

For: State and County Offices

**Clarifying 2002 Crop Beneficial Interest Provisions for Wool and Mohair and
Providing 2003 and Subsequent Crop Years Beneficial Interest General Requirements**

Approved by: Deputy Administrator, Farm Programs



1 Overview

A

Background

7 CFR Part 1421.6 and 8-LP, paragraph 129, provide regulations and general program policies for beneficial interest for all eligible loan commodities.

B

Purpose

This notice provides:

- general beneficial interest rules
- additional guidance on Notice LP-1891, subparagraph 4 A
- provisions for determining loss of beneficial interest for peanuts, wool, mohair, and unshorn pelts
- general guidelines for reviewing contracts to determine beneficial interest.

<p>Disposal Date</p> <p>February 1, 2004</p>	<p>Distribution</p> <p>State Offices; State Offices relay to County Offices and FAX to CMA's</p>
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Notice LP-1913

2 General Beneficial Interest Policies

A

Beneficial Interest Overview

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 or other specified term for special commodities, continuously through:

- for LDP, the date LDP is requested
- for loan, the earlier of the following date:
 - the loan is repaid
 - 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.

When beneficial interest in the commodity is lost by the producer, the commodity remains ineligible for loan or LDP even if the producer regains beneficial interest.

B

Determining Loss of Beneficial Interest for all Eligible Loan Commodities

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

- **selling the equity in the eligible loan 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, 1 or more of 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)
 - requires that casualty losses be paid to buyer's account (buyer has risk of loss).

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2 General Beneficial Interest Policies (Continued)

C

Additional Guidance on Notice LP-1891

Notice LP-1891, subparagraph 4 A, instructed State and County Offices to use the LDP rate in effect on the date the commodity was sold for producers who lost beneficial interest in a 2002 crop of wool and mohair before November 4, 2002. Subparagraph 4 C further instructed State and County Offices to use the rate in effect on the date of delivery if the wool was delivered to a wool pool, broker, or intermediary.

To clarify these provisions for producers who lost beneficial interest in a 2002 crop of wool and mohair before November 4, 2002, State and County Offices shall use the LDP rate in effect on the date beneficial interest is lost. This could be the earlier of the date the commodity was:

- sold
 - delivered according to subparagraph F.
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D

Determining Loss of Beneficial Interest for Peanuts

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 following actions relating to the marketing of peanuts will cause loss of beneficial interest:

- 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
- peanuts are covered by a contract or an agreement that specifically states beneficial interest is lost when the peanuts are graded or inspected
- peanuts are delivered to the buying point for immediate sale and are marketed, unless other events cause beneficial interest to be lost before delivery.

Note: Loss of beneficial interest is not limited to these examples.

E

General Beneficial Interest Policy for Wool and Mohair and Unshorn Pelts

For 2003 and subsequent crop years, if beneficial interest is not lost immediately after shearing, producers must submit an LDP request on CCC-633 LDP or CCC-633 PELT for unshorn pelts before the loss of beneficial interest to lock in the rate in effect on the date of request. Producers must submit the LDP request on CCC-709 for wool and mohair or on CCC-709 PELT for unshorn pelts to the County Office before shearing if beneficial interest will be lost immediately upon delivery after the sheep have been shorn or delivered, in which case the producer will receive the rate in effect on the date of delivery.

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2 General Beneficial Interest Policies (Continued)

F

Determining Loss of Beneficial Interest for Wool and Mohair

Beneficial interest in a commodity delivered to a wool pool, broker, or intermediary is lost upon the earlier of the following:

- delivery to the wool pool
 - delivery to an agent of the wool pool, broker, or intermediary.
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Determining Loss of Beneficial Interest for Unshorn Pelts

For producers who produced unshorn pelts from unshorn lambs, beneficial interest is considered lost the earlier of the date:

- of receipt of any payment for the unshorn lambs
- the unshorn lambs are delivered to an order buyer or representative of a slaughter lamb company
- the unshorn lambs are delivered directly to a slaughter lamb company.

Note: For unshorn lambs slaughtered for personal use, beneficial interest is lost at the time of slaughter.

3 Reviewing Contracts to Determine Beneficial Interest

A

Reviewing Contracts

County Offices shall review contracts or leases, to determine whether the producer retains beneficial interest and the date the producer would be considered to have lost beneficial interest. County Offices, before approving a loan or LDP shall:

- require a copy of the contract when the producer requests a loan or LDP
 - review the contract to ensure that title, risk of loss, and control of the commodity remains with the producer until marketed
 - ensure that all addendums referenced in the contract are submitted with the contract, if applicable
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3 Reviewing Contracts to Determine Beneficial Interest (Continued)

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Reviewing Contracts (Continued)

- continue to follow procedures in 8-LP, paragraph 129
- forward contracts to the State Office for review if a determination cannot be made.

State Offices shall refer contracts and all necessary documents relating to the contract and a preliminary determination to PSD **only** if a beneficial interest determination cannot be made.

B

After Contract Approval

Once a contract is reviewed and approved, the approved contract cannot:

- be amended and/or revised unless it was amended and/or revised before the earlier of harvest of the commodity or date beneficial interest is considered to have been lost
 - be replaced or interchanged with other contracts.
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4 Action

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State Office Action

State Offices shall instruct County Offices to notify all producers immediately of the contents of this notice using all available resources.

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 and this notice for assistance in determining when beneficial interest is lost
 - use every available resource to inform producers and farm organizations of the beneficial interest provisions and policies.
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