

**(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 subchapter.

- (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;
- (ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and
- (iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

**(B) 2007 crop year**

When the Secretary makes partial payments available for the 2007 crop year—

- (i) the first partial payment shall be made after completion of the first 6 months of the marketing year for that crop; and
- (ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

**(4) Amount of partial payments****(A) 2002 crop year****(i) First partial payment**

In the case of the 2002 crop year, the first partial payment under paragraph (3) to an historic peanut producer may not exceed 35 percent of the projected counter-cyclical

payment for the crop year, as determined by the Secretary.

**(ii) Second partial payment**

The second partial payment may not exceed the difference between—

- (I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the 2002 crop year; and
- (II) the amount of the payment made under clause (i).

**(iii) Final payment**

The final payment shall be equal to the difference between—

- (I) the actual counter-cyclical payment to be made to the historic peanut producer; and
- (II) the amount of the partial payments made to the historic peanut producer under clauses (i) and (ii).

**(B) 2003 through 2006 crop years****(i) First partial payment**

For each of the 2003 through 2006 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

**(ii) Second partial payment**

The second partial payment for a crop year may not exceed the difference between—

- (I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop year; and
- (II) the amount of the payment made under clause (i).

**(iii) 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 payments made to the producers under clauses (i) and (ii) for that crop year.

**(C) 2007 crop year****(i) First partial payment**

For the 2007 crop year, 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.

**(ii) Final payment**

The final payment for the 2007 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 clause (i).

**(5) Repayment**

The producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) that receive a partial payment under this sub-

section 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. 107-171, title I, §1304, May 13, 2002, 116 Stat. 171.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subchapter, referred to in subsecs. (b)(1)(B), 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.

### § 7955. Producer agreement required as condition on provision of direct payments and counter-cyclical 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 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 7956 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 or industrial 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

Except as provided in paragraph (2), a transfer of (or change in) the interest of the pro-

ducers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to those acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

##### (2) Exception

If a producer entitled to a direct payment or counter-cyclical 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

As a condition on the receipt of direct payments, counter-cyclical payments, marketing assistance loans, or loan deficiency payments under this subchapter, the Secretary shall require the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 7952 of this title to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

#### (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 and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

(Pub. L. 107-171, title I, §1305, May 13, 2002, 116 Stat. 173.)

#### Editorial Notes

##### REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1), (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. (a)(1)(A), (B), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, 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.

### § 7956. Planting flexibility

#### (a) Permitted crops

Subject to subsection (b), any commodity or crop may be planted on the base acres for peanuts on a farm.

#### (b) Limitations regarding certain commodities

##### (1) General limitation

The planting of an agricultural commodity specified in paragraph (2) shall be prohibited on base acres for peanuts unless the commodity, if planted, is destroyed before harvest.