

For: State and County Offices

**FAV's Included as Eligible FSFL Commodities**

Approved by: Acting Deputy Administrator, Farm Programs

**1 Overview**

**A Background**

FSFL regulations incorporating the changes mandated by the Food, Conservation, and Energy Act of 2008 (the 2008 Act), will be published as a final rule in FR on August 18, 2009.

The 2008 Act gave the Secretary the discretionary authority to add other commodities. Using this authority, the Secretary is adding the following as eligible for FSFL:

- FAV's
- cold storage facilities for FAV's produced by borrowers.

Effective August 17, 2009, producers may begin submitting CCC-185's for cold storage facilities for FAV's under the new provisions provided in FSFL regulations found at 7 CFR Part 1436.

**Note:** 1-FSFL will be amended to incorporate the changes detailed in this notice.

**B Purpose**

This notice:

- informs State and County Offices of the changes to the FSFL program specific to FAV's, including the following:
  - eligible "FAV's"
  - eligible borrowers
  - determining the storage need for FAV's
  - eligible structures and equipment
  - submitting CCC-185's
  - requirements for FSFL approval
  - FSFL security
  - crop and structural insurance
- obsoletes Notice FSFL-58 to correct reissued FSFL notice numbers that were cross referenced in the obsolete notice.

<b>Disposal Date</b>	<b>Distribution</b>
January 1, 2010	State Offices; State Offices relay to County Offices

## Notice FSFL-63

### 1 Overview (Continued)

#### C Contact

State specialists with questions about this notice shall contact DeAnn Allen by either of the following:

- e-mail to [deann.allen@wdc.usda.gov](mailto:deann.allen@wdc.usda.gov)
- telephone at 202-720-9889.

### 2 General Information on Cold Storage FSFL's for FAV's

#### A FSFL Eligible FAV's

FAV's eligible for a cold storage FSFL include the following.

• Almonds	• Dates	• Peas
• Apples	• Eggplant	• Pecans
• Apricots	• Figs	• Peppers
• Artichokes	• Garlic	• Pineapple
• Asparagus	• Ginger	• Pistachios
• Avocados	• Grapefruit	• Plantain
• Bamboo Shoots	• Grapes	• Plums
• Bananas	• Hazel Nuts	• Pomegranates
• Beans	• Herbs	• Potatoes
• Beets	• Honeydew	• Potatoes, Sweet
• Blueberries	• Kiwifruit	• Prunes
• Broccoli	• Kohlrabi	• Pumpkins
• Brussel Sprouts	• Leeks	• Radishes
• Cabbage	• Lemons	• Raisins
• Caneberries	• Lettuce	• Rhubarb
• Cantaloupes	• Limes	• Rutabaga
• Carrots	• Macadamia Nuts	• Scallions
• Cashews	• Mangos	• Shallots
• Cauliflower	• Mushrooms	• Squash
• Celery	• Nectarines	• Strawberries
• Cherries	• Okra	• Tangelos
• Chestnuts	• Olives	• Tomatoes
• Chicory/Radicchio	• Onions	• Turnips
• Coconuts	• Oranges	• Walnuts
• Corn	• Papaya	• Water Cress
• Cranberries	• Parsnip	• Watermelon
• Cucumbers	• Peaches	• Yams
• Currants		

**Note:** Caneberries includes blackberries and raspberries.

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### 2 General Information on Cold Storage FSFL's for FAV's (Continued)

#### A FSFL Eligible FAV's (Continued)

For FAV's, including nuts, **not** currently identified as eligible for a cold storage FSFL and the need has been determined, the State Office shall prepare a written document to justify the addition of the crop and e-mail to **deann.allen@wdc.usda.gov**.

The justification document should, at a minimum, answer the following questions:

- general information about the fruit or vegetable, including its use
- cold storage needs
- market for the requested fruit or vegetable.

#### B Definition of Cold Storage Facility

Cold storage facility is defined as a facility, or rooms within a facility, that are specifically designed and constructed for the cold temperature storage of perishable commodities. The temperature and humidity in these facilities must be able to be regulated to specified conditions required for the commodity requiring storage.

### 3 FSFL Eligible Borrowers

#### A Basic Requirements

An eligible borrower for FAV cold storage FSFL **must** adhere to the same requirements as all other FSFL borrowers.

FSFL borrower requirements are as follows:

- producer of an eligible FSFL commodity according to subparagraph 2 A
- has a satisfactory credit rating as determined by CCC
- possesses no delinquent nontax Federal debt
- demonstrates the ability to repay the debt
- demonstrates a need for a cold storage facility for FAV's they produce
- provides proof of multi-peril crop insurance offered under the Federal Crop Insurance Program or NAP on all eligible FSFL commodities, including FAV's stored in the FSFL-funded facility
- provides all peril insurance and, if applicable, flood insurance with CCC as a loss payee
- is in compliance with USDA provisions for HEL and WC

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### 3 FSFL Eligible Borrowers (Continued)

#### A Basic Requirements (Continued)

- demonstrates compliance with NEPA
- demonstrates compliance with any applicable local zoning, land use, and building codes
- has not been convicted of a controlled substance violation.

### 4 Storage Need Requirement for FAV's

#### A Determining Storage Need

Applicants **must** show a need for the cold storage capacity as determined by the following formula.

Step	Action
1	Determine the average of the applicant's share of the acres farmed for the most recent 3 years of each eligible FAV commodity requiring storage at the proposed location.  <b>Notes:</b> County Offices must use FSA-578's for determining the average acreage of each eligible FAV, whenever possible.  Late-filed FSA-578's may be accepted for FSFL purposes only.
2	Multiply by a yield determined reasonable by COC (subparagraph B)
3	Determine cold storage needed with the assistance of CSREES, land-grant university, or ARS publications (subparagraph C).
4	Subtract existing cold storage capacity to determine remaining storage need.
5	Compare capacity of proposed cold storage facility with cold storage needed to determine whether applicant is eligible for additional cold storage (subparagraph D).

**Notes:** For FAV's, the cold storage need requirement will be determined based on production for **1 year**.

FAV's are perishable commodities and their quality can only be maintained for a limited period of time. Cold storage facilities can extend this period of time, but in no case will a cold storage facility maintain the quality of FAV's for longer than 1 year. Although some FAV's can be stored for up to 8 months, the quality for many FAV's in cold storage can only be maintained for a week to 10 calendar days.

See Exhibit 1 for a worksheet that can be used to compute the storage need requirement and capacity of a proposed structure for FAV's.

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### 4 Storage Need Requirement for FAV's (Continued)

#### B Determining Reasonable Commodity Yield

COC's **must** determine a reasonable yield for each FAV included on CCC-185 for a cold storage facility.

COC's shall use the following resources in determining a reasonable yield:

- CSREES in the State
- land-grant university located in the State or neighboring State
- ARS publications
- detailed producer records.

**Notes:** The Internet offers FAV yield information. State Offices can contact PSD for assistance if they are unable to find a yield needed for a specific eligible fruit or vegetable.

Agriculture Departments in each State have identified specific units of measure for FAV's sold in their State. To see what unit of measure is applicable to the commodity in a particular State, contact the applicable State Department of Agriculture or check the NAP web site on FSA Intranet for a specific State and commodity at <https://arcticocean.sc.egov.usda.gov/NCT/NCTMainMenu.jsp>. County Offices can access this site from the FSA Intranet as follows:

- go to FSA Intranet at <http://intranet.fsa.usda.gov/fsa>
- CLICK "FSA Applications"
- CLICK "Production Adjustment & Disaster Programs"
- click the NCT-National Crop Tables for 2001-2008 or 2009-2010.

#### C Determining Cold Storage Needed

An applicant's needed storage can be determined with the assistance of CSREES and land-grant universities.

Applicable laws, regulations, construction codes, and zoning restrictions can also affect the size of a facility and where it can be located.

The following **must** be determined **before** defining the size of refrigerated storage needed:

- volume of product to store
- produce containers (pallet bins, boxes, bulk)
- volume required per container
- aisle space needed (mechanical or manual operation)
- lateral and head space
- available site space.

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### 4 Storage Need Requirement for FAV's (Continued)

#### C Determining Cold Storage Needed (Continued)

A Kansas State University, Cooperative Extension Service Publication MF-1039, titled "Storage Construction, Fruits & Vegetables", available at [www.oznet.ksu.edu/library/hort2/mf1039.pdf](http://www.oznet.ksu.edu/library/hort2/mf1039.pdf), may assist County Offices in determining the cold storage needed by an applicant.

#### D Determining Capacity of Proposed Structure

Capacity of the proposed structure can be obtained from the contractor constructing the cold storage facility. The applicant should provide this information to the County Office.

If necessary, County Offices may determine the volume of storage capacity by using the information in the Kansas State University Publication MF-1039 referenced in subparagraph C.

### 5 Types of Structures and Equipment Allowed for FSFL FAV Cold Storage

#### A Eligible Structures

FSFL-financed cold storage structures for FAV's must be used for the purpose for which they were constructed, assembled, or installed for the entire term of the loan. This requirement is applicable to **all** FSFL storage structures.

Cold storage facilities, with a useful life of at least 15 years, and eligible for FSFL's include the following:

- new cold storage facility of wood pole and post construction, steel, or concrete, suitable for storing FAV's produced by the borrower
- new walk-in prefabricated permanently installed cold storage coolers that are suitable for storing the producer's FAV's.

A cold storage facility loan may be approved for financing additions or modifications to an existing storage facility with an expected useful life of 15 years if CCC determines there is a need for the capacity of the structure.

**Note:** Controlled atmosphere storage structures are **not** eligible for FSFL.

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### 5 Types of Structures and Equipment Allowed for FSFL FAV Cold Storage (Continued)

#### B Eligible Components

Eligible permanently affixed equipment necessary for FSFL cold storage facility may include the following:

- refrigeration units or system
- circulation fans
- electrical equipment, such as lighting, motors, and wiring integral to the proper operation of a cold storage facility
- safety equipment meeting Occupational Safety and Health Administration requirements
- cement flooring.

No cold storage facility loans will be made for the following:

- portable structures
- portable handling and cooling equipment
- used or pre-owned structures, cooling, and handling equipment
- structures not suitable for FAV cold storage facility.

#### C Eligible Items for FSFL

The net costs for cold storage facility loan may include the following:

- purchase price and sales tax for new structure or materials
- shipping and delivery charges
- site preparation costs
- installation costs
- new material and labor for concrete flooring
- eligible equipment to maintain and monitor commodity quality
- approved electrical lighting and wiring
- off-farm paid labor
- archaeological study or attorney fees.

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### 6 CCC-185's and Approvals

#### A Submitting CCC-185's

CCC-185's **must** be submitted to the administrative FSA County Office:

- that maintains the records of the farm or farms applicable to the applicant requesting FSFL
- where the facility will be located, if existing farm records have **not** been established in a County Office.

Upon request, the applicant **must** furnish information and documentation as STC or COC deems reasonably necessary to support the application. This may include, but is **not** limited, to the following:

- financial statements
- receipts
- bill estimates
- invoices
- purchase orders
- specifications
- drawings
- plats
- written authorization of access.

Submitting CCC-185's does **not** ensure approval nor does it create any liability on behalf of CCC. Borrower's who authorize delivery, site preparation, or construction actions without an approved loan, do so at their own risk.

#### B Approval Requirements

FSFL approval requirements for FAV cold storage FSFL are the same as for all other FSFL's.

An applicant requesting a cold storage FSFL is required to submit the following with the loan application:

- \$100 loan application fee per applicant or borrower
- balance sheet prepared within the last 90 calendar days
- income and expense projections for the borrowers farm operation
- cost estimates and building plans
- proof of crop insurance
- exact location and size of the structure for the environmental evaluation
- planting and crop history records if not already available in the County Office.



## Notice FSFL-63

### 6 CCC-185's and Approvals (Continued)

#### B Approval Requirements (Continued)

For CCC-185's **not** supported by existing farm records, the applicant **must** provide to the County Office all the documentation required for the applicant to be determined an eligible borrower, including but **not** limited to the following forms:

- AD-1026
- CCC-10
- CCC-902.

### 7 Security

#### A FSFL Security

All FSFL's are secured by CCC-186 covering the farm storage facility.

CCC-186's **must**:

- grant CCC a security agreement in the collateral
- be perfected according to the laws of the State where the collateral is located.

#### B Additional Security Requirements

Additional security is required on FSFL's for:

- loan amounts exceeding \$50,000
- loans where the aggregate outstanding loan balance of all loans to a borrower exceeds \$50,000
- loans where COC determines that additional security is required as a result of financial analysis
- loans of \$50,000 or less with no resale collateral value as determined by CCC. See Notice FSFL-61, subparagraphs 8 B and 10 C.

See 1-FSFL, paragraph 14 for the approved forms of security.

See Notice FSFL-61, subparagraphs 8 C and D for policy on real estate liens and liens on separate pieces of collateral.

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### 8 Other Pertinent Loan Information

#### A Crop Insurance or NAP Requirement

Multi-peril crop insurance or NAP is **required** on all:

- commodities stored in the FSFL-funded facility, whether economically significant or not
- insurable facility loan commodities of economic significance on all farms operated by the borrower in the county where the storage facility is located.

Crop of economic significance is defined as any insurable FSFL commodity that contributes 10 percent or more of the total expected value of all crops grown by the loan applicant.

#### B Structural Insurance Requirement

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

- require **all** borrowers to obtain all peril insurance on all storage structures receiving FSFL financing
- annually verify the following:
  - CCC is listed as a loss payee
  - the amount of coverage always equals or exceeds the outstanding FSFL balance
- take action to call FSFL when borrowers do **not** maintain insurance.

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### 8 Other Pertinent Loan Information (Continued)

#### C Major FSFL Changes

The following table lists topics and references the paragraph in Notice FSFL-61 that provides detailed information applicable to that topic. These provisions are applicable to FSFL's for hay and renewable biomass.

<b>IF FSFL Program topic is...</b>	<b>THEN see Notice FSFL-61...</b>
amounts and borrower requirements	paragraph 5.
application fees	paragraph 9.
approval period extensions	subparagraph 10 E.
CCC-185's	subparagraph 2 D.
changes to farming operations	subparagraph 10 B.
facility purpose	subparagraph 10 F.
no resale collateral values	subparagraph 10 C.
partial and final disbursements	paragraph 6.
portion of structure not used for FSFL commodity storage	subparagraph 10 G.
severance agreements	paragraph 7.
software	subparagraph 2 C.
terms and interest rates	paragraph 4.
useful life of facilities	subparagraph 10 A.

### 9 Action

#### A State Office Action

State Offices shall:

- ensure that County Offices are following the procedure in this notice
- assist County Offices with questions they may have about this notice
- contact PSD with any questions about this notice and the new FSFL provisions
- contact CSREES and land-grant universities in their State to assist with implementing the provisions for cold storage facilities for FAV's.

## Notice FSFL-63

### 9 Action (Continued)

#### B County Office Action

County Offices shall:

- begin accepting CCC-185's for cold storage facilities for FAV's according to this notice beginning August 17, 2009
- comply with the policy and procedures in this notice and Notice FSFL-61 effective immediately
- complete CCC-195 for **all** FSFL's; CCC-195 is being updated to reflect new policy and procedure and will be available soon; continue to use the current version until notified that the revised CCC-195 is available
- contact the State Office for guidance if there are questions or concerns about the policy and procedure in this notice
- contact the State Office for guidance on determining:
  - cold storage need for eligible FAV's, including nuts
  - reasonable yields
  - storage capacity of a cold storage facility
  - eligible cold storage structures and equipment.

**Example of Worksheet for Determining Capacity of a Cold Storage Structure**

The following is a blank worksheet for determining capacity of a cold storage structure.

<b>Worksheet for Determining Capacity of a Cold Storage Structure</b>		
1)	Size of proposed structure: _____ ft. x _____ ft. x _____ ft.	Width                      Length                      Height
2)	Size of inside usable space: _____ ft. x _____ ft. x _____ ft.	Width                      Length                      Height
3)	Percentage of floor space used for aisles and walkway: _____ percent. (The normal is usually around 25 percent.)	
4)	Useable space: _____ ft. x _____ ft. = _____ square ft. useable space x Inside Width                      Inside Length	
	_____ percent non-useable space = _____ square ft. of non-useable space.	
5)	_____ square ft. of useable space - _____ square ft. of non-usable space = _____ square ft. of total useable space.	
6)	Available height after subtracting shelves and 1.5 ft. of space between containers and ceiling: _____ ft. - 1.5 ft. - _____ ft. = _____ ft. useable height. Inside Height                      Total Shelves	
7)	Cubic feet available for storage: _____ square ft. of usable space x _____ ft. useable height = _____ cu. ft.	
8)	_____ total cu. ft. divided by _____ capacity per cu. ft. container or bushel = _____ total storage capacity in bu.	
<b>Note:</b> States and Counties shall modify this worksheet, as needed.		

**Example of Worksheet for Determining Capacity of a Cold Storage Structure (Continued)**

**Example:** Producer has 1/2 acre of apples which yield about **330** bu. of apples per year.

An application is submitted for an **8 ft. x 8 ft. x 12 ft.** cold storage facility. A tray pack carton, storing a bu. of apples, takes **1.67** cu. ft. of storage space.

How much of the producers production can be stored at 1 time?

**Worksheet for Determining Capacity of a Cold Storage Structure**

- 1) Size of proposed structure:  $\frac{8}{\text{Width}} \text{ ft.} \times \frac{8}{\text{Length}} \text{ ft.} \times \frac{12}{\text{Height}} \text{ ft.}$
- 2) Size of inside usable space:  $\frac{7.5}{\text{Width}} \text{ ft.} \times \frac{7.5}{\text{Length}} \text{ ft.} \times \frac{10.5}{\text{Height}} \text{ ft.}$
- 3) Percentage of floor space used for aisles and walkway: 25 percent.  
(The normal is usually around 25 percent.)
- 4) Useable space:  $\frac{7.5}{\text{Inside Width}} \text{ ft.} \times \frac{7.5}{\text{Inside Length}} \text{ ft.} = \underline{56}$  square ft. useable space x  
25 percent non-useable space = 14 square ft. of non-useable space.
- 5) 56 square ft. of useable space - 14 square ft. of non-usable space =  
42 square ft. of total useable space.
- 6) Available height after subtracting shelves and 1.5 ft. of space between containers  
and ceiling:  $\frac{10.5}{\text{Inside Height}} \text{ ft.} - 1.5 \text{ ft.} - \frac{1}{\text{Total Shelves}} \text{ ft.} = \underline{8}$  ft. useable height.
- 7) Cubic feet available for storage: 42 square ft. of usable space x  
8 ft. useable height = 336 cu. ft.
- 8) 336 total cu. ft. divided by 1.67 capacity per cu. ft. container or bushel =  
201 total storage capacity in bu.

**Note:** States and Counties shall modify this worksheet, as needed.