

date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

## § 8712. Payment yields

### (a) Establishment and purpose

For the purpose of making direct payments and counter-cyclical payments under this subchapter, the Secretary shall provide for the establishment of a yield for each farm for any designated oilseed or eligible pulse crop for which a payment yield was not established under section 7912 of this title in accordance with this section.

### (b) Payment yields for designated oilseeds and eligible pulse crops

#### (1) Determination of average yield

In the case of designated oilseeds and eligible pulse crops, the Secretary shall determine the average yield per planted acre for the designated oilseed or pulse crop on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the designated oilseed or pulse crop was zero.

#### (2) Adjustment for payment yield

##### (A) In general

The payment yield for a farm for a designated oilseed or eligible pulse crop shall be equal to the product of the following:

(i) The average yield for the designated oilseed or pulse crop determined under paragraph (1).

(ii) The ratio resulting from dividing the national average yield for the designated oilseed or pulse crop for the 1981 through 1985 crops by the national average yield for the designated oilseed or pulse crop for the 1998 through 2001 crops.

##### (B) No national average yield information available

To the extent that national average yield information for a designated oilseed or pulse crop is not available, the Secretary shall use such information as the Secretary determines to be fair and equitable to establish a national average yield under this section.

#### (3) Use of partial county average yield

If the yield per planted acre for a crop of a designated oilseed or pulse crop for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that designated oilseed or pulse crop, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

#### (4) No historic yield data available

In the case of establishing yields for designated oilseeds and eligible pulse crops, if historic yield data is not available, the Secretary shall use the ratio for dry peas calculated under paragraph (2)(A)(ii) in determining the yields for designated oilseeds and eligible pulse crops, as determined to be fair and equitable by the Secretary.

(Pub. L. 110-234, title I, §1102, May 22, 2008, 122 Stat. 940; Pub. L. 110-246, §4(a), title I, §1102, June 18, 2008, 122 Stat. 1664, 1669.)

## Editorial Notes

### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

### § 8713. Repealed. Pub. L. 113-79, title I, § 1101, Feb. 7, 2014, 128 Stat. 658

Section, Pub. L. 110-234, title I, §1103, May 22, 2008, 122 Stat. 941; Pub. L. 110-246, §4(a), title I, §1103, June 18, 2008, 122 Stat. 1664, 1669, related to availability of direct payments for 2008 through 2012 crop years.

### § 8714. Repealed. Pub. L. 113-79, title I, § 1102(a), Feb. 7, 2014, 128 Stat. 658

Section, Pub. L. 110-234, title I, §1104, May 22, 2008, 122 Stat. 942; Pub. L. 110-246, §4(a), title I, §1104, June 18, 2008, 122 Stat. 1664, 1671, related to availability of counter-cyclical payments for 2008 through 2012 crop years.

### Statutory Notes and Related Subsidiaries

#### CONTINUED APPLICATION FOR 2013 CROP YEAR

Pub. L. 113-79, title I, §1102(b), Feb. 7, 2014, 128 Stat. 658, provided that: "Sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8714, 8754), as in effect on the day before the date of enactment of this Act [Feb. 7, 2014], shall continue to apply through the 2013 crop year with respect to all covered commodities (as defined in section 1001 of that Act (7 U.S.C. 8702)) and peanuts on a farm."

### § 8715. Repealed. Pub. L. 113-79, title I, § 1103(a), Feb. 7, 2014, 128 Stat. 658

Section, Pub. L. 110-234, title I, §1105, May 22, 2008, 122 Stat. 945; Pub. L. 110-246, §4(a), title I, §1105, June 18, 2008, 122 Stat. 1664, 1673, related to the average crop revenue election program available during each of the 2009, 2010, 2011, and 2012 crop years.

### Statutory Notes and Related Subsidiaries

#### CONTINUED APPLICATION FOR 2013 CROP YEAR

Pub. L. 113-79, title I, §1103(b), Feb. 7, 2014, 128 Stat. 658, provided that: "Section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715), as in effect on the day before the date of enactment of this Act [Feb. 7, 2014], shall continue to apply through the 2013 crop year with respect to all covered commodities (as defined in section 1001 of that Act (7 U.S.C. 8702)) and peanuts on a farm for which the irrevocable election under section 1105 of that Act was made before the date of enactment of this Act."

### § 8716. Producer agreement required as condition of provision of payments

#### (a) Compliance with certain requirements

##### (1) Requirements

Before the producers on a farm may receive direct payments, counter-cyclical payments, or average crop revenue election payments with respect to the farm, the producers shall