

**(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: