

For: State and County Offices, Cotton Clerks, and LSA's

New Lien Search Policy for Marketing Assistance Loans (MAL's)

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

Currently, lien searches and perfecting CCC security interests are performed on MAL requests except for those requesting immediate exchange for a commodity certificate. The regulations at 7 CFR Part 1421 about lien searches for MAL's have been amended and are in departmental clearance. Under the revised regulations, CCC's lien searches and perfecting of security interests on MAL requests shall be limited to loan amounts greater than \$25,000.

Note: A forthcoming amendment to 7-CN will include the new policy.

B Purpose

This notice provides:

- new MAL lien search policy
- authorization for FSA County Offices and cotton LSA's to use the new MAL lien search policy.

C Contact

If there are questions about this notice, contact either of the following.

| Name | Telephone Number | E-mail Address |
|---------------|------------------|--|
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| Disposal Date | Distribution |
|------------------|--|
| December 1, 2006 | State Offices; State Offices relay to County Offices, Cotton Clerks, and LSA's |

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2 New Lien Search Policy

A Policy

For MAL requests in amounts greater than \$25,000, FSA County Offices, cotton clerks, and LSA's must:

- conduct lien searches
- perfect the security interest in the pledged commodities as provided under the applicable State law.

If CCC is considered to be at risk on MAL requests that are in amounts less than \$25,000, FSA County Offices and LSA's may:

- conduct lien searches
- perfect the security interest in the pledged commodities as provided under the applicable State law, without regard to the MAL disbursement amount.

Note: UCC-1 shall be filed for recourse seed cotton loans valued at \$25,000 and more.

B When CCC Is Considered at Risk

CCC is considered at risk if the producer requesting the MAL has committed a MAL/LDP program violation in the current or preceding crop year. A lien search shall be conducted with respect to all commodities pledged for MAL's for the applicable crop years.

Note: STC's may establish additional guidelines for determining when CCC is at risk according to subparagraph 3 C.

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3 State and County Office Action

A State Office Action

State Offices shall:

- review applicable State lien search laws with the OGC Regional Attorney to ensure that all lien searches are performed according to State law
- immediately publicize the contents of this notice to the maximum extent possible
- instruct County Offices to immediately notify all producers of the contents of this notice using all available resources.

B County Office and LSA Action

County Offices and LSA's shall:

- notify producers of the contents of this notice
- remind producers that:
 - they agreed to the terms and conditions in CCC-601 which state that the producer is responsible for pledging commodities that are eligible for loan and free and clear of all liens, security interests, and other encumbrances
 - if a lien exists, the producer must obtain a lien waiver before MAL can be disbursed
 - if **not** previously filed, CCC-10 shall be completed in case a lien search is conducted and a financing statement needs to be filed
- file UCC-1 for recourse seed cotton loans according to 7-CN, subparagraph 226 A.

C Additional Guidance

STC, with the approval of the National Office, may request authority to establish additional criteria when determining risk. The criteria must be provided to DAFP for review and approval no later than July 17, 2006. The criteria established will remain in effect for crop years 2006 and 2007.