

For: State and County Offices

Completing FSA-850 for FSFL's

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

The programmatic Environmental Assessment required on the revised FSFL regulation is nearing completion. The FSFL regulation incorporates the changes mandated by the Food, Conservation, and Energy Act of 2008 (2008 Act).

Important: Any changes to the FSFL program will **not** be effective until the regulations have been published in the Federal Register (FR).

To expedite 1 requirement of the FSFL approval process, producers planning to submit an FSFL application, may request an environmental evaluation of their proposed project at their County FSA Office.

Note: FSFL applications using the program changes mandated by the 2008 Act may **not** be submitted until the regulations have been published in FR.

To comply with the provisions of the National Environmental Policy Act (NEPA), FSA must evaluate the potential impacts the proposed structure could have on the environment for FSFL applications.

FSA-850 must be completed for each FSFL application before the application can be approved.

Disposal Date	Distribution
March 1, 2010	State Offices; State Offices relay to County Offices

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1 Overview (Continued)

B Purpose

This notice informs State and County Offices of the procedure to follow to ensure appropriate environmental compliance when a producer:

- applies for FSFL
- wants to expedite the environmental compliance process before submitting an FSFL application.

Notes: This may include those loans requiring review from other State or Federal agencies including, but not limited to, the following:

- U.S. Fish and Wildlife Service (USFWS)
- State and Tribal Historical Preservation Officers (SHPO/THPO).

Producers requesting an environmental compliance determination **must** be advised that an FSFL application must be **submitted** and **approved** before site preparation and construction can begin on the facility.

C Contact

For questions about this notice, State specialists shall contact either of the following:

- for FSFL policy, DeAnn Allen, by either of the following:
 - e-mail to deann.allen@wdc.usda.gov
 - telephone at 202-720-9889
- for FSA-850 policy and procedure, Matthew Ponish, by either of the following:
 - e-mail to matthew.ponish@wdc.usda.gov
 - telephone at 202-720-6853.

D Obtaining FSA-850

FSA-850 can be printed from the FFAS Employee Forms/Publications Website at <http://intra3.fsa.usda.gov/dam/ffasforms/currentforms.asp>.

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2 Evaluating Potential Environmental Effects

A Preparing Evaluations

All requests for loans to construct or renovate farm storage facilities or for drying or handling equipment must be evaluated by completing a review of the project to evaluate its potential environmental effects.

For FSFL's, this review includes completing FSA-850 for all loans **before** each loan approval.

B Applicant Responsibilities

FSA expects applicants to:

- consider the potential environmental effects of their loan requests at the earliest planning stages and develop proposals that minimize the potential to adversely impact the environment
- contact County Offices to determine FSA's necessary environmental compliance requirements when they are contemplating applying for FSFL
- provide FSA the information necessary to evaluate their potential environmental effects and alternatives to them.

Applicants will be required to identify the:

- type of structure they wish to construct
- proposed site by marking the location on an aerial photo.

The evaluation will be completed on the type and size of structure specified when the environmental compliance determination is initially requested.

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3 FSA-850, Environmental Evaluation Checklist

A Using FSA-850

FSA-850 is used by FSA to evaluate environmental effects resulting from constructing an FSFL. FSA is required to complete FSA-850 on the following FSFL activities:

- constructing, building, or installing:
 - conventional type bins, cribs, or storage structures for any eligible commodity
 - bunker type horizontal or open silos
 - oxygen limiting storage structures
 - storage structures for hay
 - storage structures for renewable biomass
- constructing additions or modifications to existing storage structures
- pouring concrete flooring.

FSA-850 will not be required if the entire loan is for installing any of the following equipment, determined to be necessary, on a previously constructed facility:

- affixed drying and handling equipment
- electrical equipment.

B Completing FSA-850 Before Submitting an FSFL Application

To begin the environmental evaluation, either before submitting an application or together with an FSFL application, producers must:

- visit the County FSA Office to make the request
- mark on an aerial photo the proposed location of the structure
- indicate what type of structure they propose to construct (that is, bin, flat storage structure, silo, bunker or open silo, etc.).

Note: County Offices shall **not** accept requests to complete FSA-850 via telephone. If the producer is unable to visit the office, the request **must** be submitted in writing and include the necessary information to complete FSA-850.

State Offices must determine the requirements within each State for submitting FSA-850's to State and Federal agencies for review of protected resources. Contact USFWS or SHPO/THPO for guidance within each applicable State when determining these requirements, if needed.

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3 FSA-850, Environmental Evaluation Checklist (Continued)

B Completing FSA-850 Before Submitting an FSFL Application (Continued)

Protected resources requiring review must include, but are not limited to, the following:

- threatened and endangered species, see subparagraph C
- cultural resources, see subparagraph D.

All producers requesting an environmental compliance determination **must** be advised that an FSFL application must be **submitted** and **approved** before site preparation and construction can begin on the facility.

C Threatened and Endangered Species Consultation

FSA-850, item 3 d, Critical Habitat or Endangered/Threatened Species, requires a determination as to whether the requested structure will jeopardize the existence or destroy any plant or wildlife species or their habitat that is classified as threatened or endangered.

County Offices must consult with USFWS to ensure that the proposed facility will not jeopardize a listed species or destroy or modify its “critical habitat” according to the Endangered Species Act.

D Cultural Resource Consultation

FSA-850, item 3 i, Historical/Archeological Site, requires a determination as to whether the requested structure will adversely effect an historical and/or archeological site.

Cultural resource is a term for heritage-related resources that must be considered on all FSFL’s during the environmental compliance process.

Heritage resources include the following:

- historical documents
- historical objects
- Native American cultural items
- archeological resources
- historic resources
- spiritual places
- religious practices
- cultural use of the natural environment
- community values
- historic landscapes.

County Offices must consult with SHPO and/or THPO to determine if the proposed structure will jeopardize any of the protected heritage resources listed previously.

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4 Action

A State Offices

State Offices shall:

- ensure that all County Offices are following the procedure in this notice
- determine the requirements within their State for submitting FSA-850's to State and Federal agencies for review of protected resources
- assist County Offices with questions they may have about this notice
- publicize the contents of this notice.

B County Offices

County Offices shall:

- follow the procedure in this notice
- accept requests from producers to begin completing FSA-850 once a producer has indicated:
 - proposed location of the facility on an aerial photo
 - type of facility proposed
- follow the State and Federal requirements when evaluating protected resources
- contact their State Office for assistance completing FSA-850, if necessary
- **not** implement any changes to the FSFL program authorized by the 2008 Act until the final regulations are published in FR
- publicize the contents of this notice.