

PART B—MILK DONATION PROGRAM

Editorial Notes

CODIFICATION

Pub. L. 115-334, title I, §1404(b)(1), Dec. 20, 2018, 132 Stat. 4519, substituted “Milk Donation Program” for “Dairy Product Donation Program” in part heading.

§ 9071. Milk donation program**(a) Definitions**

In this section:

(1) Eligible dairy organization

The term “eligible dairy organization” means a dairy farmer (either individually or as part of a cooperative), or a dairy processor, who—

(A) accounts to a Federal milk marketing order marketwide pool; and

(B) incurs qualified expenses under subsection (e).

(2) Eligible distributor

The term “eligible distributor” means a public or private nonprofit organization that distributes donated eligible milk.

(3) Eligible milk

The term “eligible milk” means Class I fluid milk products produced and processed in the United States.

(4) Eligible partnership

The term “eligible partnership” means a partnership between an eligible dairy organization and an eligible distributor.

(5) Participating partnership

The term “participating partnership” means an eligible partnership for which the Secretary has approved a donation and distribution plan for eligible milk under subsection (c)(2).

(b) Program required; purposes

Not later than 180 days after December 20, 2018, the Secretary shall establish and administer a milk donation program for the purposes of—

(1) encouraging the donation of eligible milk;

(2) providing nutrition assistance to individuals in low-income groups; and

(3) reducing food waste.

(c) Donation and distribution plans**(1) In general**

To be eligible to receive reimbursement under subsection (d), an eligible partnership shall submit to the Secretary a donation and distribution plan that—

(A) describes the process that the eligible partnership will use for the donation, processing, transportation, temporary storage, and distribution of eligible milk;

(B) includes an estimate of the quantity of eligible milk that the eligible partnership will donate each year, based on—

(i) preplanned donations; and

(ii) contingency plans to address unanticipated donations; and

(C) describes the rate at which the eligible partnership will be reimbursed, which shall

be based on a percentage of the limitation described in subsection (e)(2), not to exceed 100 percent.

(2) Review and approval

Not less frequently than annually, the Secretary shall—

(A) review donation and distribution plans submitted under paragraph (1); and

(B) determine whether to approve or disapprove each of those donation and distribution plans.

(d) Reimbursement**(1) In general**

On receipt of appropriate documentation under paragraph (2), the Secretary shall reimburse an eligible dairy organization that is a member of a participating partnership on a regular basis for qualified expenses described in subsection (e).

(2) Documentation**(A) In general**

An eligible dairy organization shall submit to the Secretary such documentation as the Secretary may require to demonstrate the qualified expenses described in subsection (e) of the eligible dairy organization.

(B) Verification

The Secretary may verify the accuracy of documentation submitted under subparagraph (A) by spot checks and audits.

(3) Retroactive reimbursement

In providing reimbursements under paragraph (1), the Secretary may provide reimbursements for qualified expenses incurred before the date on which the donation and distribution plan for the applicable participating partnership was approved by the Secretary.

(e) Qualified expenses**(1) In general**

The amount of a reimbursement under subsection (d) shall be an amount equal to the product of—

(A) the quantity of eligible milk donated by the eligible dairy organization under a donation and distribution plan approved by the Secretary under subsection (c); and

(B) subject to the limitation under paragraph (2), the rate described in that donation and distribution plan under subsection (c)(1)(C).

(2) Limitation

Expenses eligible for reimbursement under subsection (d) shall not exceed the value that an eligible dairy organization incurred by accounting to the Federal milk marketing order pool at the difference in the Class I milk value and the lowest classified price for the applicable month (either Class III milk or Class IV milk).

(f) Preapproval**(1) In general**

The Secretary shall—

(A) establish a process for an eligible partnership to apply for preapproval of donation

and distribution plans under subsection (c); and

(B) not less frequently than annually, preapprove an amount for qualified expenses described in subsection (e) that the Secretary will allocate for reimbursement under each donation and distribution plan preapproved under subparagraph (A), based on an assessment of—

- (i) the feasibility of the plan; and
- (ii) the extent to which the plan advances the purposes described in subsection (b).

(2) Preference

In preapproving amounts for reimbursement under paragraph (1)(B), the Secretary shall give preference to eligible partnerships that will provide funding and in-kind contributions in addition to the reimbursements.

(3) Adjustments

(A) In general

The Secretary shall adjust or increase amounts preapproved for reimbursement under paragraph (1)(B) based on performance and demand.

(B) Requests for increase

(i) In general

The Secretary shall establish a procedure for a participating partnership to request an increase in the amount preapproved for reimbursement under paragraph (1)(B) based on changes in conditions.

(ii) Interim approval; incremental increase

The Secretary may provide an interim approval of an increase requested under clause (i) and an incremental increase in the amount of reimbursement to the applicable participating partnership to allow time for the Secretary to review the request without interfering with the donation and distribution of eligible milk by the participating partnership.

(g) Prohibition on resale of products

(1) In general

An eligible distributor that receives eligible milk donated under this section may not sell the products back into commercial markets.

(2) Prohibition on future participation

An eligible distributor that the Secretary determines has violated paragraph (1) shall not be eligible for any future participation in the program established under this section.

(h) Administration

The Secretary shall publicize opportunities to participate in the program established under this section.

(i) Reviews

The Secretary shall conduct appropriate reviews or audits to ensure the integrity of the program established under this section.

(j) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this

section \$9,000,000 for fiscal year 2019, and \$5,000,000 for each fiscal year thereafter, to remain available until expended.

(Pub. L. 113-79, title I, §1431, as added Pub. L. 115-334, title I, §1404(b)(1), Dec. 20, 2018, 132 Stat. 4519.)

Editorial Notes

PRIOR PROVISIONS

A prior section 9071, Pub. L. 113-79, title I, §1431, Feb. 7, 2014, 128 Stat. 695, related to dairy product donation program, prior to repeal by Pub. L. 115-334, title I, §1404(a), Dec. 20, 2018, 132 Stat. 4519.

§ 9071a. Dairy donation program

(a) Definitions

In this section:

(1) Eligible dairy organization

The term “eligible dairy organization” has the meaning given the term in section 9071(a) of this title.

(2) Eligible dairy product

The term “eligible dairy product” means a product primarily made from milk, including fluid milk, that is produced and processed in the United States.

(3) Eligible distributor

The term “eligible distributor” means a public or private nonprofit organization that distributes donated eligible dairy products to recipient individuals and families.

(4) Eligible partnership

The term “eligible partnership” means a partnership between an eligible dairy organization and an eligible distributor.

(b) Establishment and purposes

Not later than 60 days after December 27, 2020, the Secretary shall establish and administer a dairy donation program for the purposes of—

- (1) facilitating the timely donation of eligible dairy products; and
- (2) preventing and minimizing food waste.

(c) Donation and distribution plans

(1) In general

To be eligible to receive reimbursement under subsection (d), an eligible partnership shall submit to the Secretary a donation and distribution plan that describes the process that the eligible partnership will use for the donation, processing, transportation, temporary storage, and distribution of eligible dairy products.

(2) Review and approval

(A) In general

Not later than 15 business days after receiving a plan described in paragraph (1), the Secretary shall—

- (i) review that plan; and
- (ii) issue an approval or disapproval of that plan.

(B) Emergency and disaster-related prioritization

(i) In general

In receiving and reviewing a donation and distribution plan submitted under