

(2) Special payment rules

For the crop year in which a base acres for peanuts adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) Prevention of excess base acres for peanuts**(1) Required reduction**

If the sum of the base acres for peanuts for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for peanuts for the farm or the base acres for 1 or more covered commodities under subchapter I for the farm so that the sum of the base acres for peanuts and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) Other acreage

For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for the farm under subchapter I.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) Selection of acres

The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the subchapter I base acres against which the reduction required by paragraph (1) will be made.

(4) Exception for double-cropped acreage

In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) Coordinated application of requirements

The Secretary shall take into account section 7911(g) of this title when applying the requirements of this subsection.

(g) Permanent reduction in base acres for peanuts

The owner of a farm may reduce, at any time, the base acres for peanuts assigned to the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

(Pub. L. 107-171, title I, §1302, May 13, 2002, 116 Stat. 167.)

Editorial Notes**REFERENCES IN TEXT**

This subchapter, referred to in subsecs. (c) and (d), was in the original "this subtitle", meaning subtitle C (§§1301-1310) of Pub. L. 107-171, title I, May 13, 2002, 116 Stat. 166, which is classified principally to this sub-

chapter. For complete classification of subtitle C to the Code, see References in Text note set out under section 7951 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (f)(2)(B), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354. Chapter 1 of subtitle D of title XII of the Act is classified generally to part I (§3830 et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

§ 7953. Availability of direct payments for peanuts**(a) Payment required****(1) 2002 crop year**

For the 2002 crop year, the Secretary shall make direct payments under this section to historic peanut producers.

(2) Subsequent crop years

For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 7952 of this title.

(b) Payment rate

The payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to \$36 per ton.

(c) Payment amount for 2002 crop year

The amount of the direct payment to be paid to an historic peanut producer for the 2002 crop of peanuts shall be equal to the product of the following:

- (1) The payment rate specified in subsection (b).
- (2) The payment acres of the historic peanut producer.
- (3) The average peanut yield determined under section 7952(a)(1) of this title for the historic peanut producer.

(d) Payment amount for subsequent crop years

The amount of the direct payment to be paid to the producers on a farm for the 2003 through 2007 crops of peanuts shall be equal to the product of the following:

- (1) The payment rate specified in subsection (b).
- (2) The payment acres on the farm.
- (3) The payment yield for the farm.

(e) Time for payment**(1) In general**

The Secretary shall make direct payments—

(A) in the case of the 2002 crop year, as soon as practicable after May 13, 2002; and

(B) in the case of each of the 2003 through 2007 crop years, not later than September 30 of the calendar year in which the crop is harvested.

(2) Advance payments

At the option of the producers on a farm, up to 50 percent of the direct payment for any of the 2003 through 2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 22 percent of the direct payment for the 2007 crop year, shall be paid to the producers in advance. The producers shall

select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) Repayment of advance payments

If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

(Pub. L. 107-171, title I, §1303, May 13, 2002, 116 Stat. 170; Pub. L. 109-171, title I, §1102(b), Feb. 8, 2006, 120 Stat. 5.)

Editorial Notes

AMENDMENTS

2006—Subsec. (e)(2). Pub. L. 109-171 substituted “2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 22 percent of the direct payment for the 2007 crop year,” for “2007 crop years”.

§ 7954. Availability of counter-cyclical payments for peanuts

(a) Payment required

(1) In general

During the 2002 through 2007 crop years for peanuts, the Secretary shall make counter-cyclical payments under this section with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(2) 2002 crop year

If counter-cyclical payments are required for the 2002 crop year, the Secretary shall make the payments to historic peanut producers.

(3) Subsequent crop years

If counter-cyclical payments are required for any of the 2003 through 2007 crop years for peanuts, the Secretary shall make the payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 7952 of this title.

(b) Effective price

For purposes of subsection (a), the effective price for peanuts is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price for peanuts received by producers during the 12-month marketing year for peanuts, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this chapter.

(2) The payment rate in effect under section 7953 of this title for the purpose of making direct payments.

(c) Target price

For purposes of subsection (a), the target price for peanuts shall be equal to \$495 per ton.

(d) Payment rate

The payment rate used to make counter-cyclical payments for a crop year shall be equal to the difference between—

(1) the target price; and

(2) the effective price determined under subsection (b).

(e) Payment amount for 2002 crop year

If counter-cyclical payments are required to be paid for the 2002 crop of peanuts, the amount of the counter-cyclical payment to be paid to an historic peanut producer for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the historic peanut producer.

(3) The average peanut yield determined under section 7952(a)(1) of this title for the historic peanut producer.

(f) Payment amount for subsequent crop years

If counter-cyclical payments are required to be paid for any of the 2003 through 2007 crops of peanuts, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(g) Time for payments

(1) General rule

If the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for a crop year, the Secretary shall make the counter-cyclical payments as soon as practicable after the end of the 12-month marketing year for the crop.

(2) Availability of partial payments

If, before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) the option to receive partial payments of the counter-cyclical payment projected to be made for that crop.

(3) Time for partial payments

(A) 2002 through 2006 crop years

When the Secretary makes partial payments available under paragraph (2) for any of the 2002 through 2006 crop years—

(i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop is harvested;