

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

paragraph (1), the Secretary shall determine whether an emergency or disaster was a substantial factor in the submission, including—

(I) a declared or renewed public health emergency under section 247d of title 42; and

(II) a disaster designated by the Secretary.

(ii) Priority review

On making an affirmative determination under clause (i) with respect to a donation and distribution plan submitted under paragraph (1), the Secretary shall give priority to the approval or disapproval of that plan.

(d) Reimbursement

(1) In general

On receipt of appropriate documentation under paragraph (3), the Secretary shall reimburse an eligible dairy organization that is a member of an eligible partnership for which the Secretary has approved a donation and distribution plan under subsection (c)(2)(A)(ii) at a rate equal to the product obtained by multiplying—

(A) the current reimbursement price described in paragraph (2); and

(B) the volume of milk required to make the donated eligible dairy product.

(2) Reimbursement price

The Secretary—

(A) shall set the reimbursement price referred to in paragraph (1)(A) at a value that shall—

(i) be representative of the cost of the milk required to make the donated eligible dairy product;

(ii) be between the lowest and highest of the class I, II, III, or IV milk prices on the date of the production of the eligible dairy product;

(iii) be sufficient to avoid food waste; and

(iv) not interfere with the commercial marketing of milk or dairy products;

(B) may set appropriate reimbursement prices under subparagraph (A) for different eligible dairy products by class and region for the purpose of—

(i) encouraging the donation of surplus eligible dairy products;

(ii) facilitating the orderly marketing of milk;

(iii) reducing volatility relating to significant market disruptions;

(iv) maintaining traditional price relationships between classes of milk; or

(v) stabilizing on-farm milk prices.

(3) Documentation

(A) In general

An eligible dairy organization shall submit to the Secretary such documentation as the Secretary may require to demonstrate—

(i) the production of the eligible dairy product; and

(ii) the donation of the eligible dairy product to an eligible distributor.

(B) Verification

The Secretary may verify the accuracy of documentation submitted under subparagraph (A).

(4) Retroactive reimbursement

In providing reimbursements under paragraph (1), the Secretary may provide reimbursements for eligible dairy product costs incurred before the date on which the donation and distribution plan for the applicable participating partnership was approved by the Secretary under subsection (c)(2)(A)(ii).

(5) Emergency and disaster-related prioritization

In providing reimbursements under paragraph (1), the Secretary shall give priority to reimbursements to eligible dairy organizations covered by a donation and distribution plan for which the Secretary makes an affirmative determination under subsection (c)(2)(B)(i).

(e) Prohibition on resale of products

(1) In general

An eligible distributor that receives eligible dairy products donated under this section may not sell the eligible dairy products 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.

(f) Reviews

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

(g) Publication of donation activity

The Secretary, acting through the Administrator of the Agricultural Marketing Service, shall publish on the publicly accessible website of the Agricultural Marketing Service periodic reports describing donation activity under this section.

(h) Supplemental reimbursements

(1) In general

The Secretary shall make a supplemental reimbursement to an eligible dairy organization that received a reimbursement under the milk donation program established under section 9071 of this title during the period beginning on January 1, 2020, and ending on the date on which amounts made available under subsection (i) are no longer available.

(2) Reimbursement calculation

A supplemental reimbursement described in paragraph (1) shall be an amount equal to—

(A) the reimbursement calculated under subsection (d); minus

(B) the reimbursement under the milk donation program described in paragraph (1).

(i) Funding

Out of any amounts of the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out this section \$400,000,000, to remain available until expended.

(Pub. L. 116-260, div. N, title VII, §762, Dec. 27, 2020, 134 Stat. 2111.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Consolidated Appropriations Act, 2021, and not as part of title I of Pub. L. 113-79 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITION

For definition of “Secretary” as used in this section, see section 760 of div. N of Pub. L. 116-260, set out as a note under section 5936a of this title.

SUBCHAPTER IV—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE PROGRAMS

§ 9081. Supplemental agricultural disaster assistance

(a) Definitions

In this section:

(1) Covered producer

The term “covered producer” means an eligible producer on a farm that is—

- (A) as determined by the Secretary—
 - (i) a beginning farmer or rancher;
 - (ii) a socially disadvantaged farmer or rancher; or
 - (iii) a limited resource farmer or rancher; or
- (B) a veteran farmer or rancher, as defined in section 2279(a) of this title.

(2) Eligible producer on a farm

(A) In general

The term “eligible producer on a farm” means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

(B) Description

An individual or entity referred to in subparagraph (A) is—

- (i) a citizen of the United States;
- (ii) a resident alien;
- (iii) an Indian tribe or tribal organization (as those terms are defined in section 5304 of title 25);
- (iv) a partnership of citizens of the United States; or
- (v) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

(3) Farm-raised fish

The term “farm-raised fish” means any aquatic species that is propagated and reared in a controlled environment.

(4) Livestock

The term “livestock” includes—

- (A) cattle (including dairy cattle);
- (B) bison;
- (C) poultry;
- (D) sheep;

- (E) swine;
- (F) horses; and
- (G) other livestock, as determined by the Secretary.

(5) Secretary

The term “Secretary” means the Secretary of Agriculture.

(b) Livestock indemnity payments

(1) Payments

For fiscal year 2012 and each succeeding fiscal year, the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality, sold livestock for a reduced sale price, or both as determined by the Secretary, due to—

(A) attacks by animals reintroduced into the wild by the Federal Government or protected by Federal law, including wolves and avian predators;

(B) adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold, on the condition that in the case of the death loss of unweaned livestock due to that adverse weather, the Secretary may disregard any management practice, vaccination protocol, or lack of vaccination by the eligible producer on a farm; or

(C) disease that, as determined by the Secretary—

- (i) is caused or transmitted by a vector; and
- (ii) is not susceptible to control by vaccination or acceptable management practices.

(2) Payment rates

Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the affected livestock, as determined by the Secretary, on, as applicable—

- (A) the day before the date of death of the livestock; or
- (B) the day before the date of the event that caused the harm to the livestock that resulted in a reduced sale price.

(3) Special rule for payments made due to disease

The Secretary shall ensure that payments made to an eligible producer under paragraph (1) are not made for the same livestock losses for which compensation is provided pursuant to section 8306(d) of this title.

(4) Payment reductions

A payment made under paragraph (1) to an eligible producer on a farm that sold livestock for a reduced sale price shall—

- (A) be made if the sale occurs within a reasonable period following the event, as determined by the Secretary; and
- (B) be reduced by the amount that the producer received for the sale.

(c) Livestock forage disaster program

(1) Definitions

In this subsection: