

## Commodity Credit Corporation, USDA

## § 1421.408

substantial change in the DMA operations including but not limited to the following:

(1) A change in its articles of incorporation;

(2) A resolution affecting loan or LDP operations.

(3) A change to the DMAs name, address, phone number, or related information on the DMA agreement.

(b) *Other Information.* The DMA shall supply such additional information as CCC may request related to the DMAs continued approval by CCC to process loans and LDPs under the authority provided in this subpart.

(c) *CCC request for information.* CCC may require a DMA to submit updated information, a new application, or a request for recertification whenever CCC becomes aware of any changes or has any reason to be uncertain that the DMA is operating in a manner that is consistent with the information already submitted, or consistent with this part.

(d) *Annual recertification.* Within 4 months after the end of the DMAs fiscal year, a DMA must submit the following information to CCC:

(1) A current financial statement prepared according to generally accepted accounting principles;

(2) A report of audit or review of the financial statement conducted by an independent Certified Public Accountant. The accountant's report of audit or review shall include the accountant's certifications, assurances, opinions, comments, and notes with respect to such financial statements.

(3) Additional financial security as determined by CCC, if the financial security on file with CCC does not meet current requirements or has expired.

(4) A report of changes as required under paragraph (a) of this section.

(e) *Activity report.* DMAs shall provide CCC reports of MAL and LDP volume and benefit earnings made by the DMA for individual producers, and gains received on behalf of each peanut producer, in a format as directed by CCC.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.407 Suspension and termination.

(a) *Suspension.* If CCC determines that a DMA is not in compliance with the DMA agreement CCC may suspend the DMA from making peanut MALs and LDPs until the DMA corrects the violation, or longer.

(b) *Termination.* The DMA agreement may be terminated by the DMA upon 30-calendar day's written notice to CCC. CCC may cancel the agreement at any time. Upon termination DMA shall immediately cease processing MAL or LDP requests and documents except as needed to preserve CCC's position with respect to existing loans or LDPs.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.408 Prohibited activity.

(a) DMAs approved to handle loans under this subpart may not:

(1) Discriminate against or deny any producer from receiving MALs or LDPs because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status for which they would otherwise be eligible under the statutes regulating the MAL and LDP program.

(2) Pool peanuts for the purpose of obtaining peanut MALs or LDPs from CCC.

(3) Pool the proceeds obtained from peanut MALs or LDPs made by CCC.

(4) Process farm-stored certified or measured MALs or LDPs unless authorized by CCC.

(5) Take title to any peanuts.

(6) Operate the DMA under the same entity and tax identification number of a CCC-approved CMA.

(7) Refuse services to producers because the DMA was not granted a power of attorney for purposes of executing MAL documents to obtain MALs for the producer, repaying the MAL for the producer, obtaining LDPs for the producer, or marketing the producer's peanuts.

(8) Adopt any scheme or device to circumvent the purpose of the peanuts MAL and LDP program regulations, the regulation governing DMAs, or the DMAs agreement with CCC.

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(9) Process MALs or LDPs for producers involved in a bankruptcy proceeding unless authorized by CCC.

(10) Process MALs or LDPs on ineligible peanuts.

(b) If the prohibitions of this section are violated FSA or CCC may take one or more of the actions authorized in this part or otherwise authorized.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.409 Monitoring payment limitations.

DMA shall monitor potential gains for producers and not disburse proceeds or permit loan repayments in lieu of forfeitures of the peanuts that would produce a gain over the per person per year limit allowed to the producer by this part and part 1400 of this chapter or which would otherwise be prohibited. Payment limitations are not applicable for the 2009 through 2012 crop years.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.410 Recordkeeping requirements.

A DMA shall maintain producer MAL and LDP paper documents and electronic records for an indefinite period unless otherwise notified by CCC.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.411 Forms.

For purposes of conducting business related to this part, a DMA shall use either current CCC forms or other forms approved by CCC. A DMA may perform functions under this part only when approval has been obtained by CCC.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.412 Powers of attorney.

DMA may hold a power of attorney from a producer allowing the DMA to sign MAL and LDP documents for the producer, but DMA may obtain and hold such powers only in accordance

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with the requirements of CCC governing such powers.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.413 Liens and waivers.

DMA performing loan-related functions pursuant to the authority in this subpart shall determine, to the same extent as required for loans handled by FSA county offices, whether a lien on the peanuts exists by performing or obtaining a lien search for all peanuts to be pledged for each MAL, except that the cost associated with such lien search and any necessary lien waivers shall be borne by the DMA. If a lien exists, the DMA shall obtain, on an approved CCC form, a signed waiver from each lienholder with an interest in any such lien.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.414 Producer request to a DMA for an MAL or LDP.

Peanut producers or their authorized agent may request that an MAL or LDP be processed by a DMA only if the DMA is approved under this subpart to process such a request and only if the producer supplies to the DMA:

(a) *Beneficial interest information.* Beneficial interest must be maintained by the producer according to §1421.6 for the peanuts to be eligible for MAL or LDP; accordingly, the producer must supply to the DMA such information as it needed to make that determination.

(b) *Warehouse receipts and lien information.* Producers must supply for all peanuts either individual paper warehouse receipts in the producer's name or an electronic warehouse receipt (EWR) number and provider's name. Producers must supply relevant lien information regarding the peanuts; however, the producer's obligation in this regard does not relieve the DMA from making the appropriate lien search.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

### § 1421.415 Processing marketing assistance loans.

DMA shall take the following actions in the following order when an application for an MAL is filed: