



# USDA Provides Notice of Retroactive Reimbursements Under the Dairy Donation Program, Encourages Donation of Surplus Dairy...

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**Date:** April 13, 2021

The U.S. Department of Agriculture (USDA) will soon implement the Dairy Donation Program (DDP) as established in the Consolidated Appropriations Act of 2021. The program will facilitate the timely donation of dairy products to nonprofit organizations who distribute food to persons in need and prevent and minimize food waste. Because the statute allows retroactive reimbursements of donations made before donation and distribution plans are approved, USDA is providing advance notice of the minimum provisions to be included in the program to encourage the dairy industry to process and donate surplus milk supplies as it moves through the spring surplus milk production season.

Although the DDP regulations have not yet been published, the following are the minimum key program requirements included in the statute: 1) a donation and distribution plan must be submitted and approved by USDA; 2) the reimbursement will be at least equivalent to the minimum classified value of milk used to make the donated product on the date of manufacturing; 3) records related to donating and receiving products must be maintained and available for review and/or audit; 4) eligibility is open to dairy farmer cooperatives and processors who “account to” a Federal milk marketing order (FMMO) and donate dairy products to any private or public nonprofit food distribution entity.

- **Donation and Distribution Plan Requirements:** The legislation requires participating dairy cooperatives and processors have a donation and distribution plan describing the process to be

used for the donation, processing, transportation, temporary storage, and distribution of eligible dairy products. The authorizing statute allows for retroactive reimbursement, therefore plans covering donations made since the signing of the statute, December 27, 2020, can be retroactively submitted for approval once the regulations are published. Like the Milk Donation Reimbursement Program (MDRP), the plan will likely need to include: Dairy Organization Name, Contact Person and Title, Primary Mailing Address, Phone and Email Address. This same information would need to be included for the recipient of the donated products including Nonprofit Name, Contact Person and Title, Primary Mailing Address, Phone, Email Address and the nonprofit tax ID number. Appropriate forms for submitting this information will be provided once the regulations are published.

- **Reimbursement Rate:** The statute requires a reimbursement rate for eligible dairy products at a value that encourages the donation of these products, facilitates orderly marketing, reduces volatility related to significant market disruptions, maintains traditional FMMO class price relationships, or stabilizes on-farm milk prices. The rate also must be sufficient to avoid food waste and not interfere with the commercial marketing of milk or dairy products. Until defined in the regulations, dairy organizations can plan on a rate of reimbursement equal to the minimum classified value of the milk when the donated product was processed.
- **Required Documentation:** Donating cooperatives and processors will need to keep appropriate documents demonstrating eligibility that may include documentation of the date of production of the donated dairy product, amount paid for the raw milk used to make the product, and proof of donation. In addition, participants will be subject to reviews or audits of the documents to ensure integrity within the program.
- **Supplemental MDRP Reimbursements:** For entities participating in the MDRP, supplemental reimbursements will be made equaling the difference between the MDRP reimbursed value and the value reimbursed in the DDP. These supplemental reimbursements will not be made until the DDP becomes effective.

The parameters defined in this notice provide information regarding the minimum provisions likely to be included in the DDP and final program provisions will include additional specificity.

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