

§ 7506. Assurances; anticipated use

(a) The Secretary shall take such precautions as the Secretary deems necessary to assure that any eligible recipient agency receiving commodities under this chapter will provide such commodities to persons served by the eligible recipient agency and will not diminish its normal expenditures for food by reason of the receipt of such commodities. The Secretary shall also take such precautions as the Secretary deems necessary to assure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall not make commodities available for donation in any quantity or manner that the Secretary, in the Secretary's discretion, determines may, substitute for the same or any other agricultural produce that would otherwise be purchased in the market.

(b) Commodities provided under this chapter shall be distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

(Pub. L. 98-8, title II, §203C, as added Pub. L. 98-92, §2(5), Sept. 2, 1983, 97 Stat. 610; amended Pub. L. 99-198, title XV, §1566, Dec. 23, 1985, 99 Stat. 1591; Pub. L. 104-66, title I, §1011(k), Dec. 21, 1995, 109 Stat. 710.)

AMENDMENTS

1995—Subsec. (a). Pub. L. 104-66 struck out at end “The Secretary shall submit to Congress each year a report as to whether and to what extent such displacements or substitutions are occurring.”

1985—Subsec. (a). Pub. L. 99-198 inserted at end “The Secretary shall submit to Congress each year a report as to whether and to what extent such displacements or substitutions are occurring.”

EFFECTIVE DATE

Pub. L. 98-92, §2, Sept. 2, 1983, 97 Stat. 608, provided in part that this section is effective Oct. 1, 1983.

§ 7507. State and local supplementation of commodities**(a) Authorization**

The Secretary shall establish procedures under which State and local agencies, charitable institutions, or any other persons may supplement the commodities distributed under the program authorized by this chapter for use by emergency feeding organizations with nutritious and wholesome commodities that such entities or persons donate to State agencies and emergency feeding organizations for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) Use of funds and facilities

States and emergency feeding organizations may use the funds appropriated under this chapter and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter, and the personnel, both paid or volunteer, involved in such storage, handling, or distribution, to store, handle or dis-

tribute commodities donated for the use of emergency feeding organizations under subsection (a) of this section.

(c) Volunteer workers

State and emergency feeding organizations shall continue, to the maximum extent practicable, to use volunteer workers and commodities and other foodstuffs donated by charitable and other organizations in the operation of the program authorized by this section.

(Pub. L. 98-8, title II, §203D, as added Pub. L. 100-435, title I, §102, Sept. 19, 1988, 102 Stat. 1647.)

EFFECTIVE DATE

Section to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.

§ 7508. Authorization and appropriations

(a)(1) There are authorized to be appropriated \$100,000,000 for fiscal year 2008 and each fiscal year thereafter for the Secretary to make available to the States to pay for the direct and indirect costs of the States related to the processing, storage, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this chapter and commodities secured from other sources, including commodities secured by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100-435)) and donated wild game. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis, dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are divided among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States.

(2) Each State shall make available to emergency feeding organizations in the State not less than 40 per centum of the funds provided as authorized in paragraph (1) that it has been allocated for a fiscal year, as necessary to pay for, or provide advance payments to cover, the direct expenses of the emergency feeding organizations for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such organizations. As used in this paragraph, the term “direct expenses” includes costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after they are received by the organization; costs associated with determinations of eligibility, verification, and documentation; costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; costs involved in publishing announcements of times and locations of distribution; and costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter. If a State makes a payment, using State funds, to cover direct expenses of emergency feeding organizations, the amount of such payment shall be counted to-

ward the amount a State must make available for direct expenses of emergency feeding organizations under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or emergency feeding organizations for costs other than those involved in covering the expenses related to the distribution of commodities by emergency feeding organizations.

(4)(A) Except as provided in subparagraph (B), effective January 1, 1987, to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and
(ii) any part of the amount allocated to the State and paid by the State—

(I) to emergency feeding organizations; or
(II) for the direct expenses of such organizations;

for use in carrying out this chapter.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to States beginning on January 1, 1987.

(ii) If the legislature of a State does not convene in regular session before January 1, 1987, paragraph (1) shall apply to such State beginning on October 1, 1987.

(C) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(5) States may not charge for commodities made available to emergency feeding organizations, and may not pass on to such organizations the cost of any matching requirements, under this chapter.

(b) The value of the commodities made available under this chapter and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations made or authorized under this section.

(Pub. L. 98–8, title II, §204, Mar. 24, 1983, 97 Stat. 35; Pub. L. 98–92, §2(6), Sept. 2, 1983, 97 Stat. 610; Pub. L. 99–198, title XV, §1569, Dec. 23, 1985, 99 Stat. 1592; Pub. L. 100–77, title VIII, §813, July 22, 1987, 101 Stat. 537; Pub. L. 100–435, title I, §§103(a)–(c), 105(a), Sept. 19, 1988, 102 Stat. 1647, 1650; Pub. L. 101–624, title XVII, §1772(c), (d), Nov. 28, 1990, 104 Stat. 3808, 3809; Pub. L. 104–127, title IV, §403(a), Apr. 4, 1996, 110 Stat. 1029; Pub. L. 104–193, title VIII, §871(c), (e)(2), Aug. 22, 1996, 110 Stat. 2345; Pub. L. 107–171, title IV, §4204, May 13, 2002, 116 Stat. 330; Pub. L. 110–234, title IV, §§4201(c), 4406(b)(1), May 22, 2008, 122 Stat. 1121, 1141; Pub. L. 110–246, §4(a), title IV, §§4201(c), 4406(b)(1), June 18, 2008, 122 Stat. 1664, 1882, 1902.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–246, §4406(b)(1), in first sentence, substituted “for fiscal year 2008 and each fiscal year thereafter” for “for each of the fiscal years 2003 through 2007”.

Pub. L. 110–246, §4201(c), in first sentence, substituted “\$100,000,000” for “\$60,000,000” and inserted “and donated wild game” before period at end.

2002—Subsec. (a)(1). Pub. L. 107–171, in first sentence, substituted “\$60,000,000” for “\$50,000,000” and “2003 through 2007” for “1991 through 2002”, struck out “administrative” before “costs of the States”, and inserted “storage,” after “processing,” and “, including commodities secured by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100–435))” after “sources”.

1996—Subsec. (a). Pub. L. 104–193, §871(e)(2), made technical amendment to reference in original act which appears in text as reference to “this chapter” in second sentence of par. (1), in second sentence of par. (2) immediately before concluding period, and in concluding provisions of par. (4)(A).

Subsec. (a)(1). Pub. L. 104–193, §871(c), in first sentence, substituted “to pay for the direct and indirect administrative costs of the States related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this chapter and commodities secured from other sources” for “for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under this chapter” and struck out at end “States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988 [section 110 of Pub. L. 100–435, set out above], and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 7515 of this title”.

Pub. L. 104–127 substituted “2002” for “1995” in first sentence.

1990—Subsec. (a). Pub. L. 101–624, §1772(c)(1), (2), redesignated subsec. (c) as (a) and struck out former subsec. (a) which read as follows: “There is appropriated for the period ending September 30, 1983, \$50,000,000 for the Secretary to make available to the States for storage and distribution costs, of which not less than \$10,000,000 shall be made available for paying the actual costs incurred by charitable institutions, food banks, hunger centers, soup kitchens, and similar nonprofit organizations providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons, provided that in no case shall such payments exceed five per centum of the value of commodities distributed by any such agency.”

Subsec. (a)(1). Pub. L. 101–624, §1772(c)(3), substituted “1991 through 1995” for “ending September 30, 1986, through September 30, 1990.”

Subsec. (a)(2). Pub. L. 101–624, §1772(d), inserted “repackaging, processing,” after “handling,” in second sentence.

Subsec. (b). Pub. L. 101–624, §1772(c)(1), (2), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: “There are hereby authorized to be appropriated \$50,000,000 for each of the fiscal years ending September 30, 1984, and September 30, 1985, for the Secretary to make available to the States for storage and distribution costs of which not less than twenty per centum of the amount appropriated under this subsection in any fiscal year shall be made available for paying or providing advance payments to cover the actual costs incurred by charitable institutions, food

banks, hunger centers, soup kitchens, and similar non-profit eligible recipient agencies providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons: *Provided*, That in no case shall such payments exceed five per centum of the value of commodities distributed by any such agency.”

Subsecs. (c), (d). Pub. L. 101-624, §1772(c)(2), redesignated subsec. (c) and (d) as (a) and (b), respectively.

1988—Subsec. (c)(1). Pub. L. 100-435, §105(a), inserted at end “States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988, and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 7515 of this title.”

Pub. L. 100-435, §103(a), substituted “through September 30, 1990” for “through September 30, 1988” in first sentence.

Subsec. (c)(2). Pub. L. 100-435, §103(b), (c), in first sentence, substituted “40” for “20” and, in second sentence, inserted “costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities;” after “documentation;”.

1987—Subsec. (c)(1). Pub. L. 100-77 substituted “through September 30, 1988” for “and September 30, 1987” in first sentence.

1985—Subsecs. (c), (d). Pub. L. 99-198 added subsec. (c) and redesignated former subsec. (c) as (d).

1983—Subsecs. (b), (c). Pub. L. 98-92 added subsec. (b), designated former last sentence of subsec. (a) as (c), and substituted therein “appropriations made or authorized under this section” for “this appropriation”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment 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, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

Amendment by sections 4201(c) and 4406(b)(1) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-171 effective Oct. 1, 2002, except as otherwise provided, see section 4405 of Pub. L. 107-171, set out as an Effective Date note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1772(c) of Pub. L. 101-624 effective Oct. 1, 1990, and amendment by section 1772(d) of Pub. L. 101-624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101-624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 103(a)-(c) of Pub. L. 100-435 to be effective and implemented on Sept. 19, 1988, and amendment by section 105(a) of Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(1) of Pub. L. 100-435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-92, §2, Sept. 2, 1983, 97 Stat. 608, provided in part that the amendment made by section 2 is effective Oct. 1, 1983.

§ 7509. Relationship to other programs

(a) Section 2013(b) of this title shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 7504 of this title, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

(Pub. L. 98-8, title II, §205, Mar. 24, 1983, 97 Stat. 36; Pub. L. 98-92, §2(7), Sept. 2, 1983, 97 Stat. 611; Pub. L. 110-234, title I, §4002(b)(1)(B), (2)(I), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (2)(I), June 18, 2008, 122 Stat. 1664, 1857, 1858.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, §4002(b)(1)(B), (2)(I), made technical amendment to reference in original act which appears in text as reference to section 2013(b) of this title.

1983—Pub. L. 98-92 substituted “Relationship to other programs” for “Relationships to food stamps” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment 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, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

Amendment by section 4002(b)(1)(B), (2)(I) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-92, §2, Sept. 2, 1983, 97 Stat. 608, provided in part that the amendment made by section 2 is effective Oct. 1, 1983.

§ 7510. Commodities not income

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for any purposes under any Federal, State, or local law.

(Pub. L. 98-8, title II, §206, Mar. 24, 1983, 97 Stat. 36.)

§ 7511. Prohibition against certain State charges

Whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State’s direct costs of storing and transporting the commodities to recipient agencies minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

(Pub. L. 98-8, title II, §208, Mar. 24, 1983, 97 Stat. 36.)

§ 7511a. Emergency food program infrastructure grants

(a) Definition of eligible entity

In this section, the term “eligible entity” means an emergency feeding organization.