

provisions set out as notes under sections 3602 and 7272 of this title. Subtitle E enacted subchapter IV (§8771 et seq.) of this chapter and amended sections 4501, 608c, 1637b, 4502, 4504, and 4531 of this title and section 713a-14 of Title 15, Commerce and Trade. For complete classification of subtitles B to E to the Code, see Tables.

The date of enactment of this Act, referred to in subsec. (d)(2)(A), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

The Federal Advisory Committee Act, referred to in subsec. (d)(3)(B), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

### SUBCHAPTER III—PEANUTS

#### § 8751. Definitions

In this subchapter:

##### (1) Base acres for peanuts

###### (A) In general

The term “base acres for peanuts” means the number of acres assigned to a farm pursuant to section 7952 of this title, as in effect on September 30, 2007, subject to any adjustment under section 8752 of this title.

###### (B) Covered commodities

The term “base acres”, with respect to a covered commodity, has the meaning given the term in section 8711 of this title.

##### (2) Counter-cyclical payment

The term “counter-cyclical payment” means a payment made to producers on a farm under section 8754 of this title.

##### (3) Direct payment

The term “direct payment” means a direct payment made to producers on a farm under section 8753 of this title.

##### (4) Effective price

The term “effective price” means the price calculated by the Secretary under section 8754 of this title for peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

##### (5) Payment acres

The term “payment acres” means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of peanuts on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for peanuts on a farm on which direct payments are made.

##### (6) Payment yield

The term “payment yield” means the yield established for direct payments and the yield established for counter-cyclical payments under section 7952 of this title, as in effect on September 30, 2007, for a farm for peanuts.

##### (7) Producer

###### (A) In general

The term “producer” means an owner, operator, landlord, tenant, or sharecropper

that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

##### (B) Hybrid seed

In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subchapter.

##### (8) State

The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

##### (9) Target price

The term “target price” means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

##### (10) United States

The term “United States”, when used in a geographical sense, means all of the States.

(Pub. L. 110-234, title I, §1301, May 22, 2008, 122 Stat. 966; Pub. L. 110-246, §4(a), title I, §1301, June 18, 2008, 122 Stat. 1664, 1695.)

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

#### § 8752. Base acres for peanuts for a farm

##### (a) Adjustment of base acreage for peanuts

###### (1) In general

The Secretary shall provide for an adjustment, as appropriate, in the base acres for peanuts for a farm whenever any of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

###### (2) Special conservation reserve acreage payment rules

For the crop year in which a base acres for peanuts adjustment under subparagraph (A) or

(B) of 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.

**(b) 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 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 for a covered commodity.

(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 Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

**(3) Selection of acres**

The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the base acres for covered commodities 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 8711(b) of this title when applying the requirements of this subsection.

**(c) Reduction in base acres**

**(1) Reduction at option of owner**

**(A) In general**

The owner of a farm may reduce, at any time, the base acres for peanuts for the farm.

**(B) Effect of reduction**

A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

**(2) Required action by Secretary**

**(A) In general**

The Secretary shall proportionately reduce base acres on a farm for peanuts for land that has been subdivided and developed for multiple residential units or other non-farming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

(i) remains devoted to commercial agricultural production; or

(ii) is likely to be returned to the previous agricultural use.

**(B) Requirement**

The Secretary shall establish procedures to identify land described in subparagraph (A).

**(3) Review and report**

Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit to Congress a report that describes the results of the actions taken under paragraph (2).

**(d) Treatment of farms with limited base acres**

**(1) Prohibition on payments**

Except as provided in paragraph (2) and notwithstanding any other provision of this chapter, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

**(2) Exceptions**

Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 2003(e) of this title;<sup>1</sup> or

(B) a limited resource farmer or rancher, as defined by the Secretary.

**(3) Data collection and publication**

The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

**(4) Suspension of prohibition**

Paragraphs (1) through (3) shall not apply during the 2008 crop year.

(Pub. L. 110-234, title I, § 1302, May 22, 2008, 122 Stat. 968; Pub. L. 110-246, § 4(a), title I, § 1302, June 18, 2008, 122 Stat. 1664, 1696; Pub. L. 110-398, § 1(a)(2), Oct. 13, 2008, 122 Stat. 4213.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (a)(1)(A), (B), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

<sup>1</sup> So in original. There probably should be a closing parenthesis after "title".

The Food Security Act of 1985, referred to in subsec. (b)(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.

This chapter, referred to in subsec. (d)(1), was in the original "this title", meaning title I of Pub. L. 110-246, June 18, 2008, 122 Stat. 1664, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2008—Subsec. (d)(4). Pub. L. 110-398 added par. (4).

### § 8753. Availability of direct payments for peanuts

#### (a) Payment required

For each of the 2008 through 2012 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm for which a payment yield and base acres for peanuts are established.

#### (b) Payment rate

Except as provided in section 8715 of this title, 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

The amount of the direct payment to be paid to the producers on a farm for peanuts for a crop year 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.

#### (d) Time for payment

##### (1) In general

Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments under this section before October 1 of the calendar year in which the crop is harvested.

##### (2) Advance payments

###### (A) Option

###### (i) In general

At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for peanuts for any of the 2008 through 2011 crop years to the producers on a farm.

###### (ii) 2008 crop year

If the producers on a farm elect to receive advance direct payments under clause (i) for peanuts for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

### (B) Month

#### (i) Selection

Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

#### (ii) Options

The month selected may be any month during the period—

(I) beginning on December 1 of the calendar year before the calendar year in which the crop of peanuts is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

#### (iii) Change

The producers on a farm 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. 110-234, title I, §1303, May 22, 2008, 122 Stat. 970; Pub. L. 110-246, §4(a), title I, §1303, June 18, 2008, 122 Stat. 1664, 1698.)

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

### § 8754. Availability of counter-cyclical payments for peanuts

#### (a) Payment required

Except as provided in section 8715 of this title, for each of the 2008 through 2012 crop years for peanuts, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres for peanuts are established if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

#### (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 subchapter.

- (2) The payment rate in effect for peanuts under section 8753 of this title for the purpose of making direct payments.