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Farm and Food Support Under USDA's Section 32 Program

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Summary

"Section 32" is a permanent appropriation that since 1935 has earmarked the equivalent of 30% of annual customs receipts to support the farm sector through a variety of activities. Today, most of this appropriation (now approximately $6.5 billion yearly) is transferred to the U.S. Department of Agriculture (USDA) account that funds child nutrition programs. Other Section 32 funds are used by USDA to purchase meats, poultry, fruits, vegetables, and fish, which are diverted mainly to school lunch and other domestic food programs. Several times in recent years, the Secretary of Agriculture also has drawn substantial amounts from Section 32 to pay for special farm disaster relief. This has added to the debate over how much flexibility the Secretary should have over use of the reserve, and whether the disaster aid has or could come at the expense of the other Section 32 activities. This report will be updated.

What Is Section 32?

Section 32 of the act of August 24, 1935, authorizes a permanent appropriation equal to 30% of annual U.S. customs receipts (P.L. 74-320 as amended; 7 U.S.C. 612c). This money was first available to assist Depression-era producers of non-price-supported commodities. Section 32 funds, along with up to $500 million in any unobligated prior-year funds, are to be used for (1) encouraging the export of farm products through producer payments or other means; (2) encouraging the domestic consumption of farm products by diverting surpluses from normal channels or increasing their use by low-income groups; and (3) reestablishing farmers' purchasing power. The Secretary of Agriculture has considerable discretion in deciding how to achieve these broad objectives.

Uses of Section 32 Funds

USDA's best-known use of Section 32 funds is direct purchases of non-price-supported commodities, such as meat, poultry, fruits, vegetables, and fish. This activity began shortly after passage of the 1935 law and continues today. The department seeks outlets for these purchases that do not disrupt private markets. Early in the program, USDA began donating its purchases to low-income families and schools, on the premise that the donations would supplement, not displace, normal food purchases by these recipients. Distribution of Section 32 commodities is credited with stimulating growth of the national school lunch program.

Today, school lunch and other domestic nutrition programs benefit in two ways from Section 32 funds. First, much of the Section 32 permanent appropriation now simply is transferred into USDA's Food and Nutrition Service (FNS) child nutrition account, where it is supplemented by a separate direct appropriation under the annual USDA appropriation law. The commingled funds are then used to reimburse schools, child care centers, and other eligible sites for meals served to children. These cash reimbursements are required by the separate Richard B. Russell National School Lunch Act.

Second, a smaller — but still significant — amount of Section 32 money is set aside each year to purchase non-price-supported commodities directly and provide them to schools and other feeding sites. These purchases are made by USDA's Agricultural Marketing Service (AMS). Some of these commodities ($450 million worth in FY2006) are "mandated," i.e., required to be bought and distributed to schools at rates specified by the school lunch act. Others are are so-called "bonus" commodities, which schools and other domestic food programs receive after AMS makes emergency commodity purchases to relieve farm surpluses that occur throughout the fiscal year (such bonus purchases were valued at $81 million in FY2006).

Section 32 has been used to fund other programs. By law, some of the money is transferred annually to the Department of Commerce for fishing industry activities. Other amounts are set aside each year for some USDA program administration. In some but not all years, the Secretary directs Section 32 money into special disaster assistance programs.

Fiscal Year 2006 Estimated Spending

The estimated Section 32 breakout for FY2006 illustrates in more detail how money is collected and spent.[1] The program's permanent appropriation was **$6.482 billion**, representing 30% of prior calendar-year customs receipts. This figure was reduced by:

— **$38 million**, a rescission mandated by Congress for budgetary savings.
— **$5.188 billion**, transferred to the child nutrition program cash account, to help pay for federal child nutrition programs budgeted at about $12.66 billion in FY2006. (The difference, $7.47 billion, is provided directly through the annual, i.e., FY2006, USDA appropriation.)
— **$79 million** (30% of customs revenue from fish product imports), transferred to the Commerce Department for fisheries activities.

This left **$1.177 billion**, to which was added **$286 million** in unobligated FY2005 money that was carried into FY2006, for a total of **$1.463 billion**. From this:

- **$465 million** was designated for planned AMS commodity purchases, to partially fill required commodity assistance mandated by Section 6(e) of the school lunch act. (This separate law requires FNS to provide

[1] Primary sources: USDA *2007 Budget Explanatory Notes for Committee on Appropriations*; and unpublished November 2006 data from the AMS budget office.

commodity support for each meal served — in FY2006, an estimated average rate of 17.8 cents for a total of $978 million in child nutrition commodity entitlements. To buy these commodities, $513 million was budgeted from the annual child nutrition account in the FY2006 USDA appropriation, with Section 32 funds buying the remaining $465 million in commodities.)

- **$85 million** in additional commodities were purchased to fulfill another school lunch act requirement that at least 12% of assistance be in the form of commodities.
- **$700 million** was made available by USDA in direct payments mainly to compensate Florida crop producers for hurricane and disease losses, and some for livestock drought relief.
- **$2 million** went for disaster relief foods (e.g., for Hurricane Katrina).
- **$44 million** was used for AMS administrative expenses for direct food purchasing (including the cost of setting up a new Web-based supply management system), and for oversight of federal marketing orders.
- **$81 million** was used for "emergency removals" of surplus commodities during the course of the fiscal year ($62 million for fruits and vegetables; $2 million for meats and $16 million for poultry).[2]

Subtracting the above spending, and making an upward bookkeeping adjustment to account for "deobligations" of prior year obligations, AMS estimated that it had a "carryout" of **$147 million** at the end of the year, which was to be added to available funding for the next fiscal year (FY2007).

Commodity Purchases

Overview. Section 32 pays for direct purchases of commodities that are not covered by agricultural price support through USDA's Commodity Credit Corporation (CCC). A portion of these are planned, specifically the $465 million in purchases to satisfy Section 6(e) mandated assistance under the school lunch act. Others are unplanned purchases are of "surplus" commodities, using the contingency fund. All Section 32 purchases differ from CCC price support in that Section 32 does not specify which commodities must be assisted, at what levels, or how, leaving such decisions to the Secretary of Agriculture.

In planning the required commodity purchases, USDA agencies consult with major commodity organizations and devise, by early spring, a tentative purchase plan for the next school year (purchases may begin in May). The plan is based on prior year purchases, likely school needs, expectations of available funds, and any anticipated surplus or other market conditions in the coming year, among other things. AMS issues the bid specifications for purchasing the products, generally in processed form, for delivery to state drop-off points. The Kansas City office of USDA's Farm Service Agency administers the purchase contracts and pays the vendors.

[2] As noted earlier, such emergency purchases are provided as a "bonus" to schools (over and above their "entitled" amounts) and to other designated domestic food assistance programs.

Contingency Fund Purchases. Over the course of the year, USDA taps the contingency reserve for so-called emergency surplus removals. The department may learn about these needs through its own commodity experts or be informed of surplus or other problems by outside farm and industry organizations.

Table 1. Section 32 Contingency Fund Purchases, by Commodity, FY1995-FY2006

Commodity	Total Purchased (million $)	Number of Years Purchased	Commodity	Total Purchased (million $)	Number of Years Purchased
almonds	29.6	3	grapefruit	10.9	4
apples	79.1	6	lamb	27.1	5
apricots	65.9	9	mixed fruit	17.5	2
asparagus	26.3	6	oranges	69.5	4
beans	16.7	3	peaches	164.4	10
beef	125.8	7	pears	46.7	6
bison	18.5	3	pineapple	21.3	5
black-eyed peas	4.0	2	plums	8.2	3
blackberries	0.9	2	prunes	20.3	3
blueberries	40.6	5	pork	163.3	5
catfish	6.0	2	potatoes	102.8	7
cheese	5.0	1	raisins	88.7	5
cherries	93.8	8	raspberries	4.9	5
corn	5.1	1	salmon	111.7	11
cranberries	73.8	5	strawberries	14.6	4
currants	0.2	1	sweet potatoes	38.2	5
dates	10.8	5	tomatoes	20.7	3
egg products	10.0	1	trail mix	97.1	4
figs	23.5	6	tuna	14.0	2
fowl (spent)	25.8	3	turkey	66.4	4
goose	1.0	1	walnuts	65.9	8
grape juice	18.1	3	TOTAL	1,854.7	

Source: USDA and House Appropriations Committee, various hearing reports. Each category represents commodities and/or any foods processed from them purchased by AMS. Purchases for each category are cumulative for the 12-year period covered; part-year (not total) FY2006 data was incorporated into total.

As **Table 1** indicates, some commodities are bought more frequently than others. AMS made contingency purchases of salmon in 11 out of the 12 years examined, at a total cost of nearly $112 million. Other relatively frequent purchases were of peaches, apricots, cherries, walnuts, beef, potatoes, apples, asparagus, figs, pears, and pork.

Were these contingency purchases, particularly of commodities bought in multiple years, justified? AMS maintains that each of its purchase decisions is based upon an analysis of market conditions at the time, and that industry requests to buy products are rejected if conditions do not justify them. Some have questioned the decision-making process. In a 2005 assessment, the Office of Management and Budget (OMB) concluded that Section 32 had not adequately demonstrated results due to, among other things, unclear purposes, no basic criteria for surplus commodity purchases, and lack of performance measures.[3] What OMB and other critics view as flaws, program supporters view as flexibility to quickly and efficiently address agricultural problems.

Table 2. Total Purchases
(FY1995-FY2006, in millions)

1995	$96.7	2001	$200.2
1996	$55.8	2002	$206.9
1997	$100.9	2003	$222.1
1998	$194.8	2004	$226.5
1999	$144.5	2005	$149.5
2000	$191.95	2006	$81

Donations of Contingency Purchases. Besides schools, other bonus recipients may include soup kitchens, food banks, and needy families, among others. The annual total of contingency purchases — and thus the foods provided to these outlets — has varied. Recent totals have varied from $56 million in FY1996 to more than $226 million in FY2004 (**Table 2**). The annual total declined steeply in 2005 and again in 2006. This change has raised concern among many domestic food providers. They concede that the food they have received through this Section 32 activity is a "bonus" and not "entitlement" allocation, but say they had come to rely on the higher levels to help meet client demand.

Specialty Crop Requirement. The 2002 farm bill (P.L. 107-171, §10603) requires that not less than $200 million annually in Section 32 funds be used to buy fruits, vegetables, and other specialty crops, $50 million of it for fruits and vegetables for schools through the Defense Department Fresh Program. There has been some debate over whether the $200 million is "new" money. USDA had maintained that it already was spending more than this level each year, particularly when both mandatory and contingency (bonus) purchases were counted. Some lawmakers have countered that language in the farm bill conference report directs that the $200 million should be in addition to such past purchases. The Senate reports accompanying the annual USDA appropriations have reminded USDA of these farm bill instructions, but the different interpretations have not been resolved.

Disaster Assistance

In 2002 and again in 2004, the Bush Administration decided to use Section 32 to pay for special disaster initiatives. On September 19, 2002, USDA announced a "Livestock

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[3] This assessment can be accessed at [http://www.whitehouse.gov/omb/expectmore/].

Compensation Program" to cover 2001 and 2002 drought losses by cattle, lamb, and buffalo producers in 37 states. USDA said it would fund these payments, estimated to cost $752 million, with unobligated Section 32 funds — satisfying one Section 32 criterion, to "re-establish farmers' purchasing power." In December 2002, the department increased the available funding to $937 million. From late FY2002 through FY2003, total Section 32 funding reached just over $1 billion, a level that appeared to be unprecedented for such a Section 32 use, according to long-time observers.

Some other producer groups and domestic food program interests had contended at the time that diverting some $1 billion to the disaster payments threatened the solvency of the contingency fund needed to make the many bonus purchases throughout the year for various fruit, vegetable, poultry, pork and other commodity groups suffering surpluses and/or low prices. Also, commodity recipients, especially food banks, pointed out that they rely heavily on Section 32 bonus foods (even though such foods are not entitlements) to help supplement their resources.

To help pay for the disaster program while covering "normal" contingency purchases, officials made several adjustments in USDA spending accounts for FY2003. Strains on the Section 32 budget also were relieved somewhat when Congress approved a provision in the omnibus FY2003 appropriation (H.J.Res. 2, signed into law February 22, 2003) transferring $250 million from the CCC account to replenish the Section 32 account to carry out emergency surplus removals. The Administration again turned to Section 32 in late 2004 (i.e., early FY2005), taking $650 million from the account to make disaster payments to producers of fruits, vegetables, and nursery crops in Florida to compensate them for hurricane and/or disease losses. In a disaster assistance package included within the FY2005 Military Construction Appropriations Act (P.L. 108-324), Congress had transferred $90 million from the CCC account to the Section 32 account to cover some of this spending.

Other Section 32 Uses

USDA also uses its broad discretionary authority to spend Section 32 money on activities other than surplus commodity buys. For example, in 1999 it used $54 million to make direct payments to hog producers affected by low market prices. Export subsidies and related activities also have been supported in the past. Section 32 funded a pilot food stamp program in the early 1940s, paid for production and diversion payments to other producers in past years, and supported several supplemental feeding programs.

Congress itself periodically designates other uses. For example, it appropriated $75 million for Section 32 in a 1983 jobs law (P.L. 98-8), to purchase and distribute foods to needy families in high unemployment areas. Congress earmarked $10 million for the special purchase of sunflower oil in FY1988, and $50 million for a similar program in FY1994. An emergency FY1999 appropriation (P.L. 106-31) included an extra $145 million for Section 32, to help cover hog producer payments during a period of extremely low prices. One longstanding constraint is that no more than 25% of each year's available funds can be earmarked for any one agricultural commodity (including its processed products). When USDA indicated that it had reached that limit for pork in 1999, language in P.L. 106-31 suspended the limit for 1999 only, enabling USDA to tap more of that year's remaining reserve to provide more assistance to pork producers.