

farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 7912 of this title.

(c) Time, manner, and availability of payment

(1) Time and manner

A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 8735 of this title.

(2) Availability

(A) In general

The Secretary shall establish an availability period for the payments authorized by this section.

(B) Certain commodities

In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subchapter.

(d) Prohibition on crop insurance indemnity or noninsured crop assistance

A 2008 through 2012 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 7333 of this title.

(Pub. L. 110-234, title I, §1206, May 22, 2008, 122 Stat. 959; Pub. L. 110-246, §4(a), title I, §1206, June 18, 2008, 122 Stat. 1664, 1687.)

REFERENCES IN TEXT

The Federal Crop Insurance Act, referred to in subsection (d), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

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 L. 110-234 was repealed by section 4(a) of Pub.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.

§ 8737. Special marketing loan provisions for upland cotton

(a) Special import quota

(1) Definition of special import quota

In this subsection, the term “special import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(2) Establishment

(A) In general

The President shall carry out an import quota program during the period beginning on the date of enactment of this Act through July 31, 2013, as provided in this subsection.

(B) Program requirements

Whenever the Secretary determines and announces that for any consecutive 4-week

period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered to a definable and significant international market, as determined by the Secretary, exceeds the prevailing world market price, there shall immediately be in effect a special import quota.

(3) Quantity

The quota shall be equal to 1 week’s consumption of cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(4) Application

The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary’s announcement under paragraph (2) and entered into the United States not later than 180 days after that date.

(5) Overlap

A special quota period may be established that overlaps any existing quota period if required by paragraph (2), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (b).

(6) Preferential tariff treatment

The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 2703(d) of title 19;

(B) section 3203 of title 19;

(C) section 2463(d) of title 19; and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(7) Limitation

The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 10 week’s consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(b) Limited global import quota for upland cotton

(1) Definitions

In this subsection:

(A) Supply

The term “supply” means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(i) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(ii) production of the current crop; and

(iii) imports to the latest date available during the marketing year.

(B) Demand

The term “demand” means—

(i) the average seasonally adjusted annual rate of domestic mill consumption of

cotton during the most recent 3 months for which data are available; and

(ii) the larger of—

(I) average exports of upland cotton during the preceding 6 marketing years; or

(II) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(C) Limited global import quota

The term “limited global import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(2) Program

The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of the quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) Quantity

The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available or as estimated by the Secretary.

(B) Quantity if prior quota

If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) Preferential tariff treatment

The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

- (i) section 2703(d) of title 19;
- (ii) section 3203 of title 19;
- (iii) section 2463(d) of title 19; and
- (iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) Quota entry period

When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(3) No overlap

Notwithstanding paragraph (2), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a).

(c) Economic adjustment assistance to users of upland cotton

(1) In general

Subject to paragraph (2), the Secretary shall, on a monthly basis, provide economic adjustment assistance to domestic users of upland cotton in the form of payments for all documented use of that upland cotton during the previous monthly period regardless of the origin of the upland cotton.

(2) Value of assistance

(A) Beginning period

During the period beginning on August 1, 2008, and ending on July 31, 2012, the value of the assistance provided under paragraph (1) shall be 4 cents per pound.

(B) Subsequent period

Effective beginning on August 1, 2012, the value of the assistance provided under paragraph (1) shall be 3 cents per pound.

(3) Allowable purposes

Economic adjustment assistance under this subsection shall be made available only to domestic users of upland cotton that certify that the assistance shall be used only to acquire, construct, install, modernize, develop, convert, or expand land, plant, buildings, equipment, facilities, or machinery.

(4) Review or audit

The Secretary may conduct such review or audit of the records of a domestic user under this subsection as the Secretary determines necessary to carry out this subsection.

(5) Improper use of assistance

If the Secretary determines, after a review or audit of the records of the domestic user, that economic adjustment assistance under this subsection was not used for the purposes specified in paragraph (3), the domestic user shall be—

(A) liable to repay the assistance to the Secretary, plus interest, as determined by the Secretary; and

(B) ineligible to receive assistance under this subsection for a period of 1 year following the determination of the Secretary.

(Pub. L. 110-234, title I, §1207, May 22, 2008, 122 Stat. 960; Pub. L. 110-246, §4(a), title I, §1207, June 18, 2008, 122 Stat. 1664, 1689.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (a)(2)(A), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

The Harmonized Tariff Schedule, referred to in subsecs. (a)(6)(D) and (b)(2)(C)(iv), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

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.

§ 8738. Special competitive provisions for extra long staple cotton

(a) Competitiveness program

Notwithstanding any other provision of law, during the period beginning on the date of en-