

§ 1412.801

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producer fails to submit such notice by that date, that base and yield shall be assigned to the most recent farm associated with such base and yield, as determined by FSA records.

(e) The average of all yields assigned by a historic peanut producer under paragraph (a) of this section to a farm shall be considered to be the payment yield for that farm for the purpose of making direct and payments and counter-cyclical payments under this part, beginning with crop year 2003.

(f) The total number of acres assigned by historic peanut producers under paragraph (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 part, beginning with crop year 2003.

[67 FR 64751, Oct. 21, 2002, as amended at 68 FR 37939, June 26, 2003; 68 FR 67939, Dec. 5, 2003]

Subpart H—Peanut Quota Buyout Program

SOURCE: 67 FR 61472, Oct. 1, 2002, unless otherwise noted. Redesignated at 67 FR 64751, Oct. 21, 2002.

§ 1412.801 Applicability.

The regulations in this subpart govern the Peanut Quota Buyout Program of the Commodity Credit Corporation (CCC). Generally, CCC will enter into contracts with eligible peanut quota holders that provide for payments to such holders based upon the amount of the 2001 crop peanut quota assigned to farms owned by such holders as of May 13, 2002.

§ 1412.802 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out by the Farm Service Agency (FSA) State and county committees (State and county committees).

(b) State and county committees, their representatives and employees, have no authority to modify or waive provisions of this subpart, except as provided in paragraph (e) of this section.

(c) The State committee shall take any action required by the regulations of this part that the county committee has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct any action taken by such county committee that is not in accordance with this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines, except statutory deadlines, and other non-statutory requirements in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program.

(f) A representative of CCC may execute a contract for a quota buyout only under the terms and conditions of this part, and as determined and announced by the Executive Vice President, CCC. Any contract that is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by the Executive Vice President, CCC, is null and void and shall not be considered to be a contract between CCC and any person executing the contract.

§ 1412.803 Definitions.

The definitions in this section shall apply for all purposes of administering the Peanut Quota Buyout. The terms defined in part 718 of this title and part 1400 of this chapter shall also be applicable, except where those definitions conflict with the following definitions in this section:

Contract means a Peanut Quota Buyout Program Contract, and its Appendix for the Peanut Quota Buyout Program to be executed on a form and in a manner as prescribed by CCC.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or a designee.

Eligible Quota means the amount of peanut quota owned by an eligible peanut quota holder as of May 13, 2002, based on the 2001 quota for the purposes of determining Peanut Quota Buyout Program payments. Eligible quota does not include peanut quota established for seed or experimental purposes and quotas subject to a temporary lease or transfer.

§ 1412.804 Appeals.

A person may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at parts 11 and 780 of this title.

§ 1412.805 Enrollment; special filing and payment provisions for persons who are not the peanut quota holder of record.

(a) Enrollment for the Peanut Quota Buyout Program begins September 3, 2002, and ends November 22, 2002. Application for payment must be made by signing the contract. Payments will be made by CCC to eligible peanut quota holders as soon as practicable beginning October 11, 2002.

(b)(1) If contracts or other written claims are provided to CCC by October 11, 2002, by two or more persons with respect to the same peanut quota used to calculate a Peanut Quota Buyout Program payment, CCC will not issue such payment until CCC has determined the eligibility status of each claimant.

(2) If CCC has made a payment to a peanut quota holder, as identified on FSA records, for a farm and after October 11, 2002, a person who is not a peanut quota holder, as identified on FSA records, for such farm submits a contract or other written claim with CCC for the same quota used to issue the initial payment, CCC will issue no further payments for such farm until CCC has determined the eligibility status of each person who has filed a contract or other written claim for such farm and the occurrence of the earlier of:

(i) Repayment of the initial payment made by CCC; or

(ii) The establishment, in accordance with part 1403 of this chapter, by CCC of a claim for repayment of the initial payment.

(c) Payments to a person who CCC has determined to be an eligible peanut quota holder with respect to a farm but who, as of September 3, 2002, were not the peanut quota holder, as identified on FSA records as of May 13, 2002, for such farm will be made by CCC after November 22, 2002, unless prior to November 22, 2002, CCC has received an acknowledgment from the peanut quota holders, as identified on FSA records as of May 13, 2002, that they:

(1) Will not file a contract for such peanut quota; and

(2) Transferred the peanut quota to such other party prior to May 13, 2002.

§ 1412.806 Eligible peanut quota holder.

(a) A person shall be eligible for a payment under this part only if CCC has determined the person to be an "eligible peanut quota holder" for purposes of this part. To be an eligible peanut quota holder, a person must, as of May 13, 2002:

(1) Have owned a farm, or had a life estate interest in a farm, to which paragraphs (a)(2) and (b) of this section do not apply, that was eligible for a permanent peanut quota under part 729 of this title, as in effect on January 1, 2002, without regard to quotas established for seed or experimental purposes or quotas subject to temporary leases or temporary transfers;

(2) Be a party to a written contract for the purchase of all or a portion of the farm identified in paragraph (a)(1) of this section that was in effect on or before May 13, 2002. If the parties to the contract are unable to agree to the division of the applicable peanut quota on the land subject to the written contract, the Deputy Administrator, taking into account any incomplete or permanent transfer of the peanut quota that has otherwise been agreed to, shall provide for the equitable division of the payments made under this part by determining the eligible peanut quota holders and allocating the disputed amount of the peanut quota to such holders. This allocation will take into account the ratio of cropland on the unsold portion of the farm and the cropland on the portion of the farm subject to the purchase contract;