

**For:** Peanut State and County Offices

**Additional Information About Beneficial  
Interest for 2003 and Subsequent Crop Years for Peanuts**

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



**1 Overview**

**A Background**

Notice LP-1913 provides beneficial interest guidelines for 2003 and subsequent crop years for peanut producers. 7 CFR Part 1421.6 and 8-LP, paragraph 129, provide regulations and general program policies for beneficial interest for all eligible loan commodities.

PSD has received several questions and concerns about beneficial interest as it applies to LDP's for peanuts.

**B Purpose**

This notice provides additional information about peanuts on:

- beneficial interest
- marketing assistance loans (MAL's) and LDP's
- guidelines for reviewing and submitting contracts for loss of beneficial interest determination.

<b>Disposal Date</b>	<b>Distribution</b>
December 1, 2003	Peanut State Offices; State Offices relay to applicable County Offices

## Notice LP-1917

### 2 General Information

#### A General Beneficial Interest Information

To obtain MAL or LDP, producers must maintain beneficial interest in the commodity at the time of request. Beneficial interest consists of the producer maintaining control of the commodity, risk of loss, and title to the commodity. If **any** of these are lost, the producer does not have beneficial interest in the peanuts.

The following table defines beneficial interest, but is not limited to the following:

Condition	Definition
Control of the commodity	A producer has <u>control of the commodity</u> if the producer keeps the ability to make all decision affecting the commodity. For example: <ul style="list-style-type: none"><li>• moving or right to sell or pass title to the peanuts</li><li>• <u>pledging the peanuts for loan or requesting LDP.</u></li></ul>
Risk of loss	A producer has the <u>risk of loss</u> of the peanuts if the producer is: <ul style="list-style-type: none"><li>• responsible for any loss or damage to the peanuts</li><li>• to receive any indemnity to be paid.</li></ul>
Title to the commodity	A producer may be considered to have <u>title to the commodity</u> if the producer has not sold or delivered the peanuts for market, including the delivery of warehouse receipts.

#### B General LDP Information

LDP's are payments made to producers who, although eligible to obtain a CCC loan, agree to forgo the loan in return for a payment on the eligible commodity.

LDP's are:

- assignable
- subject to administrative offset according to 58-FI
- subject to payment limitation
- approved when all eligibility requirements are met
- required to be requested on or before the final loan availability date
- **not** subject to premiums and discounts.

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### 2 General Information (Continued)

#### C Applicable LDP Forms

**CCC-709.** Producers must request LDP on CCC-709 before harvesting peanuts if beneficial interest will be lost immediately at harvest and upon delivery to a warehouse, buyer, cooperative, etc.

CCC-709 can only be terminated if the producer has not harvested any of the peanuts covered by CCC-709. Once harvest has begun, producers cannot terminate CCC-709.

**CCC-633 LDP.** Producers must request LDP on CCC-633 LDP after harvest for any stored peanuts which the producer maintains beneficial interest. Once the LDP request is approved, the payment will be based on the date of request.

#### D No Beneficial Interest Waiver

There are no provisions for waiving beneficial interest for the 2003 and subsequent crop years.

#### E Ineligible Producers

Producers will be ineligible for LDP if the request is not completed on the correct form according to 8-LP and within the beneficial interest guidelines.

#### F FSA-1007

For the 2003 crop year only, FSA-1007 may be considered acceptable production evidence **only** if a producer has filed a completed CCC-709 LDP and the peanuts are immediately sold upon delivery. The date the peanuts are sold will be printed on FSA-1007 and is the date to determine when beneficial interest is lost.

If peanuts are not immediately sold, FSA-1007 is **not** acceptable production evidence. Producers will be required to submit other types of acceptable evidence or load tonnage records, as applicable. Other forms of acceptable production evidence that may be submitted are:

- evidence of sales
- 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.

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### 3 Contract Reviews

#### A Reviewing Contracts

For the 2003 crop year only, the National Office will review and make the final beneficial interest determination for all peanut contracts that have not been approved to date. No further action is required for 2003 crop year contracts already reviewed and approved by the National Office. The following steps provide procedures that must be followed before submitting contracts to the National Office.

Step	Action
1	County Offices, before approving MAL or LDP request shall: <ul style="list-style-type: none"><li>• require a copy of the contract</li><li>• review the contract to ensure that beneficial interest remains with the producer until marketing</li><li>• send a preliminary determination to the State Office for concurrence.</li></ul>
2	State Offices shall: <ul style="list-style-type: none"><li>• review the contract and preliminary determination</li><li>• agree or disagree with determination</li><li>• send forward to the National Office for a final determination.</li></ul>
3	National Office shall: <ul style="list-style-type: none"><li>• review the contract and preliminary determination</li><li>• agree or disagree with determination</li><li>• forward determination to OGC for concurrence</li><li>• FAX the final determination to all FSA peanut States.</li></ul>

#### B Approved Contract

Any contract that has been reviewed and approved by FSA for determining the loss of beneficial interest is not interchangeable or replaceable unless the contract is amended, revised, or canceled before the earlier of the date:

- peanuts are harvested
- beneficial interest is lost.

#### C Amendments, Side Agreements, and Revisions

Any written and/or verbal agreement, or revision to an approved contract, with or without the producer's awareness, may cause the producer to lose beneficial interest and could result in refund of unearned benefits to CCC.

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### 4 State and County Office Action

#### A State Office Action

State Offices shall:

- publicize the contents of this notice immediately to the maximum extent possible
- instruct County Offices to notify all producers of the contents of this notice using all available resources.

#### B County Office Action

County Offices shall:

- notify producers of the contents of this notice by using the letter in Exhibit 1
- continue to follow 8-LP, Notice LP-1913, 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 for the 2003 and subsequent crop years.

**Letter to Producers**

Reproduce the letter in this exhibit, as applicable.

Dear Peanut Producer:

The Farm Security and Rural Investment Act of 2002 provides Nonrecourse Marketing Assistance Loans (MAL) and loan deficiency payments (LDP) for crop years 2002 through 2007 for peanut producers.

This letter provides you with general information regarding the 2003 and subsequent crop years beneficial interest requirements. To obtain a MAL or LDP, producers must maintain beneficial interest in the commodity at the time of the request.

Beneficial interest consists of the producer maintaining control of the commodity, risk of loss, and title to the commodity. If **any** of these are lost, the producer does not have beneficial interest in the peanuts.

The following conditions are examples of, but not limited to, when a producer maintains beneficial interest:

Control of the commodity

The producer can:

- move or has the right sell or pass title of the peanuts
- pledge the peanuts for a MAL or request an LDP.

Risk of loss

The producer is:

- responsible for any loss or damage to the peanuts
- entitled to receive any indemnity to be paid.

Title to the commodity

The producer can:

- deliver the peanuts for market
- deliver warehouse receipts.

**Letter to Producers (Continued)**

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. However, below are actions that may cause producers to lose beneficial interest, but are not limited to, the following:

- selling the equity in the commodity
- signing a contract that includes language which supports loss of beneficial interest:
  - buyer has the option to require the producer to obtain loan or LDP
  - producer must receive authorization from buyer to request a loan or LDP
- peanuts delivered to a sheller for processing (shelling).

For the 2003 crop year only, the FSA County Office shall request a copy of the contract and review the contract to ensure that beneficial interest remains with the producer.

Any contract that has been reviewed and approved by FSA is not interchangeable or replaceable unless the contract is amended, revised, or canceled before the earlier of the date the peanuts are harvested or beneficial interest is lost.

Any written and/or verbal agreement, or revision to an approved contract, with or without the producer's awareness, may cause the producer to lose beneficial interest and could result in refund of unearned benefits to CCC.

There are **no** provisions for waiving the beneficial interest requirement for the 2003 and subsequent crop years. Therefore, you must always have beneficial interest in the peanuts at the time a request is made for a MAL or LDP.

If you have any questions or you need assistance, please contact the FSA Service Center at the address listed above.

Sincerely,

County Executive Director