

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 L. 110-234 was repealed by section 4(a) of Pub.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

(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 for peanuts; and

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

(e) Payment amount

If counter-cyclical payments are required to be paid for any of the 2008 through 2012 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.

(f) Time for payments

(1) General rule

Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for a crop of peanuts, beginning October 1, or as soon as practicable after the end of the marketing year, the Secretary shall make the counter-cyclical payments for the crop.

(2) Availability of partial payments

(A) In general

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 the option to receive partial payments of the counter-cyclical payment projected to be made for the crop.

(B) Election

(i) In general

The Secretary shall allow producers on a farm to make an election to receive partial payments under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for the crop.

(ii) Date of issuance

The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) Time for partial payments

When the Secretary makes partial payments for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for that crop; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for that crop.

(4) Amount of partial payments

(A) First partial payment

For each of the 2008 through 2010 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(B) Final payment

The final payment for a crop year shall be equal to the difference between—

- (i) the actual counter-cyclical payment to be made to the producers for that crop year; and
- (ii) the amount of the partial payment made to the producers under subparagraph (A).

(5) Repayment

The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for that crop year.

(Pub. L. 110-234, title I, §1304, May 22, 2008, 122 Stat. 971; Pub. L. 110-246, §4(a), title I, §1304, June 18, 2008, 122 Stat. 1664, 1699.)

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.

§ 8755. Producer agreement required as condition on provision of payments**(a) Compliance with certain requirements****(1) Requirements**

Before the producers on a farm may receive direct payments or counter-cyclical payments under this subchapter, or average crop revenue election payments under section 8715 of this title, with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 8756 of this title;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under subchapter I, for an agricultural or conserving use, and not for a non-agricultural commercial, industrial, or residential use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) Compliance

The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) Modification

At the request of the transferee or owner, the Secretary may modify the requirements of

this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) Transfer or change of interest in farm**(1) Termination****(A) In general**

Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made, or on which average crop revenue election payments are based, shall result in the termination of the direct payments, counter-cyclical payments, or average crop revenue election payments to the extent the payments are made or based on the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) Effective date

The termination shall take effect on the date determined by the Secretary.

(2) Exception

If a producer entitled to a direct payment, counter-cyclical payment, or average crop revenue election payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) Acreage reports**(1) In general**

As a condition on the receipt of any benefits under this subchapter, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(2) Penalties

No penalty with respect to benefits under this subchapter shall be assessed against the producers on a farm for an inaccurate acreage report unless the producers on the farm knowingly and willfully falsified the acreage report.

(d) Tenants and sharecroppers

In carrying out this subchapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) Sharing of payments

The Secretary shall provide for the sharing of direct payments, counter-cyclical payments, or average crop revenue election payments under section 8715 of this title among the producers on a farm on a fair and equitable basis.

(f) Extension of 2008 signup**(1) In general**

Notwithstanding any other provision of law, the Secretary shall extend the 2008 crop year deadline for the signup for benefits under this subchapter by producers on a farm with base acres of 10 acres or less until the later of—

(A) November 14, 2008; or

(B) the end of the 45-day period beginning on October 13, 2008.