

all requests for a particular commodity under this chapter, the State agency shall give priority in the distribution of such commodity to 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. Each State agency shall encourage distribution of such commodities in rural areas.

**(c) Distribution to needy persons**

Each State agency receiving commodities for individual household use under this chapter shall distribute such commodities to eligible recipient agencies in the State that serve needy persons, and shall, with the approval of the Secretary, determine those persons in the State that shall qualify as needy persons eligible for such commodities.

**(d) Cooperative agreements with adjoining States**

Each State agency receiving commodities under this chapter may—

- (1) enter into cooperative agreements with State agencies of other States for joint provision of such commodities to an emergency feeding organization that serves needy persons in a single geographical area part of which is situated in each of such States; or
- (2) transfer such commodities to any such emergency feeding organization in the other State under such agreement.

(Pub. L. 98-8, title II, §203B, as added Pub. L. 98-92, §2(5), Sept. 2, 1983, 97 Stat. 610; amended Pub. L. 99-198, title XV, §1568, Dec. 23, 1985, 99 Stat. 1592; Pub. L. 100-435, title I, §105(c), Sept. 19, 1988, 102 Stat. 1651; Pub. L. 104-193, title VIII, §871(e)(1), Aug. 22, 1996, 110 Stat. 2345.)

**Editorial Notes**

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-193 substituted “203A”, which was translated as “section 7504 of this title”, for “203 and 203A of this Act”.

1988—Subsec. (a). Pub. L. 100-435 inserted at end “Notwithstanding any other provision of this chapter, in the distribution of commodities under this chapter, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.”

1985—Subsec. (b). Pub. L. 99-198, §1568(a), inserted at end “Each State agency shall encourage distribution of such commodities in rural areas.”

Subsec. (d). Pub. L. 99-198, §1568(b), added subsec. (d).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

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

**§ 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.)

**Editorial Notes**

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.”

**Statutory Notes and Related Subsidiaries**

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 distribute commodities donated for the use of emergency feeding organizations under subsection (a).

**(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.

**(d) Projects to harvest, process, package, or transport donated commodities**

**(1) Definition of project**

In this subsection, the term “project” means the harvesting, processing, packaging, or transportation of unharvested, unprocessed, or unpackaged commodities donated by agricultural producers, processors, or distributors for use by emergency feeding organizations under subsection (a).

**(2) Federal funding for projects**

**(A) In general**

Subject to subparagraphs (B) and (C) and paragraph (3), using funds made available under paragraph (5), the Secretary may provide funding to States to pay for the costs of carrying out a project.

**(B) Federal share**

The Federal share of the cost of a project under subparagraph (A) shall not exceed 50 percent of the total cost of the project.

**(C) Allocation**

**(i) In general**

Each fiscal year, the Secretary shall allocate the funds made available under subparagraph (A), based on a formula determined by the Secretary, to States that have submitted a State plan describing a plan of operation for a project under section 7503(b)(5) of this title.

**(ii) Reallocation**

If the Secretary determines that a State will not expend all of the funds allocated to the State for a fiscal year under clause (i), the Secretary shall reallocate the unexpended funds to other States that have submitted under section 7503(b)(5) of this title a State plan describing a plan of operation for a project during that fiscal year or the subsequent fiscal year, as the Secretary determines appropriate.

**(iii) Reports**

Each State to which funds are allocated for a fiscal year under this subparagraph shall, on a regular basis, submit to the Secretary financial reports describing the use of the funds.

**(3) Project purposes**

A State may only use Federal funds received under paragraph (2) for a project the purposes of which are—

(A) to reduce food waste at the agricultural production, processing, or distribution level through the donation of food;

(B) to provide food to individuals in need; and

(C) to build relationships between agricultural producers, processors, and distributors and emergency feeding organizations through the donation of food.

**(4) Cooperative agreements**

The Secretary may encourage a State agency that carries out a project using Federal funds received under paragraph (2) to enter into cooperative agreements with State agencies of other States under section 7505(d) of this title to maximize the use of commodities donated under the project.

**(5) Funding**

Out of funds not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$4,000,000 for each of fiscal years 2019 through 2023, to remain available until the end of the subsequent fiscal year.

**(e) Food waste**

The Secretary shall issue guidance outlining best practices to minimize the food waste of the commodities donated under subsection (a).

**(f) Food donation standards**

**(1) Definitions**

In this subsection:

**(A) Apparently wholesome food**

The term “apparently wholesome food” has the meaning given the term in section 1791(b) of title 42.

**(B) Institution of higher education**

The term “institution of higher education” has the meaning given the term in section 1002 of title 20.

**(C) Qualified direct donor**

The term “qualified direct donor” means a retail food store, wholesaler, agricultural producer, restaurant, caterer, school food authority, or institution of higher education.

**(2) Guidance**

**(A) In general**

Not later than 180 days after December 20, 2018, the Secretary shall issue guidance to promote awareness of donations of apparently wholesome food protected under section 1791(c) of title 42 by qualified direct donors in compliance with applicable State and local health, food safety, and food handling laws (including regulations).

**(B) Issuance**

The Secretary shall encourage State agencies and emergency feeding organizations to share the guidance issued under subparagraph (A) with qualified direct donors.

(Pub. L. 98–8, title II, §203D, as added Pub. L. 100–435, title I, §102, Sept. 19, 1988, 102 Stat. 1647; amended Pub. L. 115–334, title IV, §§4018(b), (c), 4104, Dec. 20, 2018, 132 Stat. 4648, 4649, 4655.)

**Editorial Notes**

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115–334, §4018(b), (c), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 115-334, § 4104, added subsec. (f).

### Statutory Notes and Related Subsidiaries

#### 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 toward 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 distribu-

tion 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.)

### Editorial Notes

#### 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