

**For:** State and County Offices

**Beneficial Interest Provisions for Peanuts**

**Approved by:** Deputy Administrator, Farm Programs



**1 Overview**

**A**

**Background**

The Farm Security and Rural Investment Act of 2002 (the Act) provides that the 2002 through 2007 crop years peanut marketing assistance loans and LDP's be made available to eligible producers who produce and harvest peanuts.

To obtain a marketing assistance loan or LDP, producers must maintain beneficial interest in the commodity at the time of the request. Notices LP-1857 and LP-1862 explain the provisions for determining beneficial interest. Several questions have been submitted from the field requesting guidance on determining the date beneficial interest was lost.

**B**

**Purpose**

Notices LP-1857 and LP-1862 correctly explain the beneficial interest rules as they apply to peanuts. This notice:

- clarifies the current beneficial interest rules and the 2002 crop year beneficial interest waiver
- provides policies for accepting production evidence
- provides examples of loss of beneficial interest.

<b>Disposal Date</b>  June 1, 2003	<b>Distribution</b>  State Offices, State Office relay to County Offices
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## 2 Beneficial Interest Provisions for Peanuts

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### A

#### Clarifying Beneficial Interest Provisions

To be eligible for a loan or LDP, eligible producers must have beneficial interest in the applicable commodity. Beneficial interest must be retained by a producer from harvest continuously through:

- for LDP, the date requested
- for loan, the earlier of the following:
  - the date the loan is repaid
  - the date CCC takes title to the commodity.

A producer is considered to have beneficial interest in a commodity if all of the following remain with the producer:

- title to the commodity
- risk of loss
- control of the commodity.

Because of the many different scenarios for marketing peanuts, there is no one set rule for determining the date beneficial interest is lost in a commodity. The producer's actions relating to the marketing of the crop determines when beneficial interest is lost.

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### B

#### Determining Loss of Beneficial Interest

Producer actions that may cause loss of beneficial interest include, but are not limited to, the following.

- **selling the equity in the commodity** - if a producer has sold the commodity then the producer has lost title and control of the commodity and risk of loss
- **signs a contract that includes language which supports loss of beneficial interest** - if a producer signs a contract that contains, but is not limited to, the following provisions:
  - buyer has the option to require the producer to obtain loan or LDP (buyer has control over commodity)
  - requires producer to obtain permission from buyer to request a loan or LDP (buyer has control of the commodity)

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## Notice LP-1864

### 2 Beneficial Interest Provisions for Peanuts (Continued)

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#### B

#### Determining Loss of Beneficial Interest (Continued)

- requires that casualty losses be paid to buyer's account (buyer has risk of loss)
- **peanuts delivered to a sheller for processing (shelling)** - if the peanuts are delivered to a sheller for processing, the producer is considered to have lost beneficial interest on the date the peanuts were delivered to the sheller.

The weighing, grading, and inspection of a load of peanuts does not relinquish a producer's beneficial interest in a crop unless either of the following applies:

- the peanuts are covered by a contract or an agreement that specifically states beneficial interest is lost when graded or inspected
- the producer completes CCC-709 and the producer **wants** the LDP rate based on the date the peanuts are delivered.

**Note:** In this case, the date the peanuts are officially inspected on FV-95 will be the date beneficial interest is lost.

See Exhibit 1 for examples of actions or situations when beneficial interest is lost.

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#### C

#### 2002 Crop Year Beneficial Interest Provisions

For the 2002 crop year **only**, the beneficial interest requirements are waived for producers who request LDP's on 2002 crop peanuts. Since the beneficial interest requirements are waived for the 2002 crop year, producers can request LDP's on CCC-633 LDP after beneficial interest is lost.

Producers who submit CCC-633 LDP request and **lost** beneficial interest in the peanuts before the LDP request, must provide acceptable production evidence at the time of the request. The production evidence must indicate when the producer lost beneficial interest. The LDP rate will be the rate in effect on the date the producer lost beneficial interest.

For producers who submit CCC-633 LDP request and **retain** beneficial interest in the peanuts, the County Office will determine the LDP rate based on the date of the LDP request.

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## Notice LP-1864

### 2 Beneficial Interest Provisions for Peanuts (Continued)

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#### D

#### Production Evidence Requirements

Certified loans and LDP's are subject to a random spot check. When a loan or LDP is selected for spot check, producers must provide acceptable evidence according to 8-LP, paragraph 535. This includes:

- evidence of sales

**Note:** FSA-1007 may be considered acceptable production evidence **only for verifying eligible quantity** and determining when beneficial interest is lost, if the peanuts are marketed on the date FSA-1007 is signed by the inspector. If the peanuts are not marketed on the date FSA-1007 is completed, the producer must submit another form of acceptable production evidence.

- load summary sheets
- warehouse receipts
- paid measurement service
- spot check measurements with paid measurement service
- delivery evidence
- scale tickets, if not issued by the producer for the producers own production
- cleaning tickets for seed.

**Note:** Follow procedures in 8-LP, subparagraph 535 D to ensure that production evidence includes all required information.

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## Notice LP-1864

### 3 Action

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#### A

#### State Office Action

State Offices shall:

- publicize the content of this notice immediately to the maximum extent possible
  - instruct County Offices to notify all producers immediately of the contents of this notice using all available resources
  - inform County Offices **not** to disburse loan proceeds or issue any LDP's until authorization is received in a future notice.
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#### B

#### County Office Action

County Offices shall:

- notify producers immediately of the contents of this notice using all available resources
  - continue to follow 8-LP, Notice LP-1857, Notice LP-1862, and this notice for assistance in determining when beneficial interest is lost
  - **not** disburse loans or LDP's until regulations are published in the Federal Register
  - use every available resource to inform producers and farm organizations of the beneficial interest provisions and policies for the 2002 and subsequent crop years.
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**Examples of Loss of Beneficial Interest**

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**Example 1**

Farmer Smith delivers his peanuts to the buying point for immediate sale on Monday, September 16. The grading and inspection is completed on the same day and the load is delivered that day and applied to a contract.

Farmer Smith loses beneficial interest on September 16 unless the contract has stipulations which cause beneficial interest to be lost before delivery. This example would require Farmer Smith to request a Field Direct LDP on CCC-709.

**Note:** For crop year 2002 **only**, the producer could request an LDP on CCC-633 LDP and the LDP rate would be based on the rate in effect on September 16, the date the producer loss beneficial interest.

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**Example 2**

Farmer Smith takes his peanuts to the buying point for weighing, grading, and inspection on September 16. The grade and inspection (FV-95) is completed on September 16 and FSA-1007 was prepared on September 17. Mr. Smith applies his peanuts to the contract on September 18. The peanuts are marketed on September 18.

Farmer Smith loses beneficial interest on September 18. Farmer Smith would have to file CCC-633 LDP to obtain an LDP on this load before September 18.

**Note:** For crop year 2002 **only**, the producer may request LDP after September 18 and the LDP rate is based on the rate in effect on September 18.

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**Example 3**

Farmer Smith delivers his peanuts to the buying point and the peanuts are weighed, graded, and dumped in the warehouse. Farmer Smith stores the peanuts in a CCC-approved warehouse and obtains a warehouse receipt for his peanuts. The producer retains beneficial interest in his peanuts until he sells. A loan or LDP can be obtained on these peanuts with his warehouse receipt through the earlier of January 31 of the following year the peanuts are harvested or until the peanuts are sold.

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**Examples of Loss of Beneficial Interest (Continued)**

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**Example 4**

Farmer Smith takes his peanuts to a buying point and the peanuts are weighed, graded, and dumped (delivered) in the warehouse. Farmer Smith stores the peanuts in a CCC-approved warehouse, but the producer does not receive a warehouse receipt for the peanuts. Farmer Smith retains beneficial interest in the peanuts that are stored in the warehouse. The producer can request a certified LDP on the peanuts through the earlier of January 31 of the following year the peanuts are harvested or the date the peanuts are marketed.

See subparagraph 2 C to determine the LDP rate.

**Note:** Because there are no storage requirements for LDP's, the producer is **not** required to submit a warehouse receipt for LDP; however, the producer is subject to spot check and is responsible for providing acceptable production evidence.

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