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the producer’s actions, shall be refunded with interest together with such other sums as may become due. Any producer engaged in acts prohibited by this section and any person receiving payment under this subpart, as a result of such acts, shall be jointly and severally liable for any refund due under this section and for related charges. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.


§ 1421.306 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under this application, of this subpart, and if any refund of a payment to CCC shall become due for that or other reason in connection with the application, of this subpart, all payments made under this subpart to any producer shall be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late-payment charges as provided for in part 1402 of this chapter.

(b) All persons listed on an application shall be jointly and severally liable for any refund due in connection with that application and for any related charges which may be determined to be due for any reason.

(c) Interest shall be applicable to refunds required from the producer. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available. Such interest shall accrue from the date such benefits were made available to the date of repayment but the interest rate shall increase to reflect any increase in the rate charged to CCC by Treasury for any percent of time for which the interest assessment is collected. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

(d) Late payment interest shall be assessed on refunds in accordance with the provisions of, and subject to the rates in part 1403 of this chapter.

(e) Producers must refund to CCC any excess payments made by CCC with respect to any application in which they have an interest. Such refund shall be subject to interest at the same rate that applies to other refunds.


Subpart E—Designated Marketing Associations for Peanuts

SOURCE: 70 FR 33799, June 10, 2005, unless otherwise noted.


§ 1421.400 Applicability and abbreviations.

(a) This subpart sets forth the terms and conditions under which an entity which is a marketing association of peanut producers, or a subsidiary of such an entity, may qualify to become an eligible “designated marketing association” or “DMA” qualified to process peanut marketing assistance loans and peanut loan deficiency payments for peanut producers. This subpart only applies with respect to peanut loans and peanut loan deficiency payments.

(b) [Reserved]

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

§ 1421.401 DMA responsibilities.

(a) DMAs are eligible to process the marketing loans and loan deficiency payments provided for in this part only for peanut producers and only if the DMA and the producers and peanuts meet all eligibility criteria set out in this part, including, but not limited to, the DMA eligibility provisions of this subpart. In carrying out those functions, DMAs must:

(1) Prepare and execute the appropriate CCC peanut MAL and LDP application documents;

(2) Determine whether producers and the commodity are eligible for MALs and LDPs, including whether the otherwise eligible peanuts are free and
clear of all liens which DMAs shall determine by performing lien searches at DMAs expense;

(3) Instruct the holder of EWRs, if applicable, to notify the EWR provider to amend the EWR to show CCC is the holder;

(4) Receive MAL and LDP documents from a DMA Service County Office;

(5) Disburse peanut MALs and LDP proceeds to eligible producers;

(6) Prepare and execute documents for MAL repayments;

(7) Collect loan repayments from producers or buyers and transmitting these funds to CCC;

(8) Transmit documents to render forfeited collateral to CCC; and

(9) Collect data for reporting to CCC as required by CCC;

(b) As part of performing the responsibilities in paragraph (a) of this section, DMAs shall:

(1) Become knowledgeable of and follow the procedures in CCC and FSA peanut program regulations, applicable notices published in the FEDERAL REGISTER, applicable FSA peanut program handbooks and amendments thereto, and any applicable notices or instructions issued by FSA and the Agricultural Marketing Service.

(2) Make and service CCC peanut MALs and LDPs, only upon the presenting by producers or their agents of the warehouse receipts, unless otherwise directed by CCC.

(3) Attend, at the DMAs expense, DMA peanut MAL, and LDP program training offered by CCC.

(4) Provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.

§ 1421.402 DMA eligibility to process loans and loan deficiency payments.

(a) A DMA is eligible to process any marketing assistance loan or loan deficiency payments only if approved in advance to handle such matters by the Farm Service Agency pursuant to this part; and:

(1) The DMA meets the financial requirements and other requirements in this subpart and part;

(2) The DMA is comprised solely of peanut producers or is a subsidiary of an organization of peanut producers;

(3) The DMA is not controlled directly or indirectly by a person or entity that acquires peanuts for processing or crushing through a business involved in buying and selling peanuts or peanut products;

(4) The DMA does not take title at any time to any peanuts for which it processes loans or loan deficiency payments, irrespective of whether such title is taken before or after those activities are performed. If such title or interest is taken, the DMA shall be responsible to return to CCC the full amount of the CCC proceeds disbursed with respect to the peanuts; and

(5) The DMA meets any additional requirements imposed by CCC or FSA.

(b) The DMAs activities under this part shall be conducted only with respect to peanuts and only for producers and peanuts that meet all the eligibility requirements of this part. Such requirements include, but are not limited to, the requirement of §1421.6 that the producer must have the beneficial interest in the peanuts while the peanuts are under loan or when the loan deficiency payment is received and must be the only person that has had such an interest in the peanuts prior to that time except as allowed by §1421.6.

§ 1421.403 DMA approval.

(a) Entities wishing to apply to be a DMA enabled to perform loan and loan deficiency functions under this part for peanuts must submit an application for such approval to FSA in a form approved by CCC. That application shall include the following:

(1) Two originals of a properly executed Designated Marketing Association agreement containing the terms and conditions prescribed by CCC.

(2) A financial statement of not less than 1 year old on the date submitted, including accompanying notes, schedules, or exhibits, certified by a certified public accountant as fairly representing the entity’s financial condition.

(3) The entity’s tax identification number.