

2018—Pub. L. 115-334 substituted “Dairy margin coverage” for “The margin protection program” and “2023” for “2018”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2023 AMENDMENT

Amendment by Pub. L. 118-22 to be applied and administered as if enacted on Sept. 30, 2023, see section 102(g) of Pub. L. 118-22, set out in an Extension of Agricultural Programs note under section 9001 of this title.

##### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115-334, set out as a note under section 9051 of this title.

#### § 9060. Administration and enforcement

##### (a) In general

The Secretary shall promulgate regulations to address administrative and enforcement issues involved in carrying out dairy margin coverage.

##### (b) Reconstitution

The Secretary shall promulgate regulations to prohibit a dairy producer from reconstituting a dairy operation for the purpose of the dairy producer receiving dairy margin coverage payments.

##### (c) Administrative appeals

Using authorities under section 1308(h) of this title and subtitle H of the Department of Agriculture Reorganization Act (7 U.S.C. 6991 et seq.), the Secretary shall promulgate regulations to provide for administrative appeals of decisions of the Secretary that are adverse to participants of dairy margin coverage.

(Pub. L. 113-79, title I, §1410, Feb. 7, 2014, 128 Stat. 693; Pub. L. 115-334, title I, §1401(k)(10), Dec. 20, 2018, 132 Stat. 4518.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Department of Agriculture Reorganization Act, referred to in subsec. (c), probably means the Department of Agriculture Reorganization Act of 1994 which is title II of Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3209. Subtitle H of the Act is classified principally to subchapter VIII (§6991 et seq.) of chapter 98 of this title. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

Section is comprised of section 1410 of Pub. L. 113-79. Subsec. (d) of section 1410 of Pub. L. 113-79 amended section 7253 of this title.

##### AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, §1401(k)(10)(A), substituted “dairy margin coverage” for “the margin protection program”.

Subsec. (b). Pub. L. 115-334, §1401(k)(10)(B), substituted “dairy margin coverage payments” for “margin protection payments”.

Subsec. (c). Pub. L. 115-334, §1401(k)(10)(A), substituted “dairy margin coverage” for “the margin protection program”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115-334, set out as a note under section 9051 of this title.

#### 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

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.