CCC OFFICIAL</td> <td style="width: 40%; padding: 2px;">DATE (MM-DD-YYYY)</td> </tr> <tr> <td style="padding: 2px;"> </td> <td style="padding: 2px; text-align: center;">09-30-2000</td> </tr> </table>		4. SIGNATURE OF CCC OFFICIAL	DATE (MM-DD-YYYY)		09-30-2000		
4. SIGNATURE OF CCC OFFICIAL	DATE (MM-DD-YYYY)						
	09-30-2000						
<p>I hereby certify that I am a practicing attorney, a member in good standing of the bar of the State of _____.</p> <p>I will provide title clearance through the use of:</p> <p><input type="checkbox"/> a title opinion; or</p> <p><input type="checkbox"/> a title insurance policy. When issuing a title insurance policy, that includes a closing protection letter, liability insurance and a fidelity bond are not required.</p> <p>I am currently covered by Lawyer's Professional Liability Insurance in the amount \$ _____ per occurrence issued by _____ . The deductible is \$ _____ .</p> <p>The policy number is _____ . Coverage expires on _____ .</p> <p>I and all of my employees and associates having access to the funds involved in a CCC loan are currently covered by a fidelity bond in an amount not less than the amount of the subject loan.</p>							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 2px;">5. SIGNATURE OF ATTORNEY</td> <td style="width: 40%; padding: 2px;">DATE (MM-DD-YYYY)</td> </tr> <tr> <td style="padding: 2px; text-align: center;"> <input type="checkbox"/> APPROVED <input type="checkbox"/> NOT APPROVED </td> <td style="padding: 2px;"> </td> </tr> </table>		5. SIGNATURE OF ATTORNEY	DATE (MM-DD-YYYY)	<input type="checkbox"/> APPROVED <input type="checkbox"/> NOT APPROVED			
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<p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small></p>							

117 Closing Loans (Continued)

C Requesting CCC-299

If applicable, County Offices shall direct applicants to request a title opinion when, in consultation with the Regional Attorney, the State Office determines that the use of title insurance is not:

- available
- feasible for the loan
- feasible for the State or the area of the State where the loan will be closed.

Title opinions shall be requested using the transmittal of title information in subparagraph D and CCC-299 as follows.

This form is available electronically.		Form Approved - OMB No. 0560-0204	
CCC-299 (05-25-00) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation		1. STATE CODE 05	2. COUNTY CODE 017
TITLE OPINION - FARM STORAGE FACILITY LOAN PROGRAM <i>(See Page 2 for Privacy Act and Public Burden Statements)</i>		3. SERIAL NUMBER 2000/0C010	
PART A - PRELIMINARY TITLE OPINION			
TO THE TITLE EXAMINER: (1) Consolidated Sugar LLL, 844 Any Street, Uptown, NY 55555 <i>(Applicant's Name and Address)</i>			
_____ has applied for a loan under the Farm Storage Facility Loan Program. The loan would be secured by a (2) FIRST LIEN <input checked="" type="checkbox"/> (3) SECOND LIEN <input type="checkbox"/> , subject only to the prior lien of (4) _____, against the real property described on the attached schedule.			
PART B - CERTIFICATION OF TITLE EXAMINER			
Based on my examination of the title to the real estate described on the attached schedule, I am of the opinion that the above-named person can convey the lien indicated above, SUBJECT ONLY TO:			
a. Taxes and assessments not yet due.			
b. Outstanding oil and mineral rights.			
c. Easements and rights of way which do not affect the construction or utility of said storage or drying facilities.			
AND FURTHER SUBJECT TO the joinder, release or subordination of the following described persons or interest:			
4. NAME OF TITLE EXAMINER		5. THIS TITLE IS CERTIFIED TO AS OF	
PART C - FINAL TITLE OPINION			
RE: Mortgage, deed of trust, or other security instrument executed in favor of the Commodity Credit Corporation, described as follows:			
_____ (1) Mortgage(s) _____ (2) Month & Day _____ (3) Year, duly filed for record in the County of (4) _____, State of (5) _____ on the (6) _____ day of _____ (7) Month _____ (8) Year, and recorded in Book (9) _____ Page (10) _____. Recorder's document or filing number (11) _____. (Show either book and page or document number.)			
I certify that the above described instrument constitutes a valid (12) FIRST LIEN <input type="checkbox"/> (13) SECOND LIEN <input type="checkbox"/> , against the real property described on the attached schedule, subject only to Exceptions Part B Items a through c above.			
6. TITLE EXAMINER'S NAME AND ADDRESS		7. DATE OF CERTIFICATION (MM-DD-YYYY)	
NOTE TO TITLE EXAMINER: All actions necessary to remove, eliminate, or cure defects and objections or to satisfy or discharge items and encumbrances must be completed before the final opinion portion of this document is executed.			
PART D - COUNTY OFFICE INFORMATION			
8A. SIGNATURE OF FSA COUNTY OFFICE OFFICIAL		9. FSA COUNTY OFFICE NAME AND ADDRESS (Including Zip code)	
8B. TITLE	8C. DATE (MM-DD-YYYY)	TELEPHONE NUMBER (Include Area code):	

117 Closing Loans (Continued)

D Transmittal of Title Information

To transmit information and documents to approved closing agents or title insurance companies for title clearance and loan closing services, County Offices shall issue the following letter modified to fit the loan closing circumstances.

Date _____

(Insert complete name of closing agent or title insurance company)
(Address)

You have been selected by an applicant for a Commodity Credit Corporation loan to perform the title work and loan closing of this transaction in connection with the loan application identified below. The following documents are enclosed for preparation of a title opinion or a commitment for a mortgagee policy of title insurance and other handling in accordance with 7 CFR Part 1436.

- 1) Name of applicant _____
 Address _____
 Telephone number _____
 Loan number _____

2) Proposed insured - Commodity Credit Corporation

The real estate security for the loan - all of the land described in paragraph 3.

Required lien position - CCC requires a first lien on the land described. If that is not possible, a junior lien may be taken that secures the loan amount.

Amount of loan - \$_____

Type of loan - Sugar Storage Facility Loan

Type and purpose of financing - The loan is being made to provide financing for the construction and/or installation of a sugar storage facility on the land described in paragraph 3.

Interest rate - _____%

Repayment period - 15 years.

117 Closing Loans (Continued)

D Transmittal of Title Information (Continued)

- 3) Other information and documents attached: (provide as applicable)
- a) legal description of land: (attach copy of deed or deed of trust if available)
 - b) CCC-186-SU, Promissory Note and Security Agreement
 - c) Deed of trust or mortgage
 - d) contractor release of liability
 - e) CCC-297, Severance Agreement (if applicable)
 - f) subordination agreement
 - g) agreement with prior lienholder
 - h) CCC-299, Title Opinion - Farm Storage Facility Loan Program
 - i) other documents _____.
- 4) Requirement of title insurance commitment: (if applicable)
- a) Alterations and omissions: If the required information is altered or omitted, the approving official is not authorized to accept the commitment, but must return it for completion.
- b) Property description: The approved attorney or title insurance company must review the legal description of the land to ensure that the legal description and recital of all encumbrances, reservations, exceptions, and defects are complete and accurate. If a water right is to be included in the security for the loan, the approved attorney or title insurance company must also attach a full legal description of the water right followed by a recital of all encumbrances, reservations, exceptions, and defects. Land of water rights may be described by reference to a legally adequate description contained in the recorded instrument. A copy of this instrument must be provided to CCC for review before closing. If the description of the property is not legally adequate, the deficiency must be listed as a title defect and the necessary curative action must be included on CCC-299, Part B or in the commitment.
- c) Encumbrances, reservations, exceptions, and defects mean all matters that would prevent CCC from obtaining the required lien on the property. These include, but are not limited to, liens; taxes and assessments; leases; easements; covenants; conditions; restrictions; reservations; rights relating to mineral oil, gas, geothermal, timber, and water rights; prior sales of part of the property, judgment, probate proceedings, bankruptcy proceedings, or pending court actions in Federal and State courts; other matters of record that affect title to the real property or the ability of the buyer to convey title or the seller to accept title; and legally inadequate property descriptions.

117 Closing Loans (Continued)

D Transmittal of Title Information (Continued)

d) Scope of search: The approved attorney or title insurance company will determine:

- 1) all owners of record of the real property
- 2) whether there are any outstanding encumbrances, reservations, exceptions, and defects on the real property as outlined in paragraph c above
- 3) if a water right is to be included in the security for the loan (the attorney or title insurance company will attach a full legal description of the water right)
- 4) if there are any liens or recorded claims that would prevent CCC from obtaining an enforceable mortgage lien of the required priority on the security property. Title examination will include searches of records, or certificates from the clerks of appropriate State courts, Federal bankruptcy courts, and United States district courts, for the period determined necessary by local custom, to issue a title opinion or title insurance policy.

e) Homestead property: If a lien is being taken on homestead property, the necessary steps to take a valid lien on homestead must be taken and completed.

f) Title exceptions: Complete legal descriptions of encumbrances, reservations, exceptions, and defects must be provided to CCC upon request.

g) Prohibited title exceptions: The following title exceptions are not allowed and must be removed from the commitment before the issuance of the mortgagee policy:

- 1) liens unless CCC is taking a junior lien
- 2) the possibility of reverter
- 3) the possibility of the failure of title
- 4) homestead or homestead rights
- 5) lack of the right of access, and
- 6) any exception that may adversely affect the title to the security property, suitability of the security property, value of the security property, or successful use and/or operation of the security property.

117 Closing Loans (Continued)

D Transmittal of Title Information (Continued)

5) Other instructions: (insert applicable instructions, such as for homestead designations or lien requirements)

a) Lien priority: (include the applicable requirement)

CCC requires a first lien on the real estate security. All prior mortgagees or other lienholders must provide a subordination of their respective prior liens to CCC on a form acceptable to CCC. The subordination agreements must be recorded.

CCC does not require a first lien, but will accept a junior lien position at least equivalent to the loan amount. All prior mortgagees must also provide a severance agreement on CCC-297.

b) Severance agreement, if applicable, from borrowers and other owners: Other persons or entities who own an interest in the real estate security, but who are not applicants and who will not be signing the promissory note, must sign CCC-297, Severance Agreement. Obtain CCC-297 from borrowers unless OGC waives the requirement.

c) Agreement with prior lienholder: (if required by the Regional Attorney) All prior mortgagees and other lienholders must provide an agreement with prior lienholder.

d) Contractor release of liability: The contractor must certify that all materials and labor have been paid in full, or in the case of partial payment, has agreed to joint disbursement of the loan on CCC-191.

e) other (as applicable).

CCC Representative

117 Closing Loans (Continued)

E Notification of Loan Closing

County Offices shall use the following letter to notify applicants of conditions to be met and information to be provided before establishing a date for loan closing.

NOTIFICATION OF LOAN CLOSING

Date: _____

(Insert name and address of loan applicant)

Your Commodity Credit Corporation (CCC) loan under the Sugar Storage Facility Loan Program will be closed soon. To schedule a closing date, you must complete and comply with the items below and return this letter to CCC at the above address by (insert applicable date).

Your loan approval was based on income and expenses before the date of loan approval. If these amounts have changed since the time of approval or your operation size has changed, please contact the County Office.

If you have incurred any debts since (insert date of loan approval) that have an unpaid balance of more than \$ (amount recommended by national office), please list these debts below:

<u>To whom owed:</u>	<u>Amount:</u>	<u>Security:</u>	<u>Monthly payment:</u>

Provide the closing agent with a standard all peril structural insurance policy insuring the storage facility and contents, effective not later than the date of loan closing, and listing CCC as a loss payee. Failure to provide proof of insurance will delay closing of your loan.

CCC requires an inspection of the storage facility before loan closing. Annual inspections will also be done to protect the security interest of CCC.

(Insert other information required for closing)

117 Closing Loans (Continued)

E Notification of Loan Closing (Continued)

You will be notified of the time and place of loan closing and any other specific requirements to be met. You will be required to provide \$ (insert the closing cost and the amount of required downpayment that has not been paid) of your personal funds at loan closing. If you are unable to comply with the above requirements, please notify the County Office immediately.

Signature and title of CCC representative

Enclosures:

I certify that the information provided by me on this letter is accurate. I have reviewed the instructions given by the CCC representative and understand that I must meet the conditions outlined.

Signature of applicant

Date

117 Closing Loans (Continued)

F Loan Closing Instructions

County Offices shall prepare the following letter, or a similar 1 that is approved for use in the State by the Regional Attorney, to transmit loan closing instructions to the approved closing agent, attorney, or settlement company.

Date: _____

(Insert complete name of closing agent or title insurance company)
(Address)

Reference is made to the transmittal of title information for a Commodity Credit Corporation (CCC) Sugar Storage Facility Loan to (insert name of applicant and loan number). The requirements of that letter are incorporated by reference. Please notify the County Office when closing can occur and any loan checks intended for this transaction will be forwarded. Loan checks must be handled according to enclosed instructions.

Please notify the applicant of all loan closing requirements and arrange for closing not later than 5 workdays after the date of the loan check. If the loan is not closed by that date, return the loan check to the County Office.

If applicable, CCC requirements regarding the exceptions in the commitment for the title insurance mortgagee policy number _____ dated _____, _____ are as follows:

(check items that apply)

Number _____ must be removed.

Number _____ must be subordinated to the lien of CCC that will be created at loan closing.

Number _____ may remain ahead of the lien of CCC that will be created at loan closing.

Number _____ must be changed as follows:

The requirements below must be met at or before loan closing: (provide applicable information)

Applicant to provide proof of one-year all peril insurance policy on structures and contents showing CCC as mortgagee or loss payee.

Other: (other applicable requirements that have not been met)

117 Closing Loans (Continued)

F Loan Closing Instructions (Continued)

Loan funds plus \$_____ of borrower's personal funds required by CCC to be deposited in escrow with you will be disbursed as follows:

Pay \$_____ to _____

Pay \$_____ to _____

Pay \$_____ to _____

Pay \$_____ to _____

Pay a sum not exceeding \$_____ for borrower's closing costs.

Additional information and instructions:

A copy of the loan closing statement signed by you, CCC-186-SU, Promissory Note and Security Agreement, and all other executed documents required for loan closing to be returned to the County Office within one day after the loan is closed. As soon as possible, after closing, provide to the County Office the final mortgagee policy of title insurance and the recorded mortgage or deed of trust.

CCC representative Date

Loan Closing Statement
(to be completed by approved closing agent, attorney, or title insurance company)

I certify that the subject loan was closed on (insert date)
_____ in accordance with written directions received from CCC. Enclosed are properly executed forms in connection with loan closing.

- ____ 1. Original CCC-186-SU, Promissory Note and Security Agreement
- ____ 2. Original, recorded mortgage or deed of trust
- ____ 3. Original, recorded CCC-297, Severance Agreement, from each prior mortgagee or other lienholder
- ____ 4. Original, recorded CCC-297, Severance Agreement, signed by each person or entity who owns an interest in the land, but who did not sign CCC-186-SU
- ____ 5. Original, recorded subordination agreements from each mortgagee or other lienholder who holds an existing lien on the land (as required)
- ____ 6. Original contractor certification or release of liability
- ____ 7. Copy of the loan closing settlement statement
- ____ 8. Proof of all peril insurance
- ____ 9. Other:

117 Closing Loans (Continued)

F Loan Closing Instructions (Continued)

_____ Signature of approved closing agent, attorney, or title insurance company	
_____ Title	_____ Date
For CCC use only:	
I have examined the loan closing documents and determined that the loan was properly closed in accordance with the instructions provided.	
_____ CCC representative	_____ Date

118 CCC-297

A When CCC-297 Is Required

To sever SSFL storage structure collateral from real estate, County Offices shall obtain CCC-297 from:

- prior or superior lien holders including FSA
- the borrower
- anyone having an ownership interest in the real estate on which the collateral is located.

B When CCC-297 Is Not Required

CCC-297 is not required if:

- collateral is considered a nonfixture
- SSFL is secured by a first lien on the underlying real estate
- the Regional Attorney waives the requirement for a severance agreement because State law makes using such an agreement unnecessary.

C State Office Action

State Offices shall:

- request changes and instructions to CCC-297 from the Regional Attorney
- make CCC-297 a State form
- provide a copy to PSD.

118 CCC-297 (Continued)

D County Office Action

County Offices shall:

- for loans where a real estate lien is
 - applicable, inform the applicant that he or she must obtain a CCC approved attorney or a title clearance company for title clearance

Note: The attorney or title company should perform all lien searches.

- not required, conduct a real estate lien search to identify holders of liens on real estate underlying the intended storage facility to determine whether severance agreements must be obtained
- when obtained, file the severance agreement in the appropriate county real estate records unless the Regional Attorney waives the filing requirement.

E STC Action

STC's may enter into blanket CCC-297's with lenders if CCC-297's are approved by the Regional Attorney.

119 Real Estate Lien Instruments

A Security Instruments

State Offices shall develop a real estate lien instrument in consultation with their Regional Attorney. The security instrument may be a real estate mortgage, deed of trust, or other type of instrument. The security instrument must be used for all loans to be secured with real estate. CCC-193 is a generic real estate mortgage available for SSFL.

B Signatures

For a lien on real estate, all of the following shall sign the instrument:

- the borrower
- all persons or entities having a majority ownership interest in the applicable real estate
- other persons or entities as recommended by OGC.

C Closing Agent Action

The closing agent shall:

- prepare the instrument
- file or record the original document according to State law.

D County Office Action

County Offices shall:

- file a copy of the instrument in the loan folder
- provide a copy of the instrument to the borrower
- record the filing date, place, book, and page number on the County Office copy.

119 Real Estate Lien Instruments (Continued)

E Land Already Encumbered

If CCC requires a first lien and the land is already encumbered or subject to a prior lien, the County Office shall advise the closing agent that a subordination agreement shall be recorded making CCC's lien a first lien on the real estate where the facility is to be located.

Exception: See subparagraph 14 D.

CCC-194 is a subordination agreement that may be used for SSFL purposes.

F Lien Provisions

The lien on the site on which the facility is to be located must:

- contain an exact legal description of the site
- grant CCC access rights to the property.

G Fees

The borrower shall pay all title fees, applicable lien search fees, and the cost of filing or recording real estate liens before or at loan closing.

120 (Reserved)

121 Final Review of Cost Documents

A Acceptable Cost Documents

County Offices shall review the following:

- final evidence of total cost
- proof of downpayment
- payment of amounts in excess of the loan.

B Examples of Acceptable Evidence

The following are examples of acceptable evidence of cost documents:

- an original sales document or receipt
- a certification, which is signed and dated by the seller or provider of services
- a canceled check, which is supported by a sales document
- copies or facsimiles of documents with the seller's original signature and date.

Note: Seller signatures on sales documents are not required if CCC-191 is on file for an amount equal to the sales document amounts.

121 Final Review of Cost Documents (Continued)

C County Office Action

County Offices shall:

- date-stamp original evidence, make a copy for the loan folder, and return original evidence to the borrower
- request applicant to provide any additional information or documentation considered necessary to support costs or downpayment
- verify evidence with sellers, if necessary
- obtain STC reconsideration if final review indicates that final:
 - costs exceed costs on which STC approval was based
 - documentation includes items not in the original approval
- ensure that all necessary actions and forms have been completed
- calculate the amount to be disbursed according to paragraphs 15 and 16.

D Trade in Allowances

County Offices shall not allow trade in allowances.

121 Final Review of Cost Documents (Continued)

E Release of Liability

To protect CCC from mechanic's lien and other liabilities, County Offices shall obtain CCC-191 from the primary contractor for storage and handling facility construction projects. The following is an example of CCC-191.

This form is available electronically.		Form Approved - OMB No. 0560-0204	
CCC-191 (05-22-02)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation	
FARM STORAGE FACILITY LOAN PROGRAM RELEASE OF LIABILITY			
<p>NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is 7 CFR Part 1436, Title 7, Code of Federal Regulations and the Commodity Credit Corporation Charter Act, 15 U.S.C. 714 et seq. The information will be used to determine the amount of a loan. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in delays to disburse a loan. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.</p> <p>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0204. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p>			
1. APPLICANT'S NAME AND ADDRESS (Including ZIP Code) Consolidated Sugar 282 State Route 245 Penn Yan, NY 14527		2. CONTRACTOR'S NAME AND ADDRESS (Including ZIP Code) CB & I Chicago, IL	
TELEPHONE NUMBER (Including Area Code): (315) 536-8989		TELEPHONE NUMBER (Including Area Code): (315) 536-7281	
<p>3. CERTIFICATION:</p> <p>I hereby acknowledge the receipt of (a) <u>2 million</u> dollars</p> <p>(b) (\$ <u>2,000,000</u> in full and or partial payment of my contract dated (c) <u>07-01-2000</u> for improvement <small>(MM-DD-YYYY)</small></p> <p>work which I did for you and which is described in my contract. (When payment towards part of the total cost has been made by the loan applicant as evidenced by the final cost data on file in the County FSA Office, the remaining cost will be covered by joint disbursement of the loan.)</p> <p><i>I certify that there are no claims against me under this contract on account of injuries sustained by workers employed by me or by subcontractors thereunder. I hereby release the loan applicant and the Commodity Credit Corporation (CCC) from any claims or liens arising by virtue of this contract.</i></p>			
3(d). SIGNATURE OF CONTRACTOR /s/ Phil Morehouse		3(e). DATE (MM-DD-YYYY) 09-30-2003	
WARNING			
<p>The statements and representations made above are made in connection with construction financed in whole or in part by the Commodity Credit Corporation (CCC), United States Department of Agriculture (USDA). The statements and representations will be used to determine the release of USDA provided funds. The making of any false statement or misrepresentation herein may be a crime punishable under Title 18 U.S.C. Section 1001 which provides in part: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or statement or entry, shall be fined under [Title 18 of the United States Code] or imprisoned not more than five years, or both."</p>			
<p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small></p>			

122 Inspection and Disbursement**A Inspection**

County Offices shall:

- inspect the facility after the applicant has advised that the installation is complete
- review code enforcement inspection reports or certificates of occupancy to determine whether construction was completed properly and according to specifications
- examine real estate title documents to determine whether there is legal access to the site
- document the results of the final inspection in the loan folder on CCC-295A
- document the results of the annual inspection in the loan folder on CCC-295B.

B Safety Guidelines

FSA is committed to providing a safe environment for employees who:

- inspect newly constructed storage facilities
- perform annual inspections of existing storage facilities.

Employees shall follow safety practices according to 5-LP, paragraph 89. In addition, observe the following guidelines when performing initial and annual FSFL inspections:

- do not climb stairs or ladders unless it is necessary to visually locate handling equipment that will be collateral for SSFL and the equipment can be safely inspected
- if climbing stairs or ladders is necessary, use proper safety equipment, if available
- if handling equipment cannot be located, verify installation with the borrower
- do not attempt to locate serial numbers for equipment that is inaccessible or is not in a safe location
- document unsafe conditions on CCC-295A or CCC-295B that should be fixed by the borrower, such as loose ladders.

122 Inspection and Disbursement (Continued)

C Example of CCC-295A

The following is an example of CCC-295A.

REPRODUCE LOCALLY. Include form number and date on all reproductions.

CCC-295A (08-18-00)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation	
FARM STORAGE FACILITY LOAN PROGRAM FINAL INSPECTION OF FACILITY BEFORE LOAN DISBURSEMENT			
BORROWER INFORMATION			
1. NAME AND ADDRESS OF BORROWER (include ZIP Code) Consolidated Sugar 282 State Route 245 Penn Yan, NY 14527 TELEPHONE NUMBER: (315) 536-8589		2. LOAN NUMBER 2003/0001	
INSTRUCTIONS: Review each item below. If "NO," explain deficiencies and corrective action needed in remarks.			
REQUIRED FINAL INSPECTIONS	YES	NO	REMARKS:
3. Does structure and equipment match what was approved by CCC?	X		
4. Was installation properly done?	X		
5. If cost of material or equipment was certified by the borrower, does it seem reasonable?	X		
6. Is there legal access to the site?	X		
7. Locate and record serial numbers of equipment. See Attached List			
8. ADDITIONAL REMARKS: (Indicate Item Number for each remark.) See attached code enforcement inspection report.			
9. SIGNATURE OF AGENCY OFFICIAL INSPECTING FACILITY <i>/s/ R. Jones</i>		TITLE CED	DATE OF INSPECTION 10/01/03
<small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-6410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small>			

D Disbursement

County Offices shall not disburse loans until software and instructions are provided in a future amendment.

123 Extension of Approvals

A Extensions That May Be Granted

Loan approvals expire 8 months after the date of approval. COC's shall:

- obtain approval from STC or STC designee to grant up to an additional 4-month extension if there are bona fide delays in construction

Note: Extensions become necessary only if the applicant has not completed construction or has not submitted all documentation required to disburse the loan. Delays in disbursing a loan within the control of CCC, such as funds obligation, do not require a request for extension from the applicant.

- grant extensions only if the borrower:
 - submits a written request for an extension
 - provides evidence that the application was made in good faith
 - provides evidence that lack of completion is because of reasons beyond his or her control

Examples: The following are examples of reasons beyond the borrower's control:

- delays in the delivery of parts
 - bad weather conditions
 - lack of necessary skilled labor
 - legal delays involving real estate liens.
- grant extensions only for the time necessary to complete the installation
 - not grant automatic extensions
 - not grant extensions when equipment has not been delivered to the farm before the approval expires.

Exception: The applicant provides a binding contract signed by the applicant and supplier proving there is a purchase commitment.

123 Extension of Approvals (Continued)

B Requests for Extensions Beyond 12 Months

STC's or STC designees are not authorized to grant extensions of SSFL-approvals beyond 12 months from the date of original approval. Requests for waivers of this policy may be submitted to DAFP, according to subparagraph 2 B, if the request:

- meets the requirements of subparagraph A
- is submitted according to subparagraph 2 D.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None

Forms

The following table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
10-K	Annual Report		44
CCC-10	Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents	49	47
CCC-186	Promissory Note and Security Agreement		42
CCC-185-SU	Loan Application and Approval for Farm Storage and Drying Equipment Loan Program	42, 103	Text
CCC-186-SU	Promissory Note and Security Agreement		Text
CCC-190	Farm Storage Facility Loan Program Lien Waiver		43, 47
CCC-191	Farm Storage Facility Loan Program Release of Liability	121	117
CCC-193	Real Estate for Farm Storage Facility Loan Program		119
CCC-295A	Farm Storage Facility Loan Program Final Inspection of Facility Before Loan Disbursement	122	

Continued on the next page

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
CCC-295B	Farm Storage Facility Loan Program Annual Inspection Record		122
CCC-296	Farm Storage Facility Loan Program Certification of Attorney	117	115
CCC-297	Severance Agreement		43, 117, 118
CCC-299	Title Opinion - Farm Storage Facility Loan Program	117	115
CCC-400	Farm Storage Facility Loan Program Agreement for Sale of Loan Collateral	202	172, 181, 201, 203
FEMA 81-93	Standard Flood Hazard Determination		43, 58
FSA-237	Facsimile Signature Authorization and Verification		10
FSA-440-13	Report of Lien Search		47
FSA-440-32	Verification of Debts and Assets		44
FSA-850	Environmental Evaluation Checklist		43, 70-73
FSA-851	Environmental Risk Survey Form		75

Continued on the next page

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
CBRA	Coastal Barrier Resource Act	72
CBRS	Coastal Barrier Resource System	72
cwt.	hundred weight	15
DCIA	Debt Collection Improvement Act	42, 43, 46
EA	environmental assessment	Text
FONSI	finding no significant impact	71
NEPA	National Environmental Policy Act	11, 70
OSHA	Occupational Safety and Health Administration	12
SEC	State Environmental Coordinator	44, 70, 72, 73, 75
SSFL	Sugar Storage Facility Loan Program	Text, Ex. 2
UCC	uniform commercial code	14, 47, 49

Redelegations of Authority

The following table lists the redelegations of authority in this handbook.

Redelegation	Reference
SED may be delegated authority by STC to sign all forms or documents. Federal and non-Federal County Office employees, except those applications in which the person approving has a monetary interest, may be delegated authority by SED. See paragraph 2 for exceptions.	2

Definitions of Terms Used in This Handbook

Aggregate Outstanding Balance

An aggregate outstanding balance is the sum of the outstanding balances of all SSFL loans disbursed to each borrower signing CCC-186.

Assumption

An assumption is the act or agreement by which 1 borrower takes over or assumes the mortgage debt of another borrower.

Collateral

Collateral is the storage structure, handling equipment, real estate, chattels, crops in storage, and other available assets offered to secure the loan.

Compromise

A compromise is CCC's consideration of the borrower's offer to settle a loan by lump sum repayment or rescheduling a loan for an amount that may be less than the sum of the outstanding principal plus interest.

Direct Impact

A direct impact is an impact caused by the action and that occurs at the same time and place.

Financing Statement

A financing statement is a document that gives legal notice of a lien on chattel property when properly filed or recorded.

Flood Plains

Flood plains are lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands. At a minimum, flood plains consist of those areas subject to a 1 percent or greater chance of flooding in any given year. The term flood plain will be taken to mean the base flood plain, unless the action involves a critical action, in which case the critical action flood plain is the minimum flood plain of concern.

- Base flood plain (or 100-year flood plain) is the area subject to inundation from a flood of a magnitude that occurs once every 100 years on the average, the flood having a 1 percent chance of being equaled or exceeded in any given year.
- Critical action flood plain (or 500-year flood plain) is the area subject to inundation from a flood of a magnitude that occurs once every 500 years on the average, the flood having a 0.2-percent chance of being equaled or exceeded in any given year.

Definitions of Terms Used in This Handbook (Continued)**Indirect Impacts**

Indirect impacts are those reasonably foreseeable environmental impacts that result from the additional facility, residential, commercial, or industrial development or growth that a Federally financed project may cause, induce, or accommodate. Consequently, indirect impacts often occur later in time than the construction of the Federal project and can be removed in distance from the construction site. Those indirect impacts that deserve the greatest consideration include the following:

- changes in the patterns of land use
- population density or growth rate
- corresponding changes to air and water quality and other natural systems.

Mediation

Mediation is CCC's consideration of the borrower's offer because of either of the following:

- mediation carried out through loan mediation to settle the loan by lump sum repayment
- rescheduling a loan for an amount that CCC regards as being reasonable compared with other offers that other creditors have accepted considering the priority of security interest that all creditors have held.

Definitions of Terms Used in This Handbook (Continued)**Mitigation Measures**

Mitigation measures are measures included in a project or application for the purpose of avoiding, minimizing, reducing, or rectifying identified, adverse environmental impacts. Examples of these measures include the following:

- the deletion, relocation, redesign, or other modification of the project's elements
- the dedication to open space of environmentally sensitive areas of the project site, which would otherwise be adversely affected by the action or its indirect impacts
- soil erosion and sedimentation plans to control runoff during land-disturbing activities
- the establishment of vegetative buffer zones between project sites and adjacent land uses
- protective measures recommended by environmental and conservation agencies having jurisdiction or special expertise regarding the project's impacts
- storm water management plans to control potential downstream flooding effects that would result from a project
- zoning
- reusing existing facilities as opposed to new construction.

No-Action Alternative

A no-action alternative is the alternative of not approving an application for financial assistance.

Nonmovable or Nonsalable Collateral

Nonmovable or nonsalable collateral is either of the following:

- collateral COC determines cannot be sold and moved to a new location because of the type of construction
- collateral that has deteriorated to the point that it has no sale recovery value.

Definitions of Terms Used in This Handbook (Continued)**Practicable Alternative**

A practicable alternative is an alternative that is capable of attainment within the confines of relevant constraints. The test of practicability, therefore, depends upon the particulars of the situation under consideration and those constraints imposed by environmental, economic, legal, social, and technological parameters. This test, however, is not limited by the temporary unavailability of sufficient financial resources to implement an alternative. That is, alternatives cannot be rejected solely on the basis of moderately increased costs. The range of alternatives that must be analyzed to determine whether a practicable alternative exists includes the following categories of alternatives:

- alternative project sites or designs
- alternative projects with similar benefits as the proposed action
- the no-action alternative.

Preparer of Environmental Review Documents

The preparer of environmental review documents is the FSA official who is responsible for:

- reviewing the potential environmental impacts of the proposed action
- completing the appropriate level of environmental review.

Satisfactory Credit History

Satisfactory credit history is a history of repaying debts as they came due unless the failure to repay or tardiness in payment was because of circumstances beyond the applicant's control as determined by CCC upon proof submitted by the applicant.

Uniform Commercial Code

Uniform commercial code is the system of laws adopted in all States about commercial transactions, such as sales, negotiable instruments, and secured transactions.