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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 annual appropriation (now approximately $7 billion) is transferred to the U.S. Department of Agriculture (USDA) account that funds child nutrition programs. The Secretary of Agriculture also uses Section 32 funds to purchase non-price-supported commodities like meats, poultry, fruits, vegetables, and fish, which are diverted to school lunch and other domestic food programs. Section 32 also funds farm economic and disaster relief, among other things.

The 110th Congress currently is considering omnibus legislation to extend and amend the current 2002 farm bill (P.L. 107-171). The Bush Administration's recommended farm bill language would spend an additional $2.75 billion of Section 32 funds, spread over 10 years, to purchase more fruits and vegetables for the domestic nutrition programs, with the aim of increasing recipients' consumption of these products. This would bring total fruit and vegetable purchases (mandated and bonus combined) to approximately $500 million or more per year — although the exact level would depend on how USDA calculates current "average" purchases.

The House Agriculture Subcommittee on Horticulture and Organic Agriculture on June 7, 2007, approved language for its portion of a new farm bill (the specialty crop title) that would require minimum levels of Section 32 purchases of fruits, vegetables, and nuts for domestic food programs that rise gradually from $190 million in FY2008 to $206 million in FY2012 and thereafter. These purchases would be in addition the purchases required under the 2002 farm bill.

A number of other farm bill proposals that have been introduced include language to expand USDA's purchases of fruits and vegetables for nutrition programs using Section 32 monies. These include H.R. 1600, H.R. 1551/S. 919, H.R. 2144, S. 541, and S. 1160. The full House and Senate Agriculture Committees had not yet considered a farm bill as of early July 2007.

Meanwhile, various Members of Congress still want to ensure that a portion of the Section 32 fund will continue to be available — and be used, when necessary — to help producers recover at least a portion of their losses when natural disasters or unanticipated economic setbacks arise. Historically, the Secretary of Agriculture determines when and how to use the fund for these purposes, although on occasion Congress has mandated a specific Section 32 spending activity. Among a number of related issues are how much flexibility the Secretary should have in deciding Section 32 spending priorities; whether Congress should play a greater role in these decisions than it has in the past; and the budgetary impacts of these decisions.

This report replaces CRS Report RS20235, a shorter version with the same title.

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What Is Section 32?

Section 32 of the Act of August 24, 1935 (P.L. 74-320 as amended; 7 U.S.C. 612c) authorizes a permanent appropriation equal to 30% of annual U.S. customs receipts. The appropriation was first created to assist Depression-era producers of non-price-supported commodities. The law specifies that Section 32 funds are to be used only 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. Unused amounts of up to $500 million a year may be carried into the next fiscal year.

Most of the annual Section 32 appropriation (for example in FY2007, more than $5.7 billion of approximately $7 billion) is simply transferred to the U.S. Department of Agriculture (USDA) account that funds child nutrition programs. However, the Secretary of Agriculture, acting through the Department's Agricultural Marketing Service (AMS), uses a smaller but still significant portion of Section 32 funds to purchase non-price-supported commodities like meats, poultry, fruits, vegetables, and fish, which are used in school lunch and other domestic food programs. These purchases are intended both to fulfill requirements (under other federal laws) that such commodities be provided, and also to support farm prices. In addition, the Secretary uses the funds to provide direct or diversion payments to producers for disaster or economic losses, and to provide food commodities to victims of natural disasters, among other activities.

How the Account Operates

An accounting of a recently completed fiscal year (FY2006) provides a snapshot of 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 to the child nutrition programs through the annual, i.e., FY2006, USDA appropriation.)
— **$79 million** (the equivalent of 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. A further upward adjustment was made to account for the recovery of **$60 million** in money that was committed earlier but not spent, bringing the amount available for obligation to **$1.523 billion**. From this:

- **$465 million** was designated for planned AMS commodity purchases to partially fill the commodity assistance entitlement set by the school lunch act. (This law mandates USDA commodity support for each meal served — in FY2006, 17.5 cents — for a total of $946 million in child nutrition commodity entitlements. To buy these commodities, $486 million, provided from USDA's FY2006 child nutrition appropriation, was added to the $465 million set aside from Section 32 funds.)
- **$85 million** in additional commodities were purchased to fulfill another school lunch act requirement that at least 12% of assistance be provided to schools 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.

[1] Primary sources: USDA *Budget Explanatory Notes for Committee on Appropriations*, FY2007 and FY2008; and unpublished November 2006 data from the AMS budget office.

- **$81 million** was used for "emergency removals" of surplus commodities throughout the fiscal year ($62 million for fruits and vegetables; $2 million for meats and $16 million for poultry).[2]

Subtracting the above spending, AMS estimated that it had a "carryout," or unobligated balance, of **$147 million** at the end of the year, which was added to available funding for the following fiscal year (FY2007).

The **Appendix** to this report contains a table that provides a more detailed accounting of Section 32 spending by type of activity for each year from FY1992 through FY2007 (estimated), followed by a narrative explanation of each activity.

Uses of Section 32 Funds

Commodity Purchases

Commodity purchases are perhaps the best-known use of Section 32 funds. They began shortly after passage of the 1935 law and continue today. USDA seeks outlets for these purchases that do not disrupt private markets. More specifically, Section 32 pays for direct purchases of commodities that are not covered by agricultural price support through USDA's Commodity Credit Corporation (CCC). Unlike CCC price-supported commodities (e.g., milk, grains and oilseeds, cotton, sugar), Section 32 does not specify which commodities must be assisted, at what levels, or how (except within the three broad purposes described on page 1). Such decisions are left to the Secretary of Agriculture.

Early in the program, USDA began donating Section 32 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.

Actually, school lunch and other domestic nutrition programs now benefit in two ways from Section 32 funds. First, as noted, much of the Section 32 permanent appropriation simply is transferred into USDA's Food and Nutrition Service (FNS) child nutrition account (how much to transfer is determined by congressional appropriators based on USDA's recommendations). This transfer is supplemented by a separate direct appropriation provided through the annual USDA appropriation law. The commingled funds are then used to provide cash and commodity subsidies to schools and other eligible program sponsors for meals served to children.

Second, a smaller — but still significant — amount of Section 32 money is used to purchase non-price-supported commodities directly and provide them to schools and to other domestic feeding programs. These purchases are made for FNS through USDA's Agricultural Marketing Service (AMS). Some of these commodities ($550

[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.

million worth in FY2006) are mandated; Sections 6, 13, and 14 of the Richard B. Russell National School Lunch Act (P.L. 79-396) "entitle" schools and other child nutrition program sponsors to commodities worth specific dollar amounts.

Other commodities are provided as a "bonus" to schools and other domestic food programs; these commodities are obtained separately when AMS makes "emergency" commodity purchases to relieve farm surpluses that occur throughout the year (bonus purchases were valued at $81 million in FY2006).

Entitlement Purchases. In planning the mandated, or entitlement, 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 (FSA) administers the purchase contracts and pays the vendors.

Contingency Fund Purchases. Over the course of the year, USDA taps the contingency reserve for so-called emergency surplus removals, which are then distributed as "bonuses" to domestic food assistance programs. The department may learn about these needs through its own commodity experts or be informed of surpluses or other economic problems by farm and industry organizations. **Table 1** shows the annual value of these purchases since FY1995.

Table 1. Total Annual Contingency Purchases

(FY1995-FY2006, in millions)

1995	$96.7	1999	$144.5	2003	$222.1
1996	$56.2	2000	$200.2	2004	$226.5
1997	$100.9	2001	$200.2	2005	$149.5
1998	$194.8	2002	$206.9	2006	$81

As **Table 2** 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 on 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.

Donations of Contingency Purchases. Besides schools and child care centers, recipients include soup kitchens, food banks, and others serving the needy. The annual total of contingency purchases — and thus the foods provided to these outlets — has varied. Recent annual totals have varied from $56 million in FY1996 to more than $226 million in FY2004; the total declined steeply from FY2004 to FY2006 (**Table 1**). The drop in purchases raises concern among many domestic food providers. They concede that the food they have received through this Section 32 activity is a "bonus" and not an "entitlement," but say they had come to rely on the higher levels to help meet client demand.

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

Table 2. Section 32 Contingency Fund (Bonus) 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 were incorporated into total.

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 Compensation Program" to cover 2001 and 2002 drought losses by cattle, lamb, and buffalo producers in 37 states. From late FY2002 through FY2003, total Section 32 monies for this program reached just over $1 billion, a level that appeared to be unprecedented under Section 32, according to long-time observers. Some other producer groups and domestic food program interests had contended at the time that diverting so much money to these payments threatened the solvency of the contingency fund needed to make the many bonus purchases throughout the year for 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 and still cover "normal" contingency purchases, officials made several adjustments in various 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 resolution (H.J.Res. 2) transferring $250 million from the CCC account to replenish the Section 32 account to carry out emergency surplus removals. The Administration turned to Section 32 in FY2004, FY2005 and FY2006, spending approximately $1.2 billion over the three years to compensate primarily producers of fruits, vegetables, and nursery crops for hurricane and/or disease losses. In a disaster assistance package included within the FY2005 Military Construction Appropriations Act (P.L. 108-324), Congress 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 other activities. For example, in FY1999 it used $178.3 million to make direct payments to hog producers affected by low market prices. (An emergency FY1999 appropriation, P.L. 106-31, included an extra $145 million to reimburse Section 32 for a portion of these costs.) Export subsidies and related activities also have been supported in the past. Section 32 funded a pilot food stamp program in the early 1960s, 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 an additional $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 of Section 32 funds for the special purchase of sunflower oil in FY1988, and $50 million for a similar program in FY1994.

Section 32 and Specialty Crops

Section 10603 of the 2002 farm bill (P.L. 107-171) 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 debate over whether the $200 million is for purchases above what historically have been made. USDA has maintained that it already spends more than this level each year, when both mandatory and contingency (bonus) purchases are counted. In fact, Section 32 specialty crop purchases have averaged $308 million over the last seven fiscal years (FY2000-FY2006), according to USDA purchase data examined by CRS.

The 2002 farm bill conference report directs that the $200 million should be in additional purchases. Senate reports accompanying annual USDA appropriations have reminded USDA of these farm bill instructions, but USDA officials argue that these instructions are not binding because they are in report language rather than the law itself.

In early 2007, the Administration announced its recommendations for a 2007 farm bill. One of these recommendations is to spend an additional $2.75 billion of Section 32 funds, spread over 10 years, to purchase more fruits and vegetables for the domestic nutrition programs, with the aim of increasing recipients' consumption of these products. This would bring total fruit and vegetable purchases (mandated and bonus combined) to approximately $500 million or more per year — although the exact level would depend on how USDA calculates current "average" purchases.

Administration officials have indicated that these new purchases would not increase Section 32 spending beyond current "baseline" projections, and have drafted suggested legislative language that is designed to achieve this goal. However, it is unclear how the Administration could avoid "new spending" unless it diverts some current Section 32 spending from other commodity purchases (e.g., of meat, poultry, fish) or from other potential Section 32 uses, such as future disaster assistance (see "Fiscal Year 2006 Spending," above).

Meanwhile, in Congress, the House Agriculture Subcommittee on Horticulture and Organic Agriculture on June 7, 2007, approved language for its portion of a new farm bill (the specialty crop title) that would require minimum levels of Section 32 purchases of fruits, vegetables, and nuts, for domestic food programs that rise gradually from $190 million in FY2008 to $206 million in FY2012 and thereafter. These purchases would be in addition the purchases required under the 2002 farm bill. Among other provisions in the subcommittee draft are additional guidance on the forms of these commodities (i.e., fresh, dried, frozen, canned); and a requirement that USDA obtain an independent evaluation of the commodity purchasing process and its underlying statutory and regulatory authorities, especially Section 32.

A number of other farm bill proposals that have been introduced include language to expand USDA's purchases of fruits and vegetables for nutrition programs, using Section 32 monies. For example, H.R. 1600 and H.R. 1551/S. 919, and H.R. 2144 all would require USDA, starting in FY2008, to devote not less than $400 million annually "to purchases of non-basic agricultural commodities, such as fruits, vegetables, and other specialty food crops."

S. 541 would require USDA to spend "not less than" $200 million annually on fruit and vegetable purchases — which generally reflects current 2002 farm bill authority (see above). S. 1160, on the other hand, would amend the 2002 farm bill minimum purchase language by mandating that such purchases "shall not decrease, displace, or otherwise affect any purchase by the Secretary."[4]

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[4] See CRS Report RL33520, *Specialty Crops: 2007 Farm Bill Issues*, by Jean M. Rawson.

Appendix. Section 32 Funding, FY1992-FY2007 est.

[$1,000]

Fiscal Year:	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007e**
1. Approp. (30% Customs Rcpts.)	5,161,360	4,978,817	5,355,069	5,789,936	6,263,764	5,923,377	5,730,108	5,701,866	5,735,558	5,738,449	6,139,942	5,798,093	5,927,395	6,052,036	6,481,777	7,029,269
2. Rescission				-5,287	-5,000			-7,958	-15		-468			-163,000	-37,601	-37,601
3. Ag Risk Prot. Act (PL106-224)										200,000						
4. Transfer fr. CCC or Supplemental								145,000				250,000		90,000		
LESS TRANSFERS:																
5. Transfer to FNS	-4,675,092	-4,290,455	-4,770,109	-5,249,077	-5,597,858	-5,433,753	-5,151,391	-5,048,150	-4,935,199	-5,127,579	-5,172,458	-4,745,663	-4,699,661	-5,152,962	-5,187,621	-5,731,073
6. Transfer to Commerce (fisheries)	-64,113	-61,408	-61,944	-64,765	-72,893	-66,381	-65,734	-66,426	-69,921	-72,828	-79,127	-75,224	-79,724	-77,539	-79,284	-82,817
7. Budget Authority (net of above lines)	422,155	626,954	523,016	470,807	588,013	423,243	512,983	724,332	730,423	738,042	887,889	1,227,206	1,148,010	748,535	1,177,271	1,177,778
8. Unobligated Prior Year Balance	262,430	120,788	246,301	245,951	235,129	300,000	233,868	131,967	112,630	241,270	107,825	192,156	134,322	408,051	286,160	146,760
9. Recovery Prior Year Obligations	14,634	39,737	20,805	25,755	739	38,784	11,455	3,528	50,355	3,254		40,157	5,518	24,273	60,039	
10. Available for Obligation (net of above)	699,219	787,479	790,122	742,513	823,881	762,027	758,306	859,827	893,408	982,566	995,714	1,459,519	1,287,850	1,180,859	1,523,470	1,324,538
OBLIGATIONS:																
COMMODITY PROCUREMENT:																
11. CN Commodity Purchases	399,051	399,914	399,714	399,876	399,084	399,949	400,000	400,000	400,000	400,000	399,935	200,000	400,000	399,322	549,792	665,000
12. State Option Contracts												948	3	134	0	5,000
13. Removal Defective Commodities									500			1,000	67	36	0	1,000
14. F&V Pilot Project											6,000					
15. Emergency Surplus Removals	102,928	63,399	78,452	96,679	56,172	100,947	194,774	144,484	200,215	200,234	206,898	222,090	226,475	149,496	81,010	243,085
16. Diversion Payments		8,600		-300		9,000			30,778	11,900						
17. Livestock Drought Relief											172,867	867,000				
18. Other Direct Payments								178,265		39,700		8,000	218,750	278,763	700,000	100,000
19.Lamb Grading/Certification										957	592	103	100			
20. Disaster Relief	11,175	4,636	3,463	530	1,168	2,150	15,200	7,014				500	9,200	40,597	1,901	
21. Specialty Crop Purchases (PL106-224)										199,991						
22. Oilseed Purchases (CCC)	50,000	50,000	50,000		23,900											
23. TOTAL, COMMODITY PROCUREMENT	563,154	526,549	531,629	496,785	480,324	512,046	609,974	729,763	631,493	852,782	786,292	1,299,641	854,595	868,348	1,332,703	1,014,085
ADMINISTRATIVE FUNDS:																
24. Commodity Purchase Services	5,989	5,060	4,423	5,907	5,733	5,624	6,176	6,580	8,406	8,964	6,906	11,199	10,266	10,848	28,866	31,629
25. Marketing Agreements & Orders	9,288	9,569	8,118	9,977	10,016	10,488	10,189	10,853	12,241	12,995	10,359	14,844	14,938	15,502	15,141	16,425
26. TOTAL, ADMINISTRATIVE FUNDS	15,277	14,629	12,541	15,885	15,750	16,113	16,365	17,433	20,646	21,959	17,265	26,042	25,204	26,350	44,007	48,054
27. TOTAL OBLIGATIONS	578,431	541,178	544,170	512,669	496,073	528,158	626,339	747,196	652,140	874,741	803,557	1,325,684	879,799	894,698	1,376,710	1,062,139
[line 10 minus line 27]	*120,788*	*246,301*	*245,951*	*235,129*	*327,808*	*233,868*	*131,967*	*112,630*	*241,270*	*107,825*	*192,156*	*134,322*	*408,051*	*286,160*	*146,760*	*262,399*
28.Unobligated Balance Returned to Treasury					27,808											
29.Unobligated Balance, End of Year	120,788	246,301	245,951	235,129	300,000	233,868	131,967	112,630	241,270	107,825	192,156	134,322	408,051	286,160	146,760	262,399

Source: House Appropriations Committee reports and USDA Budget Explanatory Notes, various years. Table compiled by CRS.

Line-by-Line Explanation of Terms in Appendix Table

Unless noted, the sources for the above table are various House Appropriations Committee and USDA budget documents. The data were confirmed and updated by the budget office of USDA's Agricultural Marketing Service (AMS), which administers the account. Following are explanations of each of the activities, by numbered line, in the table.

1. Approp. (30%) of Customs Rcpts. This represents the equivalent of 30% of gross U.S. customs receipts collected during the calendar year preceding the fiscal year in which the funds are to be used. These are the total funds available to Section 32 in a given year.

2. Rescission. In some years, Congress has rescinded a specified portion of the funds available as unobligated balances (see lines 28 and 29, below). Rescissions, represented in this table as a negative number, generally are to achieve budgetary savings. For example, Section 788 of the FY2006 appropriations act for USDA and related agencies (H.R. 2744; P.L. 109-97) contained a Section 32 rescission of $37.6 million.

3. Ag Risk Protection Act (P.L. 106-224). P.L. 106-224 both amended the federal crop insurance program and also provided emergency "market loss" payments to producers of a variety of agricultural commodities. Section 203 of the act provided $200 million that the Secretary was required to use to purchase "specialty crops that have experienced low prices during the 1998 or 1999 crop years, including apples, blackeyed peas, cherries, citrus, cranberries, onions, melons, peaches, and potatoes." The obligation of this money appears in line 21, below.

4. Transfer from CCC or Supplemental. On several occasions, Congress has provided additional funds to the Section 32 account (i.e., over and above amounts made available by the permanent appropriation) in order to address other specific situations. This occurred for FY2005, for example, when Congress directed USDA to transfer $90 million from the Commodity Credit Corporation (CCC; the funding mechanism for the Department's farm price and income support programs) to help cover some of the costs of Section 32-financed disaster payments to Florida producers of fruits, vegetables, and nursery crops hit by hurricane losses. A transfer also was made at Congress's direction for FY2003, when $250 million was moved from the CCC to help recover a portion of the costs of a Section 32-funded drought assistance program that totaled more than $1 billion (over FY2002-FY2003; see line 17 under the obligations entries.) For FY1999, Congress appropriated an extra $145 million to help cover about $178 million in direct payments to hog producers in response to historically low prices (see line 18, below).

5. Transfer to FNS. This is the amount (represented as a negative number) that is transferred each year to USDA's Food and Nutrition Service (FNS) to cover a portion of the cost of the child nutrition programs. For example, for FY2006, the total child nutrition appropriation (in the annual appropriation measure, P.L. 109-97) was approximately $12.661 billion; this total is primarily based on the entitlement spending requirements of the National School Lunch Act (42 U.S.C. 1751 *et seq.*) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq.*). To meet this total spending level, P.L. 109-97 directly appropriated approximately $7.473 billion and designated that the other approximately $5.188 billion come from Section 32. These yearly determinations of how much to directly appropriate and how much to transfer from Section 32 are made by congressional appropriators based on Administration recommendations.

6. Transfer to Commerce. Under the Fish and Wildlife Act of August 8, 1956 (16 U.S.C. §§742a -754j-2), an amount equivalent to 30% of the gross U.S. customs receipts collected on imported fishery products is transferred to the Department of Commerce to promote, research, and develop fishery products (also represented as a negative number).

7-10. Budget Authority, through Available for Obligation. To determine how much is available to Section 32 after the required transfers, two items are added to the budget authority in line 7. They are the unobligated prior year balance (line 8), representing what AMS did not spend during the previous year on various Section 32 obligations; and any recoveries of obligations that were made but not spent in prior years (line 9).

AMS uses the money in this total amount (in line 10) to pay for activities that fall within two broad "obligations" categories: commodity procurement (lines 11 through 22, below), and administrative funds (lines 24 and 25, below).

11. CN Commodity Purchases. Section 6(e) of the school lunch act requires USDA-FNS to provide support in the form of commodities for each meal served. In FY2006, this rate averaged 17.8 cents per meal served, for a total of $978 million. Another school lunch act requirement mandated that at least 12% of total assistance (cash plus commodities combined) be in the form of commodities. To reach this level, USDA had to spend another $85 million for commodities, bringing total commodity "entitlement" spending to $1.063 billion. To buy these commodities, USDA used $550 million in Section 32 money (the amount in this line), plus $513 million in child nutrition account money.

In most fiscal years, USDA has budgeted approximately $400 million for the Section 32 share of these costs. This number dropped to $200 million in FY2003, as funds were shifted to help cover the costs (approximately $1 billion) for a special livestock drought assistance program announced in 2002. The "lost" $200 million in child nutrition entitlement commodities were still purchased; the Department moved some unobligated balances from other child nutrition accounts, and received CCC funds for these activities.

12. State Option Contracts. AMS in recent years has been budgeting $5 million annually for such contracts but has never spent the full amount. State option contracts are intended to be used to assist state commodity distribution agencies to convert bulk or raw USDA commodities into products that can be more easily used by domestic feeding programs. Net costs to Section 32 are not incurred because the states reimburse USDA. The Department asserts that this set-aside "avoids the need to have states pay USDA up-front for further processing." Historically the states have requested such contracts for poultry products.[5]

13. Removal Defective Commodities. AMS also has been budgeting $1 million annually for the removal of defective commodities, but rarely spends the full amount. The money is intended to be available in case AMS must respond quickly to remove a commodity obtained by USDA for any domestic food program that is later found to pose a health risk. For example, the $36,000 spent in FY2005 was for a recall of catfish and $67,000 in FY2004 for a recall of ground beef.

14. F&V Pilot Project. Section 4305 of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the 2002 farm bill) required USDA to conduct a pilot project aimed at improving student consumption of fruits and vegetables. It was operated in 107 elementary and secondary schools during the 2002-2003 school year and funded, as required by the 2002 farm bill, through the Section 32 program. Total spending was $6 million.

15. Emergency Surplus Removals. These figures represent the value of unanticipated purchases of non-price supported commodities (i.e., commodities that do not receive mandatory support through the CCC) over the course of the year. The Department decides whether it should conduct such purchases based on requests made by agricultural or industry groups and/or the advice of its own commodity experts, who for each purchase analyze economic conditions such as farm prices and production levels. The premise is that removing products from normal marketing channels helps to limit supply and thereby increase prices.

At the start of each year, the Department predicts how much it may need to spend for these so-called emergency surplus removals, and the figure usually amounts to several hundred million dollars. This figure is published in the Department's annual budget justifications to Congress as "Estimated Future Needs." For FY2006, the Department initially estimated its future needs at $416.3 million, but as the table indicates, the actual spending was about $81 million. Unspent funds from this obligation item are what constitute the bulk of the unobligated balance at the end of the year (see below).

Commodities acquired under this activity (sometimes referred to as the contingency fund) are usually distributed to domestic feeding programs as "bonus" foods. That is, these additional commodities are over and above the "entitlement" commodities such programs receive under other authorities. As the table indicates, the value of emergency surplus removals has varied widely, from a recent low of $56.2 million in FY1996 to $226.5 million in FY2004.[6]

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[5] Source: Part 5, page 411 of FY2006 appropriations hearings before the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Subcommittee of the House Appropriations Committee, 2005.

[6] For more information on which types of foods were purchased with these Section 32 contingency funds, see CRS Report RS20235.

16. Diversion Payments. These have been made to producers to divert production from commercial markets, usually to counter low prices. Such payments may be in exchange for destruction of a crop, or for diversion to livestock feed and/or to use as commodities for domestic feeding programs. For example, AMS made diversion payments for potatoes in FY1997 ($9 million) and FY2001 ($11.9 million), the last year any diversion-type payments were made; some of the crop went to livestock feed and some to domestic feeding.

17. Livestock Drought Relief. On September 19, 2002, the Bush Administration announced a new "Livestock Compensation Program," which provided payments to cattle, lamb and buffalo producers in 37 states to compensate them for drought losses in 2001 and 2002. A total of $172.9 million was used for this program in FY2002 and another $867 million in FY2003, apparently an unprecedented level for this type of activity under Section 32. At the time, the spending raised concerns among other producer groups and among domestic food program interests that there might not be sufficient funds in FY2003 and beyond to conduct emergency surplus removals (see line 15, above). In response, officials made several adjustments in other USDA spending accounts and also received $250 million from the CCC in order to replenish Section 32.

18. Other Direct Payments. These have been made to agricultural producers for either economic or disaster-related reasons; usually, these payments are transferred to USDA's Farm Service Agency (FSA) for disbursement. In FY1999, for example, Section 32 funded a total of $178.3 million in direct payments to smaller-sized hog producers, as part of a broader USDA effort to assist the industry during a time of historically low prices. In FY2001, $39.7 million in direct payments were made to lamb and sheep producers experiencing economic losses. In FY2003 and FY2004, respectively, $8 million and $18 million were used for a "ewe lamb replacement and retention program," again for sheep producers who were dealing with economic and drought problems. The Secretary also approved a total of $422.2 million to be disbursed over two fiscal years, FY2004 and FY2005, as direct payments to fruit, vegetable, and nursery plant growers affected by Florida hurricanes. Another $700 million went for direct payments in FY2006, a portion of it to pay growers whose trees were removed by USDA's Animal and Plant Health Inspection Service citrus canker eradication program; and other portions for hurricane relief, and for livestock grazing losses.

19. Lamb Grading/Certification. These funds, made available in FY2001-FY2004, were for AMS services provided to support the FSA payment program described in line 18, above.

20. Disaster Relief. These funds are used to provide food commodities to victims of hurricanes and natural disasters. Spending levels have varied over the years. For example, in FY1999, $7 million was used to assist victims of a freeze in California's Central Valley, and of Hurricane George in Puerto Rico. The highest in recent years was the $40.6 million spent in FY2005, the year of Hurricane Katrina.

21. Specialty Crop Purchases. See line 3, above.

22. Oilseed Purchases. At Congress's direction, funds were used in several years in the late 1980s and early 1990s to purchase, for export, sunflower seed oil and cottonseed oil.

23. Total, Commodity Procurement. This is the total of lines 11 through 22.

24. Commodity Purchase Services. These are the administrative costs AMS incurs for food buying operations and coordination with FNS and FSA. The increase, beginning in FY2006, is for development of a "Web-Based Supply Chain Management System" to replace AMS's older commodity procurement system.

25. Marketing Agreement & Orders. These funds are used to support administration and oversight of federal marketing orders and agreements for milk, fruits, vegetables, and tree nuts under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. §601 *et seq*.).

26. Total, Administrative Funds. This is the total of lines 24 and 25.

27. Total Obligations. This represents the total of lines 23 and 26 (the combined total for all commodity procurement and administrative activities).

28. Unobligated Balance Returned to Treasury. Any remaining funds at the end of a fiscal year may be carried over and spent the next fiscal year — up to a prescribed maximum. Only in one recent year was money returned to the Treasury because the cap was exceeded: $27.8 million in FY1996, when the cap was still $300 million. Section 10602 of the 2002 farm bill increased the maximum carryover to $500 million.

29. Unobligated Balance, End of Year. This carryover ranged from a low of $107.8 million at the end of FY2001 to a high of $300 million at the end of FY1996. This figure appears on line 8 of each subsequent fiscal year as "Unobligated Prior Year Balance."