

For: State and County Offices and DMA's

Crop Year 2016 MAL and LDP General Policies

Approved by: Acting Deputy Administrator, Farm Programs

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1 Overview

A Background

The Agricultural Act of 2014 (2014 Farm Bill) authorized 2014 through 2018 crop year MAL's and LDP's on barley, canola, corn, cotton, crambe, dry peas, flaxseed, grain sorghum, honey, large chickpeas, lentils, mohair, mustard seed, oats, peanuts, rapeseed, rice, safflower, sesame seed, small chickpeas, soybeans, sunflower seed, wheat, and graded and nongraded wool.

MAL's provide producers interim financing at harvest time to meet cash flow needs without having to sell their commodities when market prices are typically at harvest-time lows. Allowing producers to store their production at harvest, facilitates and provides a more orderly marketing of commodities throughout the year.

LDP's are payments issued to producers, with harvested commodities, instead of MAL's when the CCC-determined value is below the applicable loan rate. The LDP amount is the difference between the county loan rate and the CCC-determined value for the applicable commodity or class of commodity times the eligible quantity.

B Purpose

This notice reminds State and County Offices of the:

- specific eligibility requirements for MAL's and LDP's that are needed before:
 - MAL disbursements
 - cash MAL repayments using CCC-determined value
 - LDP approvals and disbursements
 - Commodity Certificate Exchange (CCE) on MAL
- general policies and procedures for 2016 crop MAL's and LDP's, including the Interim Attribution Process to record LDP earned benefits for payment limit purposes
- MAL application and LDP request requirements

Disposal Date	Distribution
June 1, 2017	State Offices; State Offices relay to County Offices and DMA's

1 Overview (Continued)

B Purpose (Continued)

- MAL repayment options
- LDP rates
- MAL and LDP Processing checklist requirements.

Note: A separate notice will be issued for cotton.

2 Eligibility Requirements for MAL's, MLG Repayments, LDP's and CCE's

A Requirements Before MAL Disbursement

The following annual program requirements **must** be completed **before** MAL disbursements:

- acreage report is filed showing a share in crop on which MAL is requested

Notes: All cropland, on the farm for which the commodity pledged as collateral for a MAL or LDP was produced, must be reported. Failure to report all cropland on a farm shall be considered noncompliance with program requirements and a violation according to 2-CP. All production from the farm is ineligible for a MAL or LDP if all cropland on the farm was not reported.

To ensure that all cropland on a farm has been reported, County Offices shall review the Crop Acreage Reporting System (CARS) report for identifying "Farms with Unreported Cropland" for all producers requesting loans and LDP's **before** disbursing loans and processing LDP's. See 2-CP, paragraphs 318 and 380.5.

- AD-1026 completed and in compliance according to 6-CP for producer and all affiliated persons in a legal entity
- DCIA compliance from producer certification
- compliance with fraud provisions
- compliance with foreign person rules according to 5-PL.

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2 Eligibility Requirements for MAL's, MLG Repayments, LDP's and CCE's (Continued)

A Requirements Before MAL Disbursement (Continued)

Notes: The following sections of CCC-902 must be completed before MAL disbursement to determine foreign person status:

- CCC-902I for an individual - parts A, B - question 1, and if applicable 2 and 3, and part I
- CCC-902E for an entity - parts A, B, C, and L.

While CCC-941 and a complete CCC-902 are **not** required for MAL disbursements, both CCC-941 and a complete CCC-902 are required **before** the following:

- repayments with marketing loan gains (MLG's)
- LDP's and Graze-Out payments.

CCC-941 and a complete CCC-902 are not required for CCE's although the applicable parts of the CCC-902 are required for foreign person determination.

County Offices shall encourage producers to submit a CCC-941 and a complete CCC-902, if not already updated for that crop year, when requesting MAL's.

The applicable eligibility flags are checked for the producer and all affiliated members of a legal entity when MAL is processed and disbursed through Commodity Loan Processing System (CLPS).

B Requirements Before MAL Repayments with a MLG, LDP Disbursements and Graze-Out Payments

Producers **must** meet the following requirements **before** MLG repayments at CCC-determined value, LDP disbursements, and Graze-Out payments:

- eligibility under actively engaged in farming, cash rent tenant, and member contribution provisions according to 5-PL

Notes: CCC-902 and CCC-901, if applicable, **must** be submitted and current for 2016 crop year with a COC determination made and the subsidiary files updated according to 3-PL and 5-PL for all producers and entity members for the following:

- actively engaged in farming
- member contribution
- cash rent tenant.

If these determinations have **not** been made and the subsidiary files updated, an MLG repayment and/or LDP may be denied or reduced for the producer or payment entity.

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2 Eligibility Requirements for MAL's, MLG Repayments, LDP's and CCE's (Continued)

B Requirements Before MAL Repayments with a MLG, LDP Disbursements and Graze-Out Payments (Continued)

- acreage report showing a share in the crop on which LDP, MLG, or Graze-Out is requested with all cropland on that farm reported as verified with the Farms With Unreported Cropland Report in CARS
- AD-1026 completed and in compliance according to 6-CP for producer and all affiliated persons in a legal entity
- DCIA compliance from producer certification
- compliance with AGI requirements, according to 5-PL and 8-LP, with CCC-941 filed by producer and all interest holders in a legal entity

Note: IRS will again verify the information submitted for 2016 crop year.

- payment limitation available according to 5-PL and 8-LP, subparagraph 34 A
- compliance with controlled substance provisions
- compliance with fraud provisions
- compliance with foreign person rules according to 5-PL.

he applicable eligibility flags for the producer and all required affiliated members of an entity are checked for loans repaid with MLG through CLPS.

LDP and Graze-Out payments are **not** automatically restricted by payment limitation, AGI, or eligibility records in the eLDP system. County Offices are responsible for ensuring that producers are eligible for payment **before** certifying and signing LDP and Graze-Out disbursements using the Interim Attribution Process according to Notice PS-733.

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2 Eligibility Requirements for MAL's, MLG Repayments, LDP's and CCE's (Continued)

C Eligibility and Requirements for a Commodity Certificate Exchange (CCE)

CCE's:

- apply to harvested, shorn and/or ginned crops that are warehouse or farm stored in which the commodity is first placed under a nonrecourse MAL
- have the same producer eligibility requirements as a MAL disbursement in subparagraph 2A
- apply only to outstanding **nonrecourse** MAL's, not past maturity
- use the CCC-determined value based on the date the certificate is purchased and use the following:
 - AWP for rice and cotton
 - NPP for peanuts
 - PCP for all other MAL commodities

Note: For peanuts and cotton only, producers may designate that all transactions be processed as CCE's if the exchange rate is in effect at the time of the redemption.

- are only applicable when the loan rate exceeds the applicable AWP, NPP, or PCP exchange rate
- must **not** be applied to any quantity for which an outstanding CCC-697 exists
- require a signed CCC-694-2 with the purchase price of the commodity certificate to the County Office on the day of redemption to **immediately** exchange the commodity certificate for loan collateral. See 8-LP paragraphs 794 through 796.6.

Commodity loan gains from CCE's are:

- **not** subject to:
 - payment limitation
 - actively engaged, member contribution and cash rent tenant provisions
 - AGI provisions
- reported to IRS on a IRS 1099-G statement.

For turn-around loans, see subparagraph 3L of this notice, and 8-LP subparagraphs 796 B and 796.5 B.

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3 General MAL and LDP Policies

A Commodity Eligibility

Eligible loan commodities **must** have been produced by an eligible producer.

The following commodities are eligible for 2016 crop year MAL's and LDP's, if applicable.

Commodities Eligible for 2016 Crop Year MAL's and LDP's		
barley	honey	safflower seed
canola	large chickpeas	sesame seed
cotton	lentils	small chickpeas
corn	mustard seed	soybeans
crambe	nongraded wool	sunflower seed
dry peas	oats	wheat
flaxseed	peanuts	
graded wool	rapeseed	
grain sorghum	rice	

Although mohair is an eligible commodity, funding has not been authorized in recent continuing resolutions and appropriation bills for mohair MAL's and LDP's. Extra long staple cotton is eligible for MAL, but not LDP's or repayments at less than principal plus interest. Hay, silage and unshorn pelts derived from an eligible loan commodity are eligible for LDP's, but **not** for MAL's.

B Beneficial Interest Requirement

Beneficial interest policy for the 2016 crop year is unchanged from the 2015 crop year. See 8-LP, paragraph 227 for more detailed information.

A producer is considered to have beneficial interest in a commodity if **both** of the following remain with the producer:

- title to the commodity
- control of the commodity.

As a reminder, beneficial interest in the commodity **must** be retained by the producer from harvest continuously for:

- loans until the loan is repaid
- LDP at the time of the LDP agreement request on CCC-633 EZ, page 1 is submitted.

Note: If a CCC-633 EZ, page 1 has been submitted for the crop year, a LDP may be based on the day the producer lost beneficial interest.

3 General MAL and LDP Policies (Continued)

C AGI Requirements

AGI provisions were modified in the 2014 Farm Bill. Producers whose average AGI exceeds \$900,000 are **not** eligible to receive MLG, LDP or a Graze-Out payment.

Example: The 3-year average AGI for crop year 2016 will be 2012, 2013, and 2014.

Note: Producers will still be allowed to receive MAL's if their AGI exceeds \$900,000, but MAL **must** be repaid at principal plus interest or with a CCE. In the case of a producer repaying with a CCE, AGI provisions do not apply and all producers on the loan are eligible to repay the loan at the CCE exchange rate.

D Payment Limitation

The total amount of payments received, directly or indirectly, by a person or legal entity (**except** a joint venture or general partnership) for any crop year for agriculture risk coverage (ARC), price loss coverage (PLC), MLG's, or LDP payments for all loan commodities (**except** sugar) in subparagraph C, **other than peanuts**, may **not** exceed \$125,000.

A person or legal entity that receives payments for peanuts has a **separate \$125,000** payment limitation for ARC, PLC, MLG's, and LDP's.

MLG's and LDP's are applied to the payment limit for the crop year applicable to the loan.

Examples: Crop year 2016 LDP's will apply to a producer's 2016 payment limitation.

Crop year 2016 MAL's repaid with a market gain in calendar year 2017 will also be applied to the producers 2016 payment limitation.

E Interim Attribution Process for LDP's to Check Eligibility and Control Payment Limitations

County Offices are **required** to use the Interim Attribution Process for tracking LDP's. CLPS has been enhanced to correctly process and attribute MLG's and CCE's for all commodities except cotton. Future enhancements to CLPS will include cotton CCE and MLG repayments.

County Offices shall use the common payment reports to ensure that the LDP entries are entered correctly, as well as assisting CMA's, DMA's, and LSA's with their customers. Common payment reports are described in 9-CM and the procedure and timeframes listed shall be followed. It is very important that these reports are reviewed, as required, and errors corrected to record accurate producer payment information according to Part 6 of the Interim Attribution Process User Guide, Version 3.1. This will ensure that correct ARC and PLC payments, MLG's, and LDP's are issued.

Note: Issued on August 19, 2016, Notice PS-733 instructs State and County Offices of the requirement to follow the Interim User Guide, Version 3.1, available on the FSA Intranet at <http://intranet.fsa.usda.gov/DAFP/user-guide-version-3-1-082216.docx>.

3 General MAL and LDP Policies (Continued)

F 2016 Loan Rates

The 2016 crop loan rates are posted to PSD's Internet web site.

State and County Offices may print loan rates applicable to their State and counties using the web site at <http://www.fsa.usda.gov/programs-and-services/price-support/commodity-loan-rates/index>.

G 2016 Premiums and Discounts

The premiums and discounts applicable to 2016 crop year commodities will be:

- announced and inserted in the applicable policy handbooks
 - 2-LP Grains and Oilseeds
 - 2-LP Honey
 - 2-LP Peanuts
 - 2-LP Rice
 - 8-LP for wool
- posted on PSD's site at <http://www.fsa.usda.gov/programs-and-services/price-support/commodity-loan-rates/index>, and in the section below the loan rates.

H Graze-Out Payments

Graze-out payments instead of LDP's for 2016 crop year are available to eligible producers who:

- elect to use acreage planted to barley, oats, triticale, or wheat for grazing by livestock
- agree to forgo any other harvesting of the commodity on this acreage during the crop year.

Graze-Out payments:

- have the same producer eligibility requirements as LDP's according to subparagraph 2B
- apply to a producers payment limitation and require AGI compliance.

For more information see, 8-LP, Part 11.

Note: Funding for graze-out payments must be allocated by the National Office to the specific State and County **before** the county can enter the graze-out payment request in eLDP.

3 General MAL and LDP Policies (Continued)

I Sequestration of MAL's and LDP's

Sequestration applies to MAL's and LDP's. However sequestration reductions are taken using CCC funds according to the 2014 Farm Bill. Therefore, there will be **no** reduction to the amount the producer receives.

The 2014 Farm Bill in Section 1614(d) provides that the Secretary shall use such sums, as are necessary of CCC funds, to restore support, loans, and assistance.

J Commodities Exceeding the Applicable Moisture Standard

All harvested loan commodities with moisture falling between the applicable 2-LP standards and maximum STC level are eligible for nonrecourse loans and LDP's. Eligible quantities shall be adjusted for moisture to the applicable standard.

For crop year 2016, County Offices must manually shrink farm-stored commodities with excess moisture using the tables in 8-LP, Exhibit 12 **before** entering the quantity for loan into CLPS.

K Distress Loans

Distress loans are recourse commodity loans stored on the ground or in temporary facilities when there is a shortage of storage at harvest time on the farm or in local warehouses.

When a distress loan program is initiated in a State or in a designated area within the State, State Offices **must** notify both:

- PSD with the names of the approved County Offices
- the applicable County Offices. County Offices shall immediately notify producers of the availability of distress loans for commodities stored in ineligible storage.

Distress loans:

- must be requested and loan documents signed within 30 calendar-days after the completion of harvest
- shall not exceed 75 percent of the eligible quantity
- shall have the full loan rate
- mature on demand but no later than 90 calendar days from the date the loan is approved
- must be repaid at principal plus interest
- can be repledged for the remainder of the 9-month loan **only if** the commodity is moved to eligible storage on or before the original 90 calendar day maturity date.

3 General MAL and LDP Policies (Continued)

K Distress Loans (Continued)

CLPS is currently unable to process distress loans with a 90 calendar maturity date. When completing the loan disbursement, County Offices must:

- cross through the maturity date printed on the CCC-677 or CCC-678
- with pen, enter the date 90 calendar days from the approval date of the loan

Note: Counties can use the CCC-128 Julian Date Disc, if available, to determine the new maturity date. The CCC-128 is no longer available to order from the Kansas City Forms Warehouse.

- have the producer initial the entered date on the CCC-677 or CCC-678
- request the State Office to enter into CLPS Sharepoint a request to change the maturity date to the correct date in CLPS.

L Turn-Around Loans with Immediate CCE

Turn-around loans are only applicable when the loan rate exceeds the exchange rate. A turn-around loan is a loan that is requested, approved for disbursement, and exchanged with a commodity certificate purchased the same day.

A turn-around loan:

- must be requested by the producer at the loan servicing office
- must exchange the entire loan quantity
- requires the producer to complete and sign the CCC-694-2 when requesting the loan.

Note: Agents designated on a CCC-605P, applicable only to peanuts, are not authorized to request turn-around loans.

For additional policy and procedure on processing turn-around loans, see 8-LP subparagraphs 796 B and 796.5 B.

M Approval of CCC-677 and CCC-678

County Office employees authorized to approve MAL's can do so only after:

- all required producer signatures are received on the CCC-677 or CCC-678
- receiving all required lien waivers
- all producer eligibility requirements have been met.

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3 General MAL and LDP Policies (Continued)

M Approval of CCC-677 and CCC-678 (Continued)

If the County Office prints a CCC-677 or CCC-678 for the producer to sign, a new CCC-677 or CCC-678 will print with the approval date and interest date included when the County Office employee approves the loan in CLPS. It is **not** necessary for the producer to sign the 2nd CCC-677 or CCC-678. But, the County Offices shall write on the 2nd CCC-677 or CCC-678 the following: “See attached for Producer’s signatures”, and attach the signed CCC-677 or CCC-678 to the CCC-677 or CCC-678 with the approval date and interest rate. The producer shall be given a copy of both for his files. The CED **must** sign both copies.

Note: If the CED or authorized individual does not sign both copies of the CCC-677 or CCC-678, the disbursement could be considered an improper payment.

4 MAL and LDP Application Requirements

A MAL Application

An application for MAL is requested after the commodity is harvested and stored in either:

- an approved farm storage structure
- a CCC-authorized warehouse.

When requesting a farm-stored MAL, the producer may request either of the following:

- certified loan
- measured loan.

For a warehouse-stored MAL, the producer **must** present acceptable warehouse receipts from an authorized warehouse that **must** be either:

- a negotiable paper receipt containing **all** required information in one of the following handbooks:
 - 8-LP paragraph 545
 - 2-LP Rice paragraph 35
 - 2-LP Peanuts paragraph 36
- an EWR issued by a DACO-approved EWR provider. When requesting a warehouse loan with EWR’s, the producer shall provide the County Office a list of EWR’s for:
 - rice
 - peanuts
 - other approved EWR commodities.

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4 MAL and LDP Application Requirements (Continued)

A MAL Application (Continued)

CCC-666 **must** be completed for all farm- and warehouse-stored loan requests, **except** peanuts and cotton.

Notes: For peanut MAL requests in the State, the State Office may **require** CCC-666.

In addition, for measured farm stored loan requests, CCC-677-1 and FSA-409 are also **required**.

B LDP Request

An LDP request submitted by the producer is complete when a County Office receives the following:

- CCC-633 EZ, page 1, signed and approved in the County Office before beneficial interest is lost, **and**
- CCC-633 EZ, pages 2 or 4, submitted when LDP is requested with payment determined either by the day beneficial interest was lost, based on submitted evidence, or date request approved, **or**
- CCC-633 EZ, page 3 for cotton, along with any required supporting documentation, according to 7-CN, paragraph 262.

C Customer Profile

The “Customer Profile” in eLDP is used to:

- determine reasonable production for both loans and LDP’s
- determine available quantity for the producer
- maintain program integrity
- help prevent improper payments under IPIA.

The “Customer Profile” requires the County Office to enter the date CCC-633 EZ page 1 was filed. To ensure that an accurate CCC-633 EZ Page 1 date is entered in the “Customer Profile”, County Offices **must** have a signed CCC-633 EZ Page 1 **before** a “Customer Profile” is established for producers requesting MAL.

In addition to having a valid date in the producer’s “Customer Profile”, a CCC-633 EZ Page 1 on file will also ensure producer eligibility for a LDP if any of the producer’s commodities should become LDP eligible at any time during the loan availability period if the producer has maintained beneficial interest.

5 MAL Repayment Options

A Types of Repayments

Nonrecourse MAL's can be repaid at the lesser of the following:

- loan principal plus interest
- CCC-determined value under the marketing loan provisions.

Notes: Marketing loan repayment provisions are not applicable to recourse loans. Recourse loans **must** be repaid at principal plus interest.

A CCE is also an option for nonrecourse loans. A commodity certificate is purchased in the County FSA Office and immediately exchanged for MAL collateral.

B Marketing Authorizations

A producer with an outstanding farm-stored MAL **must** request a CCC-681-1, Authorization for Delivery of Loan Collateral for Sale, **before** moving any loan collateral to a buyer for sale.

The buyer must be identified on the CCC-681-1 or the authorization shall not be approved.

Delivery evidence **must** be submitted with all CCC-681-1 repayments for delivered quantities. Delivery evidence:

- must show:
 - dates of delivery
 - quantity delivered
- is any of the following:
 - delivery statements
 - settlement sheets
 - other acceptable delivery evidence approved by the COC.

See 8-LP subparagraphs 741 through 748 for additional information on marketing authorizations.

6 LDP Rate

A Effective LDP Rate

The LDP rate is the rate in effect on the date:

- the request is submitted, if beneficial interest is maintained on date of request
- beneficial interest is lost according to acceptable production evidence if CCC-633 EZ page 1 was submitted before beneficial interest was lost
- of delivery, if the producer requests the date of delivery option on the applicable CCC-633 EZ, page 2 or 4 **before** delivering the requested quantity.

B Determining LDP Rates

LDP rates are determined by the amount the applicable commodity loan rate exceeds the CCC-determined value for the location where:

- the requested commodity is stored if the producer maintains beneficial interest
- beneficial interest was lost in the requested commodity.

C Determining LDP Amounts

LDP amounts are calculated by multiplying the applicable LDP rate times the LDP quantity requested.

7 CCC-770 MAL and CCC-770 LDP

A Using CCC-770 MAL and CCC-770 LDP

All County Office employees working with LDP's and MAL's, at the beginning of each crop year, are required to complete:

- CCC-770 LDP for the first 5 LDP's processed
- CCC-770 MAL for the first 3 MAL's processed.

Additionally, a CCC-770 LDP or CCC-770 MAL, as applicable, is required to be completed for any LDP or MAL that was disbursed, reversed with a receivable established, and is being re-entered. The CCC-770 LDP or CCC-770 MAL is required to be completed before the LDP or MAL is re-entered to ensure that all eligibility requirements and signatures have been obtained.

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7 CCC-770 MAL and CCC-770 LDP (Continued)

B CCC-770 LDP

For crop year 2016, County Offices were required to complete a CCC-770 LDP for **each** LDP they processed before the Interim Attribution Process for determining eligibility and controlling payment limitation was available. The Interim Attribution Process was made available on August 8, 2016, and County Offices are required to follow the instructions in the issued guide, and Notice PS-733, before certifying and signing **all** LDP's.

If a County Office employee completed at least 5 CCC-770 LDP's before the Interim Attribution Process was available, that employee does not have to complete any additional CCC-770 LDPs for the 2016 crop year, unless specifically required by the SED, STC or designee, DD or CED.

C CCC-770 MAL

CLPS checks the producer's eligibility at disbursement. For all commodities except cotton, the producer eligibility requirements in subparagraph 2B are also checked before repayments with a market loan gain.

In order to make certain that County Office employees understand the specific application, eligibility and processing requirements for MAL disbursement, County Office employees are required to complete the CCC-770 MAL for the first 3 MALs they process each crop year. The CCC-770 MAL includes items relating to the completion of the CCC-666, and other forms required before loan approval and disbursement.

8 Action

A State Office Action

State Offices shall ensure that County Offices are aware of and follow the contents of this notice.

B County Office Action

County Offices shall:

- administer 2016 crop year MAL's and LDP's, if applicable
- continue to use 2-LP Honey, 2-LP Peanuts, 2-LP Rice, 8-LP, and 7-CN for additional guidance **except** as provided in this notice
- follow the Interim Attribution Process User Guide for all 2016 LDP's.

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8 Action (Continued)

C Contacts

State Offices shall direct questions to the applicable contact according to this table.

IF the question is about...	THEN contact...
peanut MAL and LDP policy	Kathy Sayers by either of the following: <ul style="list-style-type: none"> • e-mail to kathy.sayers@wdc.usda.gov • telephone at 979-680-5155.
cotton MAL and LDP policy	Kelly Hereth-Dawson by either of the following: <ul style="list-style-type: none"> • e-mail to kelly.hereth@wdc.usda.gov • telephone at 202-720-0448.
sugar commodity loan policy	Toni Williams by either of the following: <ul style="list-style-type: none"> • e-mail to toni.williams@wdc.usda.gov • telephone at 202-720-2270.
policy for all other MAL and/or LDP commodities listed in subparagraph 2 C	DeAnn Allen by either of the following: <ul style="list-style-type: none"> • e-mail to deann.allen@wdc.usda.gov • telephone at 202-720-9889.
CMA, DMA, and LSA policy	Frankie Coln by either of the following: <ul style="list-style-type: none"> • e-mail to frankie.coln@wdc.usda.gov • telephone at 202-720-9011.
all MAL and LDP Automation	Laura Schlote by either of the following: <ul style="list-style-type: none"> • e-mail to laura.schlote@wdc.usda.gov • telephone at 202-720-7785.