

**For:** State and County Offices, CMA's, DMA's, and LSA's

**2007 Crop Year Reminders for Marketing Assistance Loans (MAL's) and LDP's Policy**

**Approved by:** Acting Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

MAL's:

- are 9-month loans made to eligible producers who pledged eligible loan commodities as collateral to secure the loan
- provide producers with interim financing.

LDP's are payments made to producers who, although eligible to obtain a MAL, agree to forgo the loan in return for a payment on the eligible commodity.

In preparation for the 2007 crop year MAL season, State and County Offices are reminded to follow applicable MAL and LDP policies and procedures. The 2002 through 2007 crop year MAL and LDP program policies and procedures remain virtually the same from 1 crop year to the next; however, this notice highlights policies and procedures that continue to generate questions and concerns from the State and County Offices.

Regulations and policies for administering the MAL and LDP programs are found in 8-LP and 7 CFR Part 1421.

**B Purpose**

This notice highlights and reminds State and County Offices of existing 2007 crop year MAL and LDP policy and procedures.

<b>Disposal Date</b>	<b>Distribution</b>
December 1, 2007	State Offices; State Offices relay to County Offices and FAX to CMA's, DMA's, and LSA's

## 2 General MAL Program Policies

### A Producer Eligibility

An eligible producer is a person or entity that:

- has:
  - complied with annual program requirements including reporting acreage for applicable crops, according to 2-CP
  - completed AD-1026 according to 6-CP
  - completed CCC-502 according to 1-PL
  - completed CCC-526 according to 1-PL
  - beneficial interest in the eligible commodity for which MAL or LDP is requested
- shares in the risk of producing the applicable commodity.

### B Commodity Eligibility

To be eligible for a loan or LDP, the commodity must:

- have been produced by an eligible producer
- be in existence and in a storable condition
- be merchantable for food, feed, or other uses determined by CCC
- **not** contain mercurial compounds, toxin-producing molds, or other substances poisonous to humans or animals.

### C Payment Limitation

A combined \$75,000 payment limitation is applicable for marketing loan gains and LDP's for the following:

- barley
- corn
- dry peas
- grain sorghum
- lentils
- minor oilseeds

## 2 General MAL Program Policies (Continued)

### C Payment Limitation (Continued)

- oats
- rice
- small chickpeas
- soybeans
- upland cotton
- wheat.

There is a separate combined \$75,000 payment limitation for marketing loan gains and LDP's for the following:

- honey
- mohair
- peanuts
- unshorn pelts
- wool.

**Note:** See 1-PL for payment limitation procedures.

It is the producer's responsibility to monitor their payment limitation. County Offices can notify applicable producers or make the producer's market gain report available when requested by a producer or when payment limitation is reached, but it is not required. When payment limitation is reached, LDP's cannot be disbursed and marketing loan gains are denied.

### D Excess Moisture (EM) Commodities

EM commodities are loan commodities with moisture levels that exceed the moisture levels for the applicable commodity in the United States Standards for Grain and are equal to or less than the STC-established moisture level for the applicable commodity.

STC's may set a maximum moisture level for each eligible loan commodity grown within the State. If STC sets a maximum moisture level, the maximum moisture levels must be documented in the STC minutes. STC's shall use reasonable and sound judgment when setting maximum moisture levels. Justification for moisture levels must be documented in the STC minutes.

See 8-LP, Part 3, Section 5 for EM policy. See 2-LP Grains and Oilseeds when determining moisture levels that exceed standard moisture levels.

Commodities with moisture levels that exceed the STC-established moisture level are ineligible for MAL; however, the commodity may be eligible for a recourse loan according to 8-LP, Part 4, Section 4.

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**2 General MAL Program Policies (Continued)**

**E Requesting Measured Farm-Stored Loans**

Producers must complete CCC-666 and FSA-409 when requesting a measured farm-stored loan. County Offices should enter “SEE FSA-409 and CCC-677-1” in CCC-666, item 16.

**Note:** CCC-666 was intended to be used for farm-stored loan certifications; however, until a uniform loan request form is developed, it has been determined that CCC-666 would be used for the measured loans.

**F Conducting Lien Searches and Filing UCC-1**

County Offices shall conduct lien searches and file UCC-1 documents according to this table.

Loan Type/Loan Amount	Conduct Lien Search		UCC-1 or Applicable Financing Statement	
	Yes	No	Yes	No
<b>&lt;\$25,000</b>				
Farm-stored		<b>X</b>	<b>X</b>	
Warehouse-stored		<b>X</b>		<b>X</b>
<b>&gt;\$25,000</b>				
Farm-stored	<b>X</b>		<b>X</b>	
Warehouse-stored	<b>X</b>			<b>X</b>
<b>Note:</b> If conducting the lien search is a free service provided through the State, lien searches may be conducted on all loans regardless of the dollar amount.				

County Offices, DMA’s, and LSA’s shall perform lien searches, including searches for Federal and State tax liens, and perfect the security interest, regardless of the loan amount, if 1 of the following applies:

- producer is, at the time of the loan request, either of the following:
  - involved in a bankruptcy
  - under investigation by OIG
- producer committed a MAL/LDP violation in the current or preceding crop year
- CCC is notified by the producer, lending institution, or lien holder that a lien exists on the commodity
- aggregate loan principal for the crop year will exceed \$25,000.

**Note:** County Offices shall file applicable UCC-1’s required by State law to protect CCC’s security interest according to 8-LP, paragraph 423 regardless of MAL principal.

### 3 Approved Farm Storage for MAL's

#### A Approved Farm-Storage Requirements

Approved farm storage shall consist of a storage structure:

- located on or off the farm that provides safe storage for the commodity through the maturity date for the loan
- designed so that the commodity can be:
  - measured, safely inspected, and sampled, if necessary
  - safely stored in oxygen-limiting structures, as applicable.

**Important:** Public warehouses as defined in 8-LP, Exhibit 2 are **not** considered approved farm-storage facilities.

Commodities stored in all types of bags may be eligible for a 9-month nonrecourse loan if all of the following apply:

- COC determines CCC's interests are not at risk and that the bags provide safe storage
- this method of storage and the size of bags are normal for the commodity and in that county
- the commodity stored in the bag can be inspected and measured

**Note:** COC, with STC concurrence, may waive this requirement on a case-by-case basis.

- the commodity shall not be accepted in bags for delivery to CCC.

See 8-LP, paragraph 424 for additional MAL eligible storage structures.

## 4 Distress Loans and Temporary Storage

### A Distress Loan Availability

STC may initiate a distress loan program when **both** of the following apply:

- commodity is stored on the ground or in temporary facilities
- when there is a shortage of storage at harvest time:
  - on the farm
  - in local warehouses.

**Note:** Distress loans are considered recourse loans because they are repaid at principal plus interest. Therefore, loan commodities stored in temporary facilities approved under the distress loan provisions are considered recourse loans.

### B Notification of Program

When a distress loan program is initiated in the State or in designated areas within the State, STC shall notify:

- PSD
- County Offices.

County Offices shall immediately notify producers of the availability of distress loans for commodities stored in ineligible storage or when temporary storage is necessary because of a shortage of available on-farm or warehouse storage.

In addition to the availability of the distress loan program, provide producers with the information in subparagraphs C and D.

### C Loan Requests

Loan requests must be made and loan documents signed within 30 calendar days after the **later** of the following:

- STC announcement of the program
- completion of harvest of the commodity tendered for loan.

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### 4 Distress Loans and Temporary Storage (Continued)

#### D Storage Location

The storage location for the commodity offered as collateral for the distress loan must be **both** of the following:

- protected from animals
- located so that water drainage will not seriously affect the quality or quantity of the commodity.

#### E Maximum Quantity

The maximum quantity eligible for a certified or measured distress loan shall **not** exceed 75 percent of the eligible quantity.

#### F Maturity Date

Distress loans mature on demand, but no later than 90 calendar days after the date the loan is disbursed.

The collateral may be repledged to secure MAL, not to exceed the normal 9-month loan period, according to 8-LP, paragraph 482.

**Note:** See 8-LP, Part 4, Section 7 for additional distress loan policy.

### 5 Loan Servicing and Repayment Policy Reminders

#### A Spot Check Policies

County Offices shall continue to follow policies and procedures provided in 8-LP for conducting spot checks. The automated random spot check selection process will be discontinued in July, 2007, to allow for a new compliance review selection process. The new compliance review selection process will randomly select producers for spot check.

County Offices will be required to spot check all program activity of the selected producers, including all MAL's and LDP's disbursed for the applicable crop year. Spot checks of outstanding MAL's and LDP's will be conducted in the same manner. The way in which we record the spot check results will be modified; however, shortages and violations will be recorded in the same manner using APSS. Additional information and policies on the new compliance review selection process is forthcoming.

**5 Loan Servicing and Repayment Policy Reminders (Continued)**

**B Violations and Liquidated Damages**

County and State Offices shall continue to follow the violations policies as provided in 8-LP. Notification letters sent to producers when violations are discovered are being modified to include new appeal language. The modified letters will be included in a future amendment to 8-LP.

Beginning with the 2006 crop year, liquidated damages for loan and LDP violations were calculated by multiplying the quantity involved in the violation times 10 percent of the loan or LDP rate regardless of the offenses.

**C CCC-681-1 Provisions**

CCC-681-1 shall be used to:

- authorize the removal and delivery of the farm-stored loan collateral to a buyer for sale **if** the proceeds of the sale are used to immediately repay the loan
- notify the buyer that CCC:
  - has a perfected security interest in the specified quantity
  - will **not** release CCC's security interest in the collateral sold until repayment is received.

CCC-681-1 shall **not** be used for warehouse stored loans and can only be extended if the producer has begun delivery of the loan quantity to the buyer.

**D MAL Repayments**

After the date of disbursement, farm-stored and warehouse-stored loans may be repaid at any time during the loan period.

The following types of repayments are available:

- principal and charges, plus interest
- the CCC-determined value, under the marketing loan provisions, according to 8-LP, Part 9, Section 2.

The repayment date shall be the date the repayment is received in the County Office that disbursed the loan.

**Note:** Commodity certificates can be exchanged for outstanding loan commodity on or before loan maturity.

**5 Loan Servicing and Repayment Policy Reminders (Continued)**

**E CCC-697 Provisions**

Producers may lock in a repayment rate for 60 calendar days.

Lock-in rates:

- can be requested on disbursed loans **only**
- cannot be requested within 14 calendar days of loan maturity.

Loans that have been requested but not disbursed **are not** eligible for lock-in repayment requests.

CCC-697 will expire on the earlier of:

- 60 calendar days from date of approval
- 14 calendar days before loan maturity.

If the expiration date falls on a nonworkday, the expiration date shall be the next workday. See 8-LP, paragraph 952 for CCC-697 policy.

**F Commodity Certificate for Commodity Exchanges Policy**

The commodity certificate exchange provision for loan collateral is applicable to outstanding loans.

Eligible producers must:

- have an outstanding commodity loan, not past maturity, to purchase commodity certificates
- immediately exchange commodity certificates for loan collateral.

See 8-LP, Part 9, Section 8 for additional commodity certificate exchange policy.

**Important:** A commodity certificate exchange cannot be applied to the quantity specified in CCC-697, Part A.

**G Processing Loans Open After Maturity**

MAL's mature on demand, but no later than the last day of the 9th calendar month after the month CCC-677 or CCC-678 is approved.

For farm-stored loans open after maturity, County Offices shall follow settlement and foreclosure proceedings according to 8-LP, paragraph 1043 and Part 10, Section 4.

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### 5 Loan Servicing and Repayment Policy Reminders (Continued)

#### H CCC-683's

County Offices shall:

- provide to producers who obtain farm-stored loans, CCC-683's for each storage structure shown on loan documents
- instruct producers to attach CCC-683 on each storage structure containing loan collateral.

See 8-LP, Exhibit 18 for CCC-683's.

#### I Handling CCC-770 LDP/eLDP's and CCC-770 MAL's

County Offices shall:

- complete CCC-770 LDP/eLDP or CCC-770 MAL for each LDP or MAL request received
- obtain CCC-770 LDP/eLDP or CCC-770 MAL at <http://165.221.16.90/dam/ffasforms/currentforms.asp>

**Note:** See 8-LP, Exhibits 6 and 13.

- maintain a copy of CCC-770 LDP/eLDP or CCC-770 MAL in each LDP or MAL folder.

The signature of the preparer certifies that each item necessary was completed. All employees that are directly involved with issuing each LDP or disbursing each MAL shall certify and date CCC-770 LDP/eLDP's or CCC-770 MAL's, as applicable.

### 6 LDP Policy Reminders

#### A Submitting CCC-633 EZ, Page 1

Eligible producers indicate intentions to request LDP benefits on an eligible LDP commodity by completing and submitting CCC-633 EZ, Page 1, agreeing to the prescribed terms and conditions. CCC-633 EZ, Page 1:

- must be completed by the producer and submitted to FSA before losing BI in the applicable commodity
- must be received in the County Office on or before subsequent CCC-633 EZ pages are submitted for payment

**Note:** DMA's and LSA's will obtain CCC-633 EZ from their customers.

**6 LDP Policy Reminders (Continued)**

**A Submitting CCC-633 EZ, Page 1 (Continued)**

- may be submitted to any FSA County Office before the final loan/LDP availability period
- is crop year specific and does **not** apply for subsequent crop years
- may be submitted by the producer for the 2007 crop year anytime after January 1, 2007, including, but not limited to:
  - at acreage certification
  - during DCP signup
  - at the same time a request for LDP benefits (CCC-633 EZ, Page 2, 3 or 4, as applicable) is submitted to the FSA County Office.

**Note:** If CCC-633 EZ, Pages 1 and 2, 3, or 4 are submitted at the same time, the producer **must** have BI in the requested quantity on the date the completed CCC-633 EZ, Pages 1 and 2, 3, or 4 are submitted to the FSA County Office.

The date beneficial interest is lost is the date the producer loses control of the commodity through sale, feeding to livestock, or delivery to an unapproved warehouse, livestock feeder, processor, ethanol or bio diesel plant, or wool pool.

For commodities immediately fed during harvest, see 8-LP, subparagraph 305 F.

**B When CCC-633 EZ Becomes Null and Void**

CCC-633 EZ, Page 1 becomes null and void if the producer becomes ineligible to receive MAL's or LDP benefits if the applicable crop is either:

- not mechanically harvested
- destroyed by natural disaster while standing in the field.

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**6 LDP Policy Reminders (Continued)**

**C CCC-633 EZ Request Pages for LDP Benefits**

To receive LDP benefits, producers must submit to the applicable County Office, DMA, or LSA before the final loan availability date for the specific commodity, a completed CCC-633 EZ:

- Page 2, for all harvested commodities, except cotton
- Page 3, for cotton according to 7-CN
- Page 4, for wool, mohair, and unshorn pelts according to 8-LP, Part 15.

**Note:** County Offices shall ensure that CCC-633 EZ, Page 1 is on file when CCC-633 EZ, Page 2, 3, or 4 is received.

Producers can submit:

- multiple requests for LDP benefits using the applicable CCC-633 EZ, Page 2, 3, or 4 to cover all eligible quantities
- one CCC-633 EZ, Page 2 to cover multiple commodities if the quantities are requested on the same day, except cotton.

**Example:** Producer can submit CCC-633 EZ, Page 2 on January 21, 2007, requesting LDP on corn and soybeans. Only one CCC-633 EZ, Page 2 is necessary.

Once CCC-633 EZ, Page 2, 3, or 4 is submitted and approved for payment, no other changes can be made to the original request.

**D LDP Rate and Amount**

The applicable LDP rate and amount will be calculated according to this table.

<b>IF CCC-633 EZ, Page 2 or 4 is submitted as applicable and...</b>	<b>THEN the LDP benefit is based on the requested quantity times the LDP rate in effect...</b>
the producer retains BI in the requested quantity	for the county where the commodity is stored on the date of the request.
BI has been lost in the requested quantity	in the county where the eligible commodity was marketed.

For eligible commodities stored out of the United States, determine the LDP rate based on the County where LDP is requested.

**6 LDP Policy Reminders (Continued)**

**D LDP Rate and Amount (Continued)**

Issue LDP's when:

- CCC-633 EZ, page 1 has been filed and pages 2, 3, or 4 have been approved
- all required production evidence, such as delivery documentation, has been received for LDP's on which beneficial interest has been lost
- CCC-770 LDP/eLDP has been completed and signed.

Continue to refer to LDP policy established at 8-LP, Part 3.