

and small chickpeas, see section 763(d) of Pub. L. 108-7, set out as a note under section 7901 of this title.

### § 7935. Loan deficiency payments

#### (a) Availability of loan deficiency payments

##### (1) In general

Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 7931 of this title with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

##### (2) Unshorn pelts, hay, and silage

Nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 7931 of this title. However, effective for the 2002 through 2007 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

#### (b) Computation

A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be computed by multiplying—

(1) the payment rate determined under subsection (c) for the commodity; by

(2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 7931 of this title.

#### (c) Payment rate

##### (1) In general

In the case of a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 7932 of this title for the loan commodity; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 7934 of this title.

##### (2) Unshorn pelts

In the case of unshorn pelts, the payment rate shall be the amount by which—

(A) the loan rate established under section 7932 of this title for ungraded wool; exceeds

(B) the rate at which a marketing assistance loan for ungraded wool may be repaid under section 7934 of this title.

##### (3) Hay and silage

In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 7932 of this title for the loan commodity from which the hay or silage is derived; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 7934 of this title.

#### (d) Exception for extra long staple cotton

This section shall not apply with respect to extra long staple cotton.

#### (e) Effective date for payment rate determination

The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

#### (f) Special loan deficiency payment rules

##### (1) First-time loan commodities

For the 2002 crop of wool, mohair, honey, dry peas, lentils and small chickpeas, in the case of producers of such a crop that would be eligible for a loan deficiency payment under this section except for the fact that the producers lost beneficial interest in the crop prior to the date of publication of the regulations implementing this section, the producers shall be eligible for a loan deficiency payment as of the date producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary.

##### (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 noninsured 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<sup>3</sup>/<sub>32</sub>-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<sup>3</sup>/<sub>32</sub>-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