

subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 8735(c) of this title in effect, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii) the payment yield in effect for the calculation of direct payments under subchapter I with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 7912 of this title.

**(2) Grazing of triticale acreage**

The amount of a payment made under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 8735(c) of this title in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii) the payment yield in effect for the calculation of direct payments under subchapter I with respect to wheat on the 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.

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.

**§ 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) 1<sup>3</sup>/<sub>32</sub>-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 re-

quired 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).

(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; Pub. L. 115-334, title I, §1203(a), Dec. 20, 2018, 132 Stat. 4510.)

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.

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-334 struck out subsec. (c) which related to economic adjustment assistance to users of upland cotton.

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.

**§ 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 enactment of this Act through July 31, 2013, the Secretary shall carry out a program—

- (1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;
- (2) to increase exports of extra long staple cotton produced in the United States; and
- (3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

**(b) Payments under program; trigger**

Under the program, the Secretary shall make payments available under this section whenever—

- (1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and
- (2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

**(c) Eligible recipients**

The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

**(d) Payment amount**

Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

(Pub. L. 110-234, title I, §1208, May 22, 2008, 122 Stat. 963; Pub. L. 110-246, §4(a), title I, §1208, June 18, 2008, 122 Stat. 1664, 1692.)

REFERENCES IN TEXT

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

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.

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.

**§ 8739. Availability of recourse loans for high moisture feed grains and seed cotton**

**(a) High moisture feed grains**

**(1) Definition of high moisture state**

In this subsection, the term “high moisture state” means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 8731 of this title.

**(2) Recourse loans available**

For each of the 2008 through 2012 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

**(3) Eligibility of acquired feed grains**

A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer’s farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subchapter I or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.