

**(2) Omitted**

(Pub. L. 107-171, title I, §1205, May 13, 2002, 116 Stat. 158.)

**Editorial Notes****CODIFICATION**

Section is comprised of section 1205 of Pub. L. 107-171. Subsec. (f)(2) of section 1205 of Pub. L. 107-171 amended section 7235 of this title.

**§ 7936. Payments in lieu of loan deficiency payments for grazed acreage****(a) Eligible producers****(1) In general**

Effective for the 2002 through 2007 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 7935 of this title for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

**(2) Grazing of triticale acreage**

Effective for the 2002 through 2007 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

**(b) Payment amount****(1) In general**

The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 7935(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(c) 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 7935(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(c) 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 7935 of this title.

**(2) Availability**

The Secretary shall establish an availability period for the payments authorized by this section. 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 2002 through 2007 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 the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or non-insured crop assistance under section 7333 of this title.

(Pub. L. 107-171, title I, §1206, May 13, 2002, 116 Stat. 159.)

**Editorial Notes****REFERENCES IN TEXT**

This subchapter, referred to in subsec. (c)(2), was in the original “this subtitle”, meaning subtitle B (§§1201-1209) of title I of Pub. L. 107-171, May 13, 2002, 116 Stat. 155, which is classified principally to this subchapter. For complete classification of subtitle B to the Code, see Tables.

The Federal Crop Insurance Act, referred to in subsec. (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.

**§ 7937. Special marketing loan provisions for upland cotton**

**(a) Repealed. Pub. L. 109-171, title I, § 1103(a)(1), Feb. 8, 2006, 120 Stat. 5**

**(b) Special import quota****(1) Establishment****(A) In general**

The President shall carry out an import quota program during the period beginning

on May 13, 2002, through July 31, 2008, as provided in this subsection.

**(B) Program requirements**

Except as provided in subparagraph (C), 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 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

**(C) Tight domestic supply**

During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe.

**(D) Season-ending United States stocks-to-use ratio**

For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

**(E) Delayed application of threshold**

Through July 31, 2006, the Secretary shall make the calculation under subparagraph (B) without regard to the 1.25 cent threshold provided under that subparagraph.

**(2) Quantity**

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

**(3) Application**

The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

**(4) Overlap**

A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

**(5) 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.

**(6) Definition**

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.

**(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 5 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.

**(c) Limited global import quota for upland cotton**

**(1) In general**

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 such 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.

**(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) Definitions**

In this subsection:

**(i) 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 (ad-

justed 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.

**(ii) Demand**

The term “demand” means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

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

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

**(iii) 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.

**(E) 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.

**(2) No overlap**

Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

(Pub. L. 107-171, title I, §1207, May 13, 2002, 116 Stat. 161; Pub. L. 109-171, title I, §1103(a), Feb. 8, 2006, 120 Stat. 5.)

**Editorial Notes**

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (b)(5)(D) and (c)(1)(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.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-171, §1103(a)(1), struck out subsec. (a), which related to cotton user marketing certificates.

Subsec. (b)(1)(B). Pub. L. 109-171, §1103(a)(2)(A), struck out “, adjusted for the value of any certificate issued under subsection (a) of this section,” after “C.I.F. Northern Europe”.

Subsec. (b)(1)(C). Pub. L. 109-171, §1103(a)(2)(B), struck out “, for the value of any certificates issued under subsection (a) of this section” before period at end.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title I, §1103(b), Feb. 8, 2006, 120 Stat. 5, provided that: “The amendments made by this section [amending this section] take effect on August 1, 2006.”

**§ 7938. Special competitive provisions for extra long staple cotton**

**(a) Competitiveness program**

Notwithstanding any other provision of law, during the period beginning on May 13, 2002,

through July 31, 2008, 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.

**(e) Form of payment**

Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

(Pub. L. 107-171, title I, §1208, May 13, 2002, 116 Stat. 164.)

**§ 7939. Availability of recourse loans for high moisture feed grains and seed cotton**

**(a) High moisture feed grains**

**(1) Recourse loans available**

For each of the 2002 through 2007 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;