such as lighting, motors, and wiring integral to the proper operation of a cold storage facility.

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

(4) No cold storage facility loans will be made for:

(i) Portable structures;

(ii) Portable handling and cooling equipment;

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

(iv) Structures that are not suitable for a fruit or vegetable cold storage facility.

[66 FR 4612, Jan. 18, 2001, as amended at 67 FR 54938, Aug. 26, 2002; 74 FR 41588, Aug. 18, 2009]

§ 1436.7 Loan term.

(a) For eligible facility loan commodities other than sugar, the term of the loan will be 7, 10, or 12 years, based on the total loan principal, from the date a promissory note and security agreement is completed on both the partial and final loan disbursements. The applicant will choose, if applicable, a loan term when submitting the loan application and total cost estimates.

(1) For a loan with the principal of $100,000 or less, the term is 7 years.

(2) For loans from $100,000.01 through $250,000, the borrower will choose a term of 7 or 10 years.

(3) For loans from $250,000.01 through $500,000, the borrower will choose a loan term of 7, 10, or 12 years.

(b) No extensions of the loan term will be granted. The loan balance and all related costs are due at the end of the loan term.

(c) For a sugar-related loan:

(1) CCC, at its discretion, may authorize a maximum loan term of 15 years. The minimum loan term of a sugar-related loan is 7 years.

(2) The loan balance and costs are due at the end of the loan term, which will be established on the date the promissory note and security agreement is executed.

[74 FR 41589, Aug. 18, 2009]

§ 1436.8 Security for loan.

(a) Except as agreed to by CCC, all loans must be secured by a promissory note and security agreement covering the farm storage facility and such other assurances as CCC may demand, subject to the following:

(1) The promissory note and security agreement must grant CCC a security interest in the collateral and must be perfected in the manner specified in the laws of the State where the collateral is located.

(2) CCC's security interest in the collateral must be the sole security interest in such collateral except for prior liens on the underlying real estate that by operation of law attach to the collateral if it is or will become a fixture. If any such prior lien on the real estate will attach to the collateral, a severance agreement must be obtained in writing from each holder of such a lien, including all government or USDA agencies. No additional liens or encumbrances may be placed on the storage facility after the loan is approved unless CCC approves otherwise in writing.

(b) For any loan amounts of $50,000 or less, CCC will not require a severance agreement from the holder of any prior lien on the real estate parcel on which the storage facility is located, if the borrower:

(1) Agrees to increase the down payment on the storage facility loan from 15 percent to 20 percent; or

(2) Provides other security such as an irrevocable letter of credit, bond, or other form of security, as approved by CCC.

(c) For loan amounts exceeding $50,000, or when the aggregate outstanding balance will exceed $50,000 or for loans in which the approving county or State committee determines, as a result of financial analysis, that additional security is required, a lien on the real estate parcel on which the farm storage facility is located is required in the form of a real estate mortgage, deed of trust, or other security instrument approved by USDA's Office of the General Counsel, provided further that:

(1) CCC's interest in the real estate must be superior to all other liens, except a loan may be secured by a junior lien on real estate when the loan is

adequately secured and a severance agreement is obtained from prior lien holders.

(2) A loan will be considered to be adequately secured when the real estate security for the loan is at least equal to the loan amount.

(3) If the real estate is covered by a prior lien, a lien waiver may be obtained by means of a subordination agreement approved for use in the State by USDA's Office of the General Counsel. CCC will not require such an agreement from any agency of USDA.

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

(e) Real estate liens, with prior CCC approval, may cover land separate from the collateral if a lien on the underlying real estate is not feasible and if:

(1) The borrower owns the separate acreage and the acreage is not subject to any other liens or mortgages that are superior to CCC's lien interest and

(2) The acreage is of adequate size and value at the time of the application as determined by the county committee to adequately secure and insure repayment of the loan.

(f) A borrower, in lieu of such liens required by this section, may provide an irrevocable letter of credit, bond, or other form of security, as approved by CCC.

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

(h) For all farm storage facility loans, except sugar loans, the borrower must pay the cost of loan closings by attorneys, title opinions, title insurance, title searches, filing, and recording all real estate liens, fixture filings, appraisals if requested by the borrower, and all subordinations. CCC will pay costs relating to credit reports, collateral lien searches, and filing and recording financing statements for the collateral.

(i) All loans of $50,000 or less that are secured with collateral with no resale value, as determined by CCC, may require additional security.

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

(k) For sugar storage facility loans, paragraph (h) of this section is not applicable. However, the borrower must pay all loan making fees and closing costs. This includes, but is not limited to, attorney fees for loan closings, environmental assessments and studies, chattel and real estate appraisals, title opinions, title insurance, title searches, and filing and recording all real estate liens, fixture filings, subordinations, credit reports, collateral lien searches, and filing and recording financing statements for the collateral.

[74 FR 41589, Aug. 18, 2009]

§ 1436.9 Loan amount and loan application approvals.

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

(b) The net cost for all storage facilities and handling equipment:

(1) May include the following: All real estate lien related fees paid by the borrower, including attorney fees, except for filing fees; environmental and historic review fees including archaeological study fees; the facility purchase price; sales tax; shipping; delivery charges; site preparation costs; installation cost; material and labor for concrete pads and foundations; material and labor for electrical wiring; electrical motors; off-farm paid labor; on-farm site preparation and construction equipment costs not to exceed commercial rates approved by the county committee; and new on-farm material approved by the county committee.