Farm and Food Support Under USDA's Section 32 Program

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Summary

The U.S. Department of Agriculture's Section 32 program is funded by a permanent appropriation of 30% of the previous year's customs receipts, less certain mandatory transfers. Since 1935, Section 32 funds have supported the farm sector through a variety of activities. Today, most of this annual appropriation (almost $8.0 billion for FY2009) is transferred to the USDA account that funds child nutrition programs (about $6.5 billion transferred in FY2009). However, the Secretary of Agriculture has long had broad discretion in how to spend the non-transferred (unobligated and carryover) money, which amounts to approximately $1 billion to $1.5 billion annually. The Secretary historically has chosen to use much of this non-transferred money to purchase agricultural commodities like meats, poultry, fruits, vegetables, and fish, which are not typically covered by mandatory price supports. These commodities are diverted to school lunch and other domestic food and nutrition programs. Section 32 also is used to fund farm economic and disaster relief activities, among other things.

In June 2008, Congress passed the most recent omnibus farm bill (P.L. 110-246). Provisions in this law spell out more explicitly how the Secretary is to use the annual Section 32 appropriation. One provision of P.L. 110-246 requires higher minimum levels of fruit, vegetable, and nut purchases (in fresh, frozen, canned, or dried forms) to support domestic nutrition programs. A separate provision requires the Department to use Section 32 to fund a fresh fruit and vegetable program for participating elementary schools, with spending to grow from $105 million in FY2009 to $150 million by FY2012. Another part of the law delineates precisely how the Secretary is to allocate the annual Section 32 appropriation (i.e., how much is to be transferred to child nutrition accounts). This delineation was included in the farm law for federal budget scoring purposes, to pay for the cost of the new fresh fruit and vegetable program without incurring significant new outlays.

Separately, USDA's FY2008 appropriation (part of the Consolidated Appropriations Act, 2008, P.L. 110-161) also limited somewhat the availability of Section 32 monies. It rescinded a total of $684 million, including $184 million that otherwise would have been available in FY2008 for surplus purchases, and $500 million in prior unobligated balances in the account. The FY2009 Omnibus Appropriations Act (P.L. 111-8) continued restrictions on Section 32 spending, primarily though a $294 million rescission of an unobligated balance carried over from FY2008. The enacted FY2010 Agriculture appropriations act, P.L. 111-80, also includes a $133 million rescission of funds carried over from FY2009.

These congressional actions appear to limit the wide discretion that USDA officials long exercised with regard to program spending under this account. Meanwhile, various Members of Congress and their constituents want to ensure that a portion of Section 32 funds 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 and to help domestic nutrition programs through surplus purchases.

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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 to meet the following objectives:

1. Encourage the export of farm products through producer payments or other means.
2. Encourage the domestic consumption of farm products by diverting surpluses from normal channels or increasing their use by low-income groups.
3. Reestablish farmers' purchasing power.

The Secretary of Agriculture has always had considerable discretion in deciding how to achieve these broad objectives. Some believe this discretion has been too broad, essentially providing the Secretary with a "blank check" to spend money without enough guidance from Congress. Others believe such flexibility has been desirable because it enables the Secretary to respond to problems in unpredictable agricultural markets and to the needs of domestic food providers.

In a sharp departure from past policies, the 2008 farm law (P.L. 110-246), which Congress approved in June 2008, spells out more explicitly how the Secretary is to use the annual Section 32 appropriation. This serves to limit some of the wide discretion that USDA officials previously exercised with regard to program spending under this account. Recent appropriations bills also have begun to constrain the Secretary's options for spending Section 32 money.

As in past years, most of the annual Section 32 appropriation is still simply transferred by annual appropriation laws to the U.S. Department of Agriculture (USDA) account that funds child nutrition programs. For example, in FY2009, nearly $6.5 billion of the approximately $8.0 billion Section 32 appropriation was transferred to the Food and Nutrition Service (FNS). For FY2010, nearly $7.0 billion of a total Section 32 level of nearly $8.1 billion is expected to be transferred.

However, the Secretary of Agriculture, acting through the Department's Agricultural Marketing Service (AMS), still chooses how to use a smaller but nonetheless significant portion of Section 32 funds—the portion not transferred—to purchase non-price-supported commodities like meats, poultry, fruits, vegetables, and seafood. These purchases are intended to fulfill two requirements (under other federal laws):

1. Provide commodities to the school lunch and other domestic food programs.
2. Support farm prices (by buying and diverting additional "bonus" commodities to these food programs).

In addition, the Secretary has chosen to use other non-transferred 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 Has Operated

An accounting of a completed fiscal year (FY2008) provides a snapshot of how money has traditionally been collected and spent.[1] The program's permanent appropriation was **$7.564 billion**, representing 30% of prior calendar-year customs receipts. This figure was reduced by:

- **$684 million**, a rescission mandated by Congress for budgetary savings.
- **$6.254 billion**, transferred to the child nutrition program cash account, to help pay for federal child nutrition programs budgeted at about $13.902 billion in FY2008. (The difference, $7.648 billion, was provided directly to the child nutrition programs through the annual, i.e., FY2008, USDA appropriation.)
- **$85 million** (the equivalent of 30% of customs revenue from fish product imports), transferred to the Commerce Department for fisheries activities.

This left **$541 million**, to which was added **$500 million** in unobligated FY2007 money that was carried into FY2008. A further upward adjustment was made to account for the recovery of **$54 million** in money that was committed earlier but not spent, bringing the amount available for obligation to **$1.095 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 FY2008, an average of more than 20 cents—for a total of $1.022 billion.
- **$181 million** was used to provide specialty crop commodities to child nutrition programs as mandated by the 2008 farm bill.
- $**3 million** was included as an accounting adjustment.
- **$2 million** went for disaster relief foods.
- **$48 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.
- **$50 million** was used for the removal of defective commodities (ground beef contaminated by *E. coli* bacteria).
- **$54 million** was used for "emergency removals" of surplus commodities throughout the fiscal year (primarily fruits and vegetables).[2]

Subtracting the above spending (and adjusting for rounding) left AMS with a potential "carryout," or unobligated balance, of **$294 million** at the end of the year. This amount was less than the $500 million Section 32 law permits to be carried into the subsequent fiscal year. However, Congress rescinded this amount in FY2009, returning it to the U.S. Treasury.

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[1] Primary sources: USDA *Budget Explanatory Notes for Committee on Appropriations,* FY2009 and FY2010. All figures are rounded to the nearest million dollars.

[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.

The **Appendix** to this report contains tables that provides a more detailed accounting of Section 32 spending by type of activity for each year from FY2001 through FY2009 and estimated FY2010, 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 typically covered by agricultural price support through USDA's Commodity Credit Corporation (CCC). Unlike CCC support, which is normally limited to price-supported commodities (e.g., milk, grains and oilseeds, cotton, sugar), Section 32 is not constrained in the types of commodities that 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 have been benefitting 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 (about $6.5 billion in FY2009). The amount transferred each year has historically been determined by congressional appropriators based on USDA's recommendations. But, as discussed later, the 2008 farm bill limits appropriators' latitude. 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 commodities directly and then provide them to schools and to other domestic feeding programs. These purchases are made for FNS through USDA's Agricultural Marketing Service (AMS). For FY2009, AMS purchased over $1.4 billion in agricultural commodities, which included $593 million for fruits and vegetables, $462 million for livestock and seafood, and $386 million for poultry. The majority of these commodities are used to fulfill a mandate in child nutrition law; for example, Sections 6 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.

As noted, additional commodities frequently are provided as a "bonus" to schools and other domestic food programs; these are commodities that were obtained separately when AMS makes "emergency" commodity purchases to relieve farm surpluses that occur throughout the year Bonus purchases were valued at $319.5 million in FY2009, which is considerably higher than the $53.6 million spent in FY2008, mostly due to large purchases of pork and poultry.

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 FY1996.

Table 1. Total Annual Contingency Purchases, FY1996-FY2010

($ millions)

1996	$56.2	**2001**	$200.2	**2006**	$81
1997	$100.9	**2002**	$206.9	**2007**	$56.9
1998	$194.8	**2003**	$222.1	**2008**	$53.6
1999	$144.5	**2004**	$226.5	**2009**	$319.5
2000	$200.2	**2005**	$149.5	**2010**	$257.5 (est)

Source: USDA, Agricultural Marketing Service.

As **Table 2** on the following page indicates, some commodities are bought more frequently than others. AMS made contingency purchases of salmon in 7 out of the 10 years examined, at a total cost of nearly $64.7 million. Other relatively frequent purchases of considerable value were of peaches, potatoes, cherries, grapes, walnuts, apples, and orange juice.

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 during the Bush Administration, 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 viewed as flaws, program supporters have seen as flexibility to quickly and efficiently address agricultural problems.

[3] This assessment was last accessed in July 2008 at http://www.whitehouse.gov/omb/expectmore/.

Table 2. Section 32 Contingency Fund (Bonus) Purchases, by Commodity, FY2000-FY2009

Commodity	Number of Years Purchased	Total Value Purchased (million $)	Commodity	Number of Years Purchased	Total Value Purchased (million $)
Specialty Crops			**Livestock and Seafood**		
almonds	3	29.5	beef	2	33.0
apples	6	88.8	bison	1	10.0
apricots	7	49.6	catfish	3	11.0
asparagus	7	28.3	lamb	8	28.1
beans	4	40.8	pork, ham	3	144.4
blueberries	3	35.7	salmon	7	64.7
caneberries[a]	3	4.5	tuna	2	2
cherries	7	99.9	**Livestock & Seafood Total**		**301.2**
cranberries	5	80.6			
dates	3	7.2			
figs	4	17.0	**Poultry Products**		
grape products	6	95.0	chicken	5	88.3
grapefruit	2	20.1	egg products	1	10.0
mixed fruit	2	79.5	goose	2	1.8
orange juice	5	99.5	turkey	3	68.4
peaches	6	141.7	**Poultry Products Total**		**168.5**
pears	5	42.0			
pineapple	5	21.2			
plums	4	8.2			
potatoes[b]	6	113.2			
strawberries	3	12.8			
tomatoes	7	40.3			
trail mix	4	78.5			
walnuts	6	94.8			
Specialty crops total		**1,246.7**			

Source: USDA and House Appropriations Committee, various hearing reports, supplemented by AMS unpublished data. Each category represents commodities and/or any foods processed from them, purchased by AMS. Purchases for each category are cumulative for the 10-year period covered.

a. Includes raspberries, blackberries, etc

b. Includes sweet potato.

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. Since 2004, the totals have declined steadily to $54 million in FY2008, raising concern among some providers of domestic food assistance such as food bank operators. While food assistance providers concede that the food they have received through this Section 32 activity is a "bonus" and not an "entitlement," many say they have come to rely on the higher levels to help meet client demand. However, in FY2009 contingency purchases are estimated to increase almost fivefold to $276 million (**Table 1**).

Agricultural 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 more than $1.3 billion over the four years in direct payments primarily to producers of fruits, vegetables, and nursery crops for hurricane and/or disease losses—for example, $100 million in FY2007 to growers whose trees were eradicated to combat citrus canker. Other notable portions went for livestock assistance for various 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 the past 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. In many years, a portion is used to provide food commodities to victims of hurricanes and natural disasters. 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, as noted in the next section. For example, it designated 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.

Provisions of the 2008 Farm Bill (P.L. 110-246) Limiting Section 32 Discretion

Congress increased fruit and vegetable purchases in the 2008 farm law (P.L. 110-246). The law encompasses several provisions aimed at fulfilling the goal of increased fruit and vegetable consumption while maintaining Section 32 spending within the budget baseline. First, under the nutrition title (Title IV), § 4304 amends the Richard B. Russell National School Lunch Act to authorize a new program to provide fresh fruits and vegetables in selected elementary schools nationwide, targeting those with higher numbers of students who are eligible for free or reduced price meals. Under § 4304, funding is mandated in the following amounts, to come from Section 32:

- $40 million on October 1, 2008;
- $65 million on July 1, 2009;
- $101 million on July 1, 2010;
- $150 million on July 1, 2011; and
- for each succeeding July 1, the 2011 amount is to be adjusted for inflation.

Second, the bill—in § 14222, in Title XIV, the miscellaneous title—spells out explicit instructions on how each year's Section 32 money must be allocated. These instructions are intended as a way to fund the fresh produce program without raising spending above the budget baseline, as estimated by the Congressional Budget Office (CBO). They contain a statutory formula that essentially caps Section 32 "unobligated" funds: that is, the amount the Secretary (through AMS) is permitted to spend after transfers for use in the child nutrition programs and to Commerce for fisheries activities. These annual caps rise gradually from $1.173 billion in FY2009 to $1.322 billion in FY2017 (and thereafter are tied to inflation).

Under the new law, the funding for the fresh fruit and vegetable program (noted above) is required to come out of these capped, unobligated amounts. After subtracting this funding, the remainder is the maximum that the Secretary is permitted to spend for all other traditional Section 32 activities, such as surplus commodity purchases, farm economic and disaster assistance, administration of marketing orders, and so forth. For example, in FY2009, $105 million of the $1.173 billion cap had to be used for the fresh fruit and vegetable program. Thus, the apparent effect of the new farm law is to constrain policymakers' historical discretion in Section 32 spending decisions.

A separate provision in the 2008 farm bill (§ 4404 in the nutrition title) seeks to resolve differing perceptions of a directive, in the 2002 farm bill, to spend not less than $200 million of Section 32 funds annually to buy fruits, vegetables, and other specialty crops for domestic nutrition programs. 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 averaged about $308 million annually from FY2000 to FY2006, according to USDA purchase data examined by CRS. The 2002 farm bill conference report had directed that the $200 million should be in additional purchases, and Senate reports accompanying annual USDA appropriations have reminded USDA of these farm bill instructions. However, USDA officials argued that these instructions were not binding because they were in report language rather than in the law itself.

To clarify this situation, § 4404 of the farm bill states that the Secretary shall purchase, "in addition to the purchases" made under the 2002 law, the following amounts of fruits, vegetables, and nuts for domestic nutrition programs:

- $190 million for FY2008;
- $193 million for FY2009;
- $199 million for FY2010,
- $203 million for FY2011; and
- $206 million for FY2012 and each subsequent year.

In other words, the Department was bound by law to purchase at least $390 million in fruits, vegetables and nuts in FY2008, with this minimum gradually increasing to $406 million by FY2012. (These purchases can be purchased in frozen, canned, or dried as well as fresh forms under §4404.) The additional purchases required by the 2008 farm bill match CBO projections as to what the Department is likely to spend in future years. AMS purchases of specialty crops totaled more than $593 million for FY2009.

Other language in P.L. 110-246 also affects Section 32. Under § 4305 in the nutrition title, the Secretary is required to purchase whole grains and whole grain products for use in the school lunch and breakfast programs. Under § 14222 in the miscellaneous title, the Secretary must make available, in FY2009 only, $4 million in Section 32 funding for these purchases, further reducing the "unobligated" pot of Section 32 money.

Appropriations Action

USDA's FY2008 appropriation was passed along with 10 other appropriations bills in the Consolidated Appropriations Act, 2008 (P.L. 110-161). This law also appears to include an effort to rein in USDA-AMS's discretionary use—or at least the availability—of Section 32 funds. It rescinded a total of $684 million: $184 million that otherwise was projected to be available in FY2008 for surplus purchases, plus $500 million in prior unobligated balances. The appropriations committees noted, in accompanying explanatory language, that even with this rescission, $297 million was still provided for estimated future needs (i.e., the contingency fund) in FY2008.

The FY2009 Omnibus Appropriations Act (P.L. 111-8) continued to set limits to Section 32 spending options. A rescission of $294 million from the unobligated balance remaining from FY2008 further tightened the contingency fund, resulting in a maximum allowable spending authority of $1.072 billion, $101 million below the amount authorized in the farm bill.

For FY2010, the enacted appropriation contains a rescission of $133 million from unobligated balances carried over from FY2009 and previous years, as set out under Title VII (General Provisions). The 2008 farm bill also requires that $199 million of Section 32 funds be used in FY2010 to purchase fruit, vegetables, and nuts for domestic food assistance programs.

Appendix. Section 32 Funding, FY2001-FY2010

Table A-1. Section 32 Funding, FY2001-FY2010

($1,000)

	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009[a]	FY2010(est)[a]
1. Section 32 Appropriation (30% Customs Receipts)	5,738,449	6,139,942	5,798,093	5,927,395	6,052,036	6,481,777	7,029,269	7,563,684	7,979,335	8,061,101
2. Rescission		-468			-163,000	-37,601	-37,601	-684,000	-293,530	-133,352
3. Ag. Risk Protection Act (P.L. 106-224)	200,000									
4. Unavailable Current Year Funds									-343,492	-76,853
5. Transfer from CCC or Supplemental			250,000		90,000					
LESS TRANSFERS:										
6. Transfer to FNS	-5,127,579	-5,172,458	-4,745,663	-4,699,661	-5,152,962	-5,187,621	-5,731,073	-6,253,548	-6,455,802	-6,989,899
6a. Transfer to FNS for Fresh Fruit & Vegetable Program (2008 farm bill)									-105,000	-25,000
6b. Transfer to FNS for Fresh Fruit & Vegetable Study (2008 farm bill)									-3,000	
7. Transfer to Commerce (fisheries)	-72,828	-79,127	-75,224	-79,724	-77,539	-79,284	-82,817	-84,595	-108,511	-113,371
8. BUDGET AUTHORITY (net of above lines)	738,042	887,889	1,227,206	1,148,010	748,535	1,177,271	1,177,731	541,541	778,000	747,626
9. Unobligated Prior Year Balance	241,270	107,825	192,156	134,322	408,051	286,160	146,760	500,000	293,530	375,374
10. Recovery Prior Year Obligations	3,254		40,157	5,518	24,273	60,039	120	12	8,311	0
11. Offsetting Collections							139,277	53,516	19,849	0
12. AVAILABLE FOR OBLIGATION (net of above)	982,566	995,714	1,459,519	1,287,850	1,180,859	1,523,470	1,463,888	1,095,069	991,960	1,098,000
OBLIGATIONS:										
COMMODITY PROCUREMENT:										
13. CN Commodity Purchases	400,000	399,935	200,000	400,000	399,322	549,792	664,860	464,937	467,881	641,000
14. State Option Contracts			948	3	134	0	0	174	0	5,000
15. Removal of Defective Commodities			1,000	67	36	0	1,871	49,914	29	2,500

	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009[a]	FY2010(est)[a]
16. Fresh Fruit & Vegetable Program									108,000	101,000
16a. Fresh Fruit & Vegetable Pilot		6,000								
16b. Additional Fruit, Veg., & Nut purchases mandated by 2008 farm bill								180,778	119,500	199,000
17. Emergency Surplus Removals	200,234	206,898	222,090	226,475	149,496	81,010	56,892	53,654	319,513	257,508
18. Diversion Payments	11,900									
19. Livestock Drought Relief		172,867	867,000							
20. Other Direct Payments	39,700		8,000	218,750	278,763	700,000	101,650		750	
21. Lamb Grading/Certification	957	592	103	100						
22. Disaster Relief			500	9,200	40,597	1,901	11,317	1,722		5,000
23. Specialty Crop Purchases (P.L. 106-224)	199,991							180,778	119,418	144,600
24. Whole Grain Products Study (FSA)									4,000	
25. TOTAL, COMMODITY PROCUREMENT	852,782	786,292	1,299,641	854,595	868,348	1,332,703	836,590	751,179	911,591	1,055,608
ADMINISTRATIVE FUNDS:										
26. Commodity Purchase Services	8,964	6,906	11,199	10,266	10,848	28,866	31,146	33,845	31,092	22,336
27. Marketing Agreements & Orders	12,995	10,359	14,844	14,938	15,502	15,141	15,493	16,515	17,124	20,056
28. TOTAL, ADMINISTRATIVE FUNDS	21,959	17,265	26,042	25,204	26,350	44,007	46,639	50,360	48,216	42,392
29. TOTAL OBLIGATIONS	874,741	803,557	1,325,684	879,799	894,698	1,376,710	883,229	801,539	959,807	1,098,000
30. UNOBLIGATED BALANCE	107,825	192,156	134,322	408,051	286,160	146,760	262,399	293,530	343,492	300,492
31. Unobligated Balance Returned to Treasury							80,695			
32. Unobligated Balance, End of Year	107,825	192,156	134,322	408,051	286,160	146,760	500,000	293,530	31,883	

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

a. Estimate based on S.Rept. 111-39, which accompanies S. 1406, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010.

Line-by-Line Explanation of Terms in Appendix Tables

Unless noted, the sources for the above tables 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 tables.

1. Section 32 Appropriation (30% of Customs Receipts)

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. Rescissions, represented in these tables as negative numbers, generally are to achieve budgetary savings. For example, the FY2006 appropriations act for USDA and related agencies (P.L. 109-97) contained a Section 32 rescission of $37.6 million. As noted, much more money was rescinded under the appropriation for FY2008 (P.L. 110-161), a total of $684 million—$184 million that otherwise was projected to be available in FY2008 for surplus purchases, plus $500 million in prior unobligated balances. The appropriation for FY2009 contained a rescission of $293.5 million, and the FY2010 enacted appropriation contains a $133 million rescission.

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, black-eyed peas, cherries, citrus, cranberries, onions, melons, peaches, and potatoes." The obligation of this money appears in the "Specialty Crops Purchases" line item below.

4. Unavailable Current Year Funds

As discussed in the report, § 14222 in Title XIV of the 2008 farm bill effectively caps Section 32 "unobligated" funds each year, and this is considered the carryout for each year.

5. 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 19 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 "Other Direct Payments" line item, below).

6. 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 FY2008, the total child nutrition appropriation was $13.902 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, the annual appropriation provided $7.648 billion and designated that the other approximately $6.254 billion come from Section 32. These yearly determinations of how much to directly appropriate and how much to transfer from Section 32 generally have been made by congressional appropriators based on Administration recommendations, but beginning in 2009 these amounts have been constrained by provisions set out in the 2008 farm bill.

6a-6b. This transfer to FNS specifically for the Fruit and Vegetable Program and Study was mandated under § 4304 of the 2008 farm bill. In 2010, this was modified by the FY2010 appropriations bill, P.L. 111-80, General Provision 721, which stated that only $25 million of the $101 million (specified by the 2008 farm bill) would be transferred in FY2010, while the remaining $76 million would effectively be transferred in FY2011.

7. 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).

8-12. 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 (line 8). They are the Unobligated Prior Year Balance (line 9), 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 10). The Offsetting Collections (line 11) also include any recoveries of obligations not made previously; for instance, for FY2007, $139.3 million was returned to Section 32 from USDA's Farm Services Agency as unused funds from a disaster-related direct payment event.

AMS uses the money in Available for Obligation (line 12) to pay for activities that fall within two broad "obligations" categories: Commodity Procurement (lines 13-25), and Administrative Funds (lines 26-28).

13. 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 FY2008, an average of more than 20 cents, for a total of $1.022 billion. Another school lunch act requirement has mandated that at least 12% of total assistance (cash plus commodities combined) be in the form of commodities. To buy these commodities, USDA uses some Section 32 money (the amount in this line), while the remaining balance comes from the child nutrition account funds.

In past fiscal years, USDA had 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. In more recent years, this amount has been as high as $665 million in FY2007 and is estimated to be $641 million for FY2010.

14. 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.[4]

15. Removal of 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. In FY2007, AMS replaced $1.9 million in beef stew found to have *E. coli* contamination. In FY2008, $50 million was spent on removals of defective ground beef. AMS has budgeted $2.5 million for removal of defective commodities for FY2010.

16. Fresh Fruit & Vegetable Program

This is a transfer from Section 32 funds to provide children with free fresh fruits and vegetables through federal nutrition programs, where appropriate. This program was mandated by the 2008 farm bill, § 4404.

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[4] Source: Part 5, p. 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.

16a. Fresh Fruit & Vegetable Pilot

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. This pilot project has been replaced by the Fresh Fruit and Vegetable Program (line 16, above).

16b. Additional Fresh Fruit, Veg., and Nut Purchases Mandated by 2008 Farm Bill

These are additional funds required to meet the FY2008 farm bill mandate that $390 million of Section 32 funds be used to provide specialty crops for food assistance programs.

17. 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 tables indicate, 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 tables indicate, the value of emergency surplus removals has varied widely, from a recent low of $53.7 million in FY2008 to an estimated $319.5 million in FY2010.

18. 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.

19. 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 17, 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.

20. 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. In FY2007, another $100 million in direct payments were made for citrus canker tree losses, plus $1.65 million to hog and poultry producers whose animals likely received feed contaminated with melamine.[5] During FY2008, no payments were made under this line item.

21. Lamb Grading/Certification

These funds, made available in FY2001-FY2004, were for AMS services provided to support the FSA payment program described in line 20, above.

22. 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.

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[5] In early 2007, pet food ingredients from China that contained the chemical melamine—apparently added to boost the ingredients' protein levels—sickened or killed many dogs and cats in North America. The ingredients subsequently were found in some hog, chicken, and fish feed. For background see CRS Report RL34080, *Food and Agricultural Imports from China*, by Geoffrey S. Becker.

23. Specialty Crop Purchases (P.L. 106-224)

See Ag. Risk Protection Act (line 3), above.

24. Whole Grain Products Study (FSA)

This study was mandated by the 2008 farm bill.

25. Total, Commodity Procurement

This is the total of lines 13 through 24.

26. Commodity Purchase Services

These are the administrative costs AMS incurs for food-buying operations and coordination with FNS and FSA. Beginning in FY2006, Congress provided additional funds for development of a "Web-Based Supply Chain Management System" to replace AMS's older commodity procurement system. An additional $10 million is appropriated for this purpose in FY2009 and in the enacted appropriation for FY2010.

27. Marketing Agreements & 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*.).

28. Total, Administrative Funds

This is the total of lines 26 and 27.

29. Total Obligations

This represents the total of lines 25 and 28 (the combined total for all commodity procurement and administrative activities).

30. Unobligated Balance

The amount remaining after total obligations are subtracted from the amount available for obligation.

31. 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. Section 10602 of the 2002 farm bill increased the maximum carryover to $500 million. In FY2007, $80.7 million of unobligated Section 32 funds were returned to the Treasury to avoid exceeding the end-of-year cap. A rescission of $684 million in FY2008 included $184 million that was over the $500 million maximum carryover and would have been returned to the Treasury since the limit on the allowed unobligated balance carryover was exceeded.

32. Unobligated Balance, End of Year

This carryover ranged from a low of $107.8 million at the end of FY2001 to a high of $500 million at the end of FY2007. This figure appears on line 9 for each subsequent fiscal year as "Unobligated Prior Year Balance."

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