

§ 1412.603

(b) For the purposes of this section, tolerance is the amount by which the determined acreage may differ from the reported acreage and still be considered in compliance with program requirements. Tolerance for fruits, vegetables and wild rice plantings is 5 percent of the reported fruit, vegetable and wild rice acreage, not to exceed 50 acres.

§ 1412.603 Contract liability.

All signatories to a contract are jointly and severally liable for contract violations and resulting repayments and penalties.

§ 1412.604 Misrepresentation and scheme or device.

(a) A producer who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part shall not be entitled to either direct or counter-cyclical payments and must refund all such payments received, plus interest as determined in accordance with part 1403 of this chapter.

(b) A producer shall refund to CCC all direct and counter-cyclical payments, plus interest as determined in accordance with part 1403 of this chapter, received by such producer with respect to all contracts if the producer is determined to have knowingly done any of the following. In addition, the producer's interest in all such contracts shall be terminated.

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

§ 1412.605 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this

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chapter shall be applicable to contract payments.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments found at part 1404 of this chapter.

§ 1412.606 Acreage reports.

As a condition of eligibility for direct and counter-cyclical payments, the operator or owner must submit a report of all cropland acreage on the farm in accordance with part 718 of this title. If such operator or owner does not report all cropland acreage on the farm in accordance with part 718 of this title, the contract shall be terminated with respect to such farm unless the provisions part 718 of this title are applicable.

§ 1412.607 Compliance with highly erodible land and wetland conservation provisions.

The provisions of part 12 of this title apply to this part.

§ 1412.608 Controlled substance violations.

The provisions of part 718 of this title apply to this part.

Subpart G—Establishment and Assignment of Peanut Base Acres and Yields for a Farm

SOURCE: 67 FR 64751, Oct. 21, 2002, unless otherwise noted.

§ 1412.701 Determination of 4-year peanut acreage average.

(a) The Deputy Administrator shall determine, for each historic peanut producer under this part, the 4-year average of the following:

(1) The acreage planted to peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years; and

(2) 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 natural disaster, or any other condition beyond the control of the historic peanut producers, as determined by the Deputy Administrator.

(b) For the purposes of determining the 4-year acreage average for a historic peanut producer under this part, the Deputy Administrator shall not exclude any crop year in which the producer did not plant peanuts.

(c) If more than one historic peanut producer shared in the risk of producing the crop on a farm, the historic peanut producers shall receive the 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.

(d) When a historic peanut producer is no longer living or when an entity composed of historic peanut producers has been dissolved, and in other similar situations, the Deputy Administrator shall make the base determinations under this subpart in the manner determined to be fair and reasonable.

§ 1412.702 Determination of average peanut yield.

(a) The Deputy Administrator shall determine, for each historic peanut producer, the average yield for peanuts on each farm 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. Production information reported according to part 729 of this chapter will be used by the Deputy Administrator for determining yields under this section.

(b)(1) For the purposes of determining the 4-year average yield for a historic peanut producer under paragraph (a) of this section, 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 historic peanut producer planted peanuts on the farm, the average harvested yield for peanuts produced in the county in which the farm is located for the 1990 through 1997 crop years.

(2) The average harvested yield for peanuts produced in a county which will be used in paragraph (b)(1) of this section shall be the NASS irrigated and non-irrigated yields or, in States and counties where the irrigated and non-

irrigated NASS data is unavailable, the NASS blended yield for the county.

(3) If NASS harvested peanut yield data is unavailable, for the purposes set forth in paragraph (b)(1) of this section, the harvested county average peanut yield, determined according to peanut production information reported according to part 729 of this chapter, shall be used.

(c) The average harvested yield, to be used at the producer's option in paragraph (b)(1) of this section, shall be determined by calculating the weighted 7-year average for each type of yield for the years 1990 through 1997 of:

(1) The NASS harvested peanut irrigated yield for the county for each year;

(2) The NASS harvested peanut non-irrigated yield for the county for each year;

(3) The NASS harvested peanut blended yield for all counties where the yields in paragraphs (c)(1) and (c)(2) of this section are unavailable for each year for all acreage regardless of whether or not the acres were irrigated or nonirrigated;

(4) The average yield for the county, determined in accordance with paragraph (b)(3) of this section for each year.

§ 1412.703 Assignment of average peanut yields and average peanut acreages to farms.

(a) The Deputy Administrator shall give each historical peanut producer an opportunity to assign the average peanut yield determined in accordance with § 1412.702 and average acreage determined in accordance with § 1412.701 for each farm of the historic peanut producer to cropland on that farm or another farm in the same State or a contiguous State.

(b) Notwithstanding paragraph (a) of this section, the average acreage determined under § 1412.701 for a farm may be assigned to a farm in a contiguous state only if either of the following apply:

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