

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 L. 110-234 was repealed by section 4(a) of Pub.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.