

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

**Additional Guidance for Establishing Criteria When Conducting Lien Searches and UCC-1 Filings for Marketing Assistance Loans (MAL's) Less Than \$25,000**

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



**1 Overview**

**A Background**

Notice LP-2027 provided:

- policies for conducting lien searches and perfecting security interest by filing UCC-1's for MAL requests disbursed at \$25,000 or greater
- authority to conduct lien searches and perfect security interests in pledged MAL commodities, when CCC is considered to be at risk, on MAL requests that are less than \$25,000, **only** if approved by the National Office
- STC's, with approval of the National Office, may request to establish additional criteria when determining when CCC is at risk.

Several STC's submitted requests for approval to establish additional criteria for determining risks for loan amounts less than \$25,000.

**B Purpose**

This notice:

- informs State and County Offices, DMA's, and LSA's of the approved criteria for determining risks for purposes of conducting lien searches and filing the applicable UCC-1's on MAL requests that are less than \$25,000

**Notes:** The criteria provided in this notice shall be applied uniformly among all States.

This notice is the official response to the STC requests submitted for additional risk criteria.

- obsoletes Notice LP-2046.

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

## Notice LP-2048

### 1 Overview (Continued)

#### C Contact

If there are any questions about this notice, contact Kimberly Graham at either of the following:

- e-mail at [kimberly.graham@wdc.usda.gov](mailto:kimberly.graham@wdc.usda.gov)
- telephone at 202-720-9154.

### 2 Conducting Lien Searches and Filing UCC-1's

#### A Producer's Certification of Pledged Commodities Being Free and Clear of Liens and Security Interest

Commodities pledged as collateral for MAL are required to be free and clear of all liens, security interest, and other encumbrances. The producer's signature on the applicable loan request forms indicates that the commodity is free and clear of all liens, security interests, and encumbrances, except lien holders as shown on the applicable loan request form.

For ginned cotton pledged as collateral, the revised regulations provide that warehouse charges for accrued storage or for compression shall not be considered as encumbrances because of CCC's special credit or billing processes for such charges.

If it is determined that a lien or security interest exists and the producer incorrectly certified that the pledged loan collateral was free and clear of all liens and security interests, the County Office must determine that a violation occurred according to 8-LP, Part 6.

Producers shall be reminded that an incorrect certification is considered a violation. Producers who violate the terms and conditions of the applicable loan forms are subject to repayment of the entire loan principal, plus interest, assessment of liquidated damages, other administrative actions, as determined by CCC, and criminal prosecution under Federal law.

#### B Criteria for Performing Lien Searches and Perfecting Security Interest in Commodities Pledged as Collateral

County Offices, DMA's, and LSA's shall perform a lien search and perfect the security interest, regardless of the loan amount, if 1 of the following applies:

- no fees or charges are required to be paid by CCC to conduct the lien search or to file the applicable UCC-1

**Note:** If the State allows lien searches to be conducted for free, but a cost is associated with the UCC-1 filing, complete the lien search **only**.

## Notice LP-2048

### 2 Conducting Lien Searches and Filing UCC-1's (Continued)

#### B Criteria for Performing Lien Searches and Perfecting Security Interest in Commodities Pledged as Collateral (Continued)

- 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 lienholder that a lien exists on the commodity
- aggregate loan amount approved for the applicable crop year will exceed \$25,000.

### 3 Action

#### A State Office Action

State Offices shall:

- ensure that County Offices conduct lien searches and file the applicable UCC-1 according the contents of this notice
- remind County Offices to:
  - inform producers of their responsibility to fulfill the terms and conditions of the MAL program, as provided in the producer's certification
  - follow 8-LP, Part 6 when a violation is determined.

#### B County Office, DMA, and LSA Action

County Offices, DMA's, and LSA's shall perform lien searches and file the applicable UCC-1 according to the contents of this notice.