

produced or was prevented from planting peanuts during any or all of the 1998 through 2001 crop years.

**(6) Payment acres**

The term “payment acres” means—

(A) for the 2002 crop of peanuts, 85 percent of the average acreage determined under section 7952(a)(2) of this title for an historic peanut producer; and

(B) for the 2003 through 2007 crops of peanuts, 85 percent of the base acres for peanuts assigned to a farm under section 7952(b) of this title.

**(7) Payment yield**

The term “payment yield” means the yield assigned to a farm by historic peanut producers pursuant to section 7952(b) of this title.

**(8) Producer**

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. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subchapter.

**(9) Secretary**

The term “Secretary” means the Secretary of Agriculture.

**(10) State**

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

**(11) Target price**

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

**(12) United States**

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

(Pub. L. 107-171, title I, §1301, May 13, 2002, 116 Stat. 166.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle C (§§1301-1310) of title I of Pub. L. 107-171, May 13, 2002, 116 Stat. 166, which enacted this subchapter, amended sections 1361, 1371, 1373, 1378, 1428, and 1441 of this title, and repealed sections 1357 to 1359a and 7271 of this title. For complete classification of subtitle C to the Code, see Tables.

**§ 7952. Establishment of payment yield and base acres for peanuts for a farm**

**(a) Average yield and acreage average for historic peanut producers**

**(1) Determination of average yield**

**(A) In general**

The Secretary shall determine, for each historic peanut producer, the average yield

for peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years, excluding any crop year in which the producer did not plant or was prevented from planting peanuts.

**(B) Assigned yields**

For the purposes of determining the 4-year average yield for an historic peanut producer under this paragraph, the historic peanut producer may elect to substitute for a farm, for not more than 3 of the 1998 through 2001 crop years in which the producer planted peanuts on the farm, the average yield for peanuts produced in the county in which the farm is located for the 1990 through 1997 crop years.

**(2) Determination of acreage average**

**(A) In general**

The Secretary shall determine, for each historic peanut producer, the 4-year average of the following:

(i) Acreage planted to peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years.

(ii) Any acreage on each farm that the historic peanut producer was prevented from planting to peanuts during the 1998 through 2001 crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historic peanut producer, as determined by the Secretary.

**(B) Inclusion of all 4 years in average**

For the purposes of determining the 4-year acreage average for an historic peanut producer under this paragraph, the Secretary shall not exclude any crop year in which the producer did not plant peanuts.

**(C) Proportional shares**

If more than 1 historic peanut producer shared in the risk of producing the crop on a farm, the historic peanut producers shall receive their proportional share of the number of acres planted (or prevented from being planted) to peanuts for harvest on the farm based on the sharing arrangement that was in effect among the producers for the crop.

**(3) Time for determinations**

The Secretary shall make the determinations required by this subsection as soon as practicable after May 13, 2002.

**(4) Special considerations**

In making the determinations required by this subsection, the Secretary shall take into account changes in the number, identity, or interest of producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm—

(A) when an historic peanut producer is no longer living;

(B) when an entity composed of historic peanut producers has been dissolved; or

(C) in other appropriate situations, as determined by the Secretary.

**(b) Assignment of average yields and average acreage to farms****(1) Assignment by historic peanut producers**

The Secretary shall give each historic peanut producer an opportunity to assign the average peanut yield and average acreage determined under subsection (a) of this section for each farm of the historic peanut producer to cropland on that farm or another farm in the same State or a contiguous State.

**(2) Limitation on acreage assignment**

Notwithstanding paragraph (1), the average acreage determined under subsection (a)(2) of this section for a farm may not be assigned to a farm in a contiguous State unless—

(A) the historic peanut producer making the assignment produced peanuts in that State during at least 1 of the 1998 through 2001 crop years; or

(B) as of March 31, 2003, the historic peanut producer is a producer on a farm in that State.

**(3) Notice of assignment opportunity**

The Secretary shall provide notice to historic peanut producers regarding their opportunity to assign average peanut yields and average acreages to farms under paragraph (1). The notice shall include the following:

(A) Notice that the opportunity to make the assignments is being provided only once.

(B) A description of the limitation in paragraph (2) on their ability to make the assignments.

(C) Information regarding the manner in which the assignments must be made and the time periods and manner in which notice of the assignments must be submitted to the Secretary.

**(4) Assignment deadlines**

Not later than March 31, 2003, an historic peanut producer shall submit to the Secretary notice of the assignments made by the producer under this subsection. If an historic peanut producer fails to submit the notice by that date, the notice shall be submitted in such other manner as the Secretary may prescribe.

**(c) Payment yield**

The average of all of the yields assigned by historic peanut producers under subsection (b) of this section to a farm shall be considered to be the payment yield for that farm for the purpose of making direct payments and counter-cyclical payments under this subchapter.

**(d) Base acres for peanuts**

Subject to subsection (e) of this section, the total number of acres assigned by historic peanut producers under subsection (b) of this section to a farm shall be considered to be the farm's base acres for peanuts for the purpose of making direct payments and counter-cyclical payments under this subchapter.

**(e) Treatment of conservation reserve contract acreage****(1) In general**

The Secretary shall provide for an adjustment, as appropriate, in the base acres for pean-

nuts for a farm whenever either 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.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

**(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 of this chapter 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 of this chapter.

(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.)

#### 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 subchapter. 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, as amended. 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) of this section.
- (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) of this section.
- (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.)

#### 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) of this section, 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.