

**For:** State and County Offices and DMA'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 security interests are performed on all MAL requests, except for MAL's made to CMA's or producers who will immediately exchange the commodity certificate for loan collateral. MAL regulations at 7 CFR 1421 have been amended and are in departmental clearance. The amended 7 CFR 1421 regulation includes new lien search policy. The new MAL lien search policy instructs FSA County Offices to conduct lien searches and perfect security interests on MAL requests that are in amounts greater than \$25,000.

**Note:** A forthcoming amendment to 8-LP will include the new policy.

**B Purpose**

This notice provides:

- new MAL lien search policy
- authorization for FSA County Offices and peanut DMA'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 Numbers	E-Mail Address
Kimberly Graham	202-720-9154	<a href="mailto:Kimberly.Graham@wdc.usda.gov">Kimberly.Graham@wdc.usda.gov</a>
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Disposal Date	Distribution
February 1, 2007	State Offices; State Offices relay to County Offices

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### 2 New Lien Search Policy

#### A Policy

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

- conduct lien searches
- perfect the security interest in these 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 peanut DMA's may:

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

#### 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.

### 3 State and County Office Action

#### A State Office Action

State Offices shall:

- review applicable State lien search laws with the 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.

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### 3 State and County Office Action (continued)

#### B County Office and DMA Action

County Offices and Peanut DMA's shall:

- immediately notify producers of the contents of this notice using all available resources
- remind producers that:
  - they agreed to the terms and conditions in CCC-601 which state that the producer is responsible for pledging commodities which 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.

#### 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 the National Office for review and approval no later than June 1, 2006. The criteria established will remain in effect for crop years 2006 and 2007.