United States
Department of
Agriculture

Risk
Management
Agency

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BULLETIN NO.: MGR-07-004

TO: All Approved Insurance Providers
All Risk Management Agency Field Offices
All Other Interested Parties

FROM: Eldon Gould */s/ Eldon Gould* *3/23/2007*
Administrator

SUBJECT: Peanut "Option to Purchase" Contracts for the 2007 Crop Year

BACKGROUND:

On September 26, 2006, the Risk Management Agency (RMA) published a final rule in the Federal Register for the Peanut Crop Provisions effective for the 2007 crop year allowing peanut producers to insure peanuts grown under a Sheller Contract at the price stated in the Sheller Contract.

Recently, RMA has received questions from peanut producers, their respective associations and some reinsured companies regarding whether "Option to Purchase" Contracts with Shellers meet the definition of Sheller Contract contained in the Peanut Crop Provisions.

RMA understands these contracts were specifically designed and worded with assistance from USDA Farm Service Agency (FSA) legal counsel and allow producers to retain ownership (beneficial interest) in the peanuts, while they are in the Commodity Credit Corporation loan program, so an eligible producer can obtain a Marketing Assistance Loan (MAL). Once the producer signs the option contract, language in the contract gives the producer at his/her discretion the right to allow the sheller or designated agent to complete additional paperwork in the FSA county office to redeem peanuts on the producer's behalf.

ACTION:

For the 2007 crop year only, Approved Insurance Providers (AIPs) may accept Option to Purchase" Contracts as meeting the definition of Sheller Contract in the Peanut Crop Provisions for determining the base contract price for peanuts grown under a Sheller Contract. Because the term Sheller Contract is a term and condition of the Peanut Crop Provisions, RMA does not have the authority to change such term or require AIPs to accept "Option to Purchase" Contracts. However, RMA will not take any adverse action against AIPs if they accept "Option to Purchase" Contracts as meeting the definition of Sheller Contract under the Peanut Crop Provisions.

For AIPs who choose to accept "Option to Purchase Contracts" the price election for peanuts grown and insured under a Sheller Contract is determined by adding the Sheller option price per pound of peanuts stated in the contract to the 17.75 cents per pound loan rate (MAL) from FSA. This amount is limited to no more than 120 percent of RMA's 19 cent per pound peanut price election, which is 22.8 cents per pound.

At a minimum, the "Option to Purchase" Contract must contain language stating:

- the producer of the peanuts shall store the peanuts at a USDA approved peanut storage facility; and
- the Sheller's option price is contingent upon inspection of the peanuts (all peanuts are inspected when they go into a USDA approved peanut storage facility).

Section 3(c) of the Peanut Crop Provisions states:

> "Any peanuts excluded from the Sheller contract at any time during the crop year will be insured at the price election specified in the Special Provisions"

If the Sheller does not honor the "Option to Purchase" Contract during the crop year, or the producer does not deliver the peanuts to a USDA approved peanut storage facility, the peanut insurance guarantee, premium, and any crop insurance indemnity would be based on the RMA price election of 19 cents per pound.

RMA has been advised peanut producers and Shellers are willing to modify these "Option to Purchase" Contracts for the 2008 crop year to be consistent with the Peanut Crop Provisions, and RMA will assist in that effort as appropriate.

In accordance with the 2007 Peanut Loss Adjustment Standards Handbook (FCIC-25320), Section II, Column H_1, in all cases, the value per pound used for calculating indemnities is the final price per pound the producer will receive for graded production. For all peanuts this includes any price per pound received from the MAL plus any contracted price per pound received from the Sheller. If the peanuts are insured under an "Option to Purchase" Contract and no MAL applies the final price per pound will be the full amount paid to the producer by the Sheller.

<u>Disposal:</u>

This bulletin is effective for the 2007 crop year only and the expiration date is December 31, 2007.