



Fruits, Vegetables, and Other Specialty Crops: Selected Federal Programs

Renée Johnson
Specialist in Agricultural Policy

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Summary

U.S. farmers grow more than 350 types of fruit, vegetable, tree nut, flower, nursery, and other horticultural crops in addition to the major bulk commodity crops. Specialty crop producers are ineligible for the federal commodity price and income support programs that benefit commodity crop producers (e.g., grains and cotton); however, they are eligible for other types of U.S. Department of Agriculture (USDA) support. Unlike federal support for commodity crops, support for specialty crops spans a wide range of existing USDA programs, many of which also provide support to other agricultural commodities. These include marketing and promotion programs, crop insurance and disaster assistance, plant pest and disease protections, trade assistance, and research and extension services, among other types of miscellaneous support. The industry also benefits from fruit and vegetable purchases under various domestic nutrition assistance programs. Despite this wide range of program support, overall program spending on all specialty crops remains a small fraction of that spent on all commodity crops, even when considering both mandatory and discretionary funding.

Some of the programs supporting specialty crops are longstanding farm support programs that benefit all agricultural producers and are regularly contained within omnibus farm legislation. However, several programs addressing specialty crops specifically were established following the enactment of the Specialty Crops Competitiveness Act of 2004 (P.L. 108-465), which was enacted outside a farm bill year. Many of the programs in the 2004 act were further expanded and reauthorized in the 2008 farm bill (Food, Conservation, and Energy Act of 2008, P.L. 110-246). Other programs were established in the 2002 farm bill (Farm Security and Rural Investment Act of 2002, P.L. 107-171), often as pilot initiatives that have since become established programs. Other laws, such as the Perishable Agricultural Commodities Act of 1930 (PACA) and the Agricultural Marketing Agreement Act of 1937, were enacted long ago to exclusively serve the produce industry to protect sellers in the marketplace.

Other federal agencies also play important roles in the specialty crop industry. The Food and Drug Administration (FDA, in the U.S. Department of Health and Human Services) is responsible for assuring that fresh, frozen, canned, and imported fruits, vegetables, and nuts are safe for human consumption. Recently enacted food safety reforms (FDA Food Safety Modernization Act, FSMA) placed additional regulatory requirements on certain specialty crop growers and processors to comply with safety requirements for foods that are regulated by FDA, which includes specialty crops. Under FSMA, FDA is developing mandatory food safety regulations and traceability requirements affecting farmers, packers, and processors of both domestically produced and imported foods under FDA's jurisdiction. At the farm production level, these requirements will mostly affect produce growers.

Among other agencies, the Environmental Protection Agency sets the safe limits for pesticide residues on produce, which FDA enforces. The Department of Commerce and the International Trade Commission are responsible for investigating instances of suspected "dumping" of foreign goods on the U.S. market and levying antidumping taxes. The Department of Labor, the Department of Homeland Security, and the Department of State jointly administer a system for temporarily admitting foreign workers to provide seasonal labor, provided that U.S. workers are not available.

Contents

Introduction.....	1
Selected Federal Programs.....	4
Advisory Committee	7
Assistance for Production Losses.....	8
Federal Crop Insurance	8
Noninsured Disaster Assistance	10
Other Supplemental Assistance	11
Market Loss Payments	12
Protection for Sellers.....	12
Marketing and Promotion.....	13
Specialty Crop Block Grant Program.....	13
Value-Added Producer Grants.....	14
Farmer Direct Marketing Assistance.....	15
Market News	16
Marketing Orders and Agreements	16
Inspection, Grading, Standardization, and Other Promotion	17
Standards of Identity	18
Country-of-Origin Labeling	19
Food Safety.....	19
FDA Food Safety Regulations.....	20
USDA Product Quality and Data Collection Programs.....	21
Pesticide Residues.....	22
Export and Trade Promotion	23
Market Development Programs	24
Technical Assistance for Specialty Crops.....	25
Trade Adjustment Assistance for Farmers.....	26
Trade Remedies.....	26
Pest and Disease Exclusion	27
Pest Detection and Surveillance.....	28
Specialty Crop and Plant Pest Management.....	29
Import Inspection and Quarantine.....	30
Export Facilitation.....	31
Research and Cooperative Extension	32
Specialty Crop Research Initiative.....	33
Methyl Bromide	33
Nutrition and Food Assistance.....	34
Commodity Procurement for Domestic Food Assistance Programs	34
Purchases Using Child Nutrition Programs’ Cash Assistance.....	37
Fresh Fruit and Vegetable (“Snack”) Program	39
Assistance to Households and Families	40
Certified Organic Foods	41
National Organic Program.....	43
Organic Certification Cost-Share Program	43
Product and Market Data Collection.....	44
Organic Agriculture Research and Extension Initiative	45
Organic Transitions Program.....	45
EQIP Organic Initiative.....	45

Other Farm Bill Programs	46
Labor Protections.....	46
H-2A Program	47
Farmworker Assistance Programs	47

Figures

Figure 1. Value of Vegetables, Melons, Potatoes, and Sweet Potatoes Sold.....	3
Figure 2. Value of Fruits, Tree Nuts, and Berries Sold.....	3
Figure 3. Value of Nursery, Greenhouse, Floriculture and Sod Sales.....	4
Figure 4. Share of Specialty Crop Acres Insured, 2009.....	9
Figure 5. New Crop Insurance Product Introductions, by Year	10
Figure 6. Specialty Crop Block Grant Program Projects, by Type	14

Tables

Table 1. U.S. Crop Production Statistics, Commodity and Horticultural Crops.....	2
Table 2. Selected Authorized Funding Levels for Specialty Crops and Organic Agriculture, FY2008-FY2012.....	5
Table 3. Annual USDA Food Commodity Purchases, Specialty Crops,.....	37
Table 4. Section 32 Contingency Fund (Bonus) Purchases, Specialty Crops, FY2000- FY2009	38

Contacts

Author Contact Information.....	48
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Introduction

Specialty crops, defined as “fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops (including floriculture),”¹ comprise a major part of U.S. agriculture. In 2007, the value of farm-level specialty crop production totaled more than \$50 billion, representing more than one-third of the value of U.S. crop production (**Table 1**). Despite their relatively large share of crop receipts, specialty crops occupy only about 3% of U.S. harvested cropland acres.² The U.S. Department of Agriculture (USDA) reports that retail sales of fresh and processed fruits and vegetables for at-home consumption total nearly \$100 billion annually.³ Exports of U.S. specialty crops totaled nearly \$15.9 billion in 2010, or about 15% of total U.S. agricultural exports.⁴

In 2007, about 248,000 farming operations grew more than 350 types of fruit, vegetable, tree nut, flower, nursery, and other horticultural crops in addition to the major bulk commodity crops.⁵ Farm sales are focused in California, Florida, Washington, Oregon, North Dakota and Michigan; however, every state has some commercial specialty crop production within its borders. USDA data illustrate the distribution, nationwide, of areas producing vegetables (**Figure 1**), fruits and tree nuts (**Figure 2**), and nursery crops (**Figure 3**), shown as a percentage of the total market value of agricultural products sold (including livestock).

The majority of specialty crop producers are considered specialized, which means that they receive at least half of their gross value of production from the sale of vegetables, fruits, tree nuts or other horticultural crops. These specialized farms rely mostly on specialty crop production for their farm income, even though they may be also engaged in other forms of agricultural production. USDA reports that about 50% of all vegetable growers and 80% of fruit and tree nut growers are considered specialized; however, specialized farms account for 90%-95% of the total value of U.S. specialty crop production.⁶ Conditions may vary considerably by major production region. Specialized fruit and vegetable farms are more concentrated in the western United States, including California, Washington, and Oregon. Some farms also participate in the major commodity support programs, but these tend to be more concentrated in the midwestern states.

Even though specialty crop production accounts for about one-third of the value of all U.S. crop production, overall spending on federal programs benefitting all specialty crops remains a small fraction of that spent on all commodity crops.⁷

¹ Defined in the Specialty Crops Competitiveness Act of 2004 (P.L. 108-465, Section 3), as amended by the 2008 farm bill (P.L. 110-246, Food, Conservation, and Energy Act of 2008). See USDA, “USDA Definition of Specialty Crop,” <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5082113>. Excludes peanuts, other commodities.

² USDA, NASS, *2007 Census of Agriculture*, Specialty Crops, vol. 2, November 2009. USDA reports 13.766 million acres in specialty crops in 2007. Compares to total cropland acres of 406.4 million acres in 2007.

³ As reported by USDA, AMS in “PACA—Your Partner in Produce.” Reflects estimates for 2008.

⁴ Compiled by CRS from data in the U.S. International Trade Commission’s Trade DataWeb database. Includes fresh and processed fruits, vegetables, and tree nuts (excluding peanuts), and live trees and plants.

⁵ USDA, NASS, *2007 Census of Agriculture*, Specialty Crops, vol. 2, November 2009. Most recent data available.

⁶ See, for example, USDA, *Production Expenses of Specialized Vegetable and Melons Farms*, VGS-328-01, September 2008, and *Specialized U.S. Fruit and Nut Farm Production Expenses*, FTS-337-01, June 2009. Data vary by region.

⁷ “Commodity crops” refers to agricultural production supported by specific federal farm support programs (mostly corn, soybeans, wheat, cotton, rice, dairy, and sugar).

Table 1. U.S. Crop Production Statistics, Commodity and Horticultural Crops

	2007		
	Farms (1,000)	Sales (\$ billion)	Sales (%)
Total U.S. Agriculture			
Crops, including nursery and greenhouse	986	143.7	48%
Livestock, poultry, and their products	1,080	153.6	52%
Total	2,205	297.2	100%
Commodity crops			
Grains, oilseeds, dry beans, dry beans	479	77.2	54%
Cotton & Tobacco	35	6.2	4%
Other crops and hay	435	10.0	7%
Subtotal	949	93.3	65%
Specialty Crops			
Vegetables, melons, potatoes	69	14.7	10%
Fruits, tree nuts, and berries	113	18.6	13%
Nursery, greenhouse, floriculture	51	16.6	12%
Cut trees, and short rotation woody crops	13	0.4	0%
Subtotal	246	50.3	35%
Total, Crops, incl. nursery, greenhouse	986	143.7	100%

Source: USDA, NASS, *2007 Census of Agriculture*, Specialty Crops, Volume 2, November 2009. Table 2, http://www.agcensus.usda.gov/Publications/2007/Full_Report/Volume_1,_Chapter_1_US/st99_1_002_002.pdf

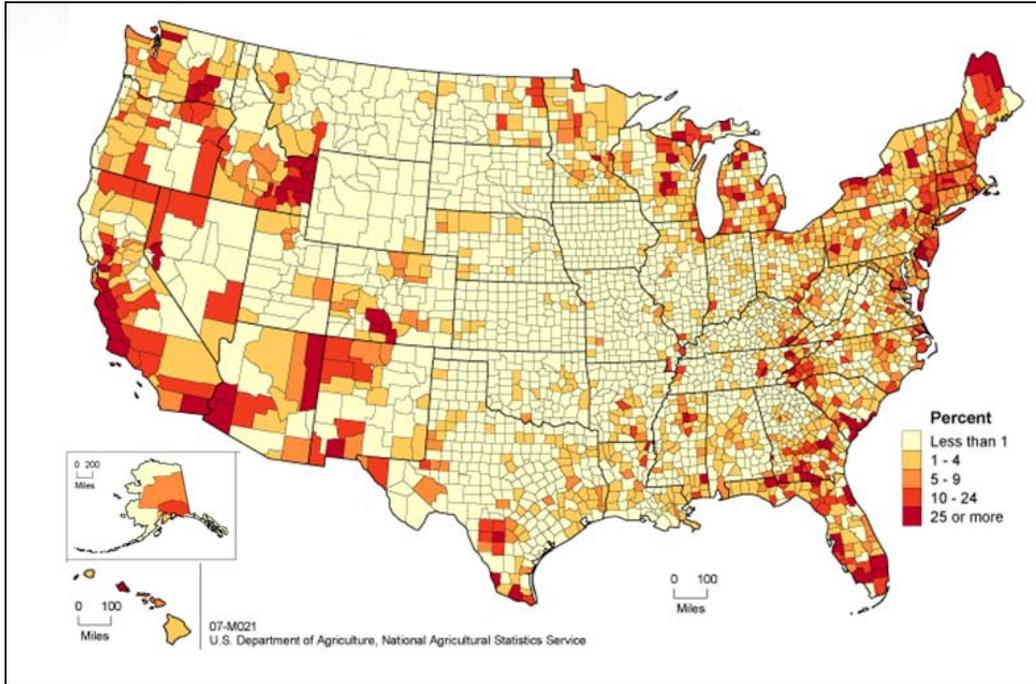
Note: The total number of farms does not add since the totals include other types of farming operations.

Precise estimates of total mandatory and discretionary sources of funding are difficult to measure, given that support for specialty crops is spread across a wide range of USDA programs and not within a price and income support program such as that available for most of the major commodity crops. Following the 2008 farm bill, an average of approximately \$0.676 billion annually (FY2008-FY2012) in mandatory program funding was authorized to be spent on specialty crops, mostly through government purchases of fruits and vegetables for domestic nutrition and feeding programs (**Table 2**). This compares to estimates for the major commodity crops, which received approximately \$8.3 billion annually mostly through direct price and income support.⁸ The specialty crop industry is requesting that Congress provide additional funding for certain existing programs, reaching approximately \$0.8 billion annually.⁹ This represents an increase above current funding levels for specialty crops, but would still represent a very small share of estimated total farm bill spending compared to commodity crops.

⁸ See CRS Report R41195, *Actual Farm Bill Spending and Cost Estimates*, Table 1.

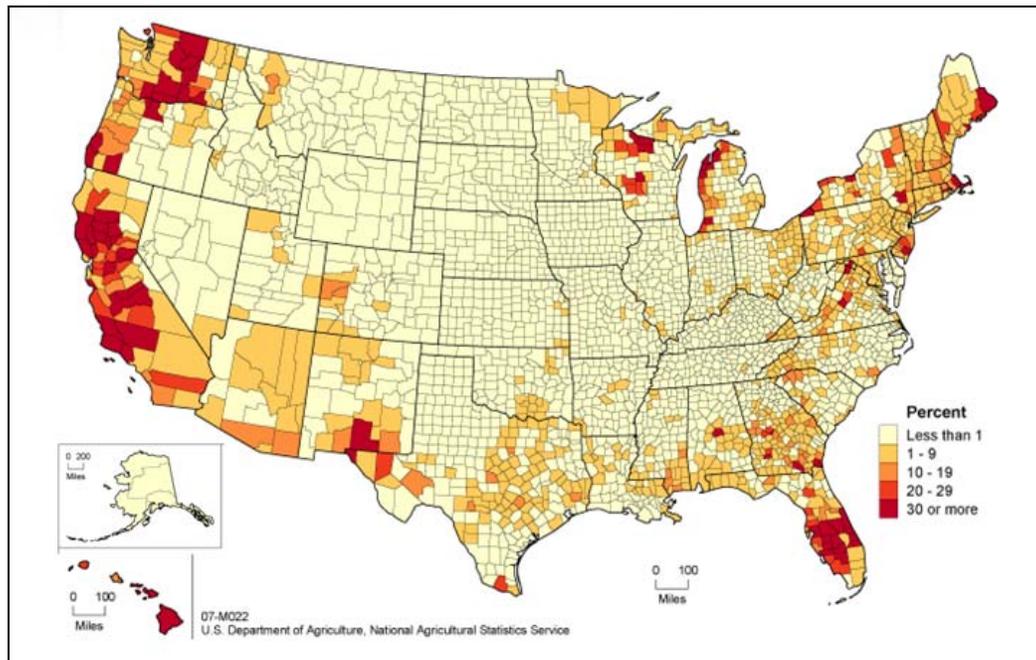
⁹ See, e.g., SCFBA, “2012 Farm Policy Recommendations,” <http://www.strongeragriculture.org/#/policy-priorities>.

Figure 1. Value of Vegetables, Melons, Potatoes, and Sweet Potatoes Sold
(% of total market value of agricultural products sold, 2007)



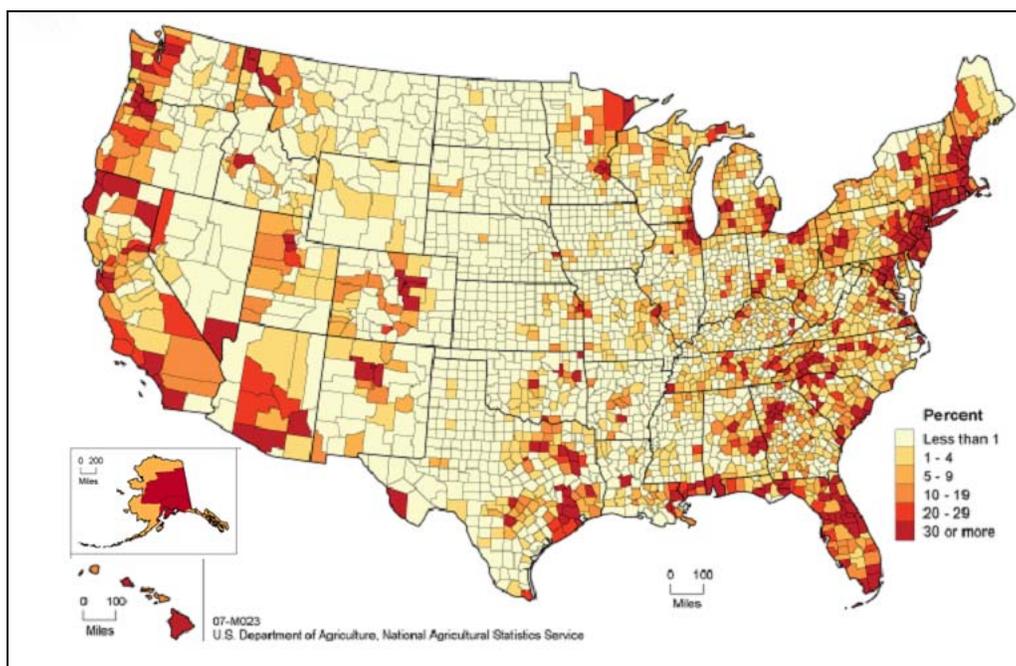
Source: USDA, NASS, 2007 Census of Agriculture, Specialty Crops, vol. 2, November 2009.

Figure 2. Value of Fruits, Tree Nuts, and Berries Sold
(% of total market value of agricultural products sold, 2007)



Source: USDA, NASS, 2007 Census of Agriculture, Specialty Crops, vol. 2, November 2009.

Figure 3. Value of Nursery, Greenhouse, Floriculture and Sod Sales
(% of total market value of agricultural products sold, 2007)



Source: USDA, NASS, 2007 Census of Agriculture, Specialty Crops, vol. 2, November 2009.

Selected Federal Programs

Specialty crops are ineligible for the federal commodity price and income support programs that benefit producers of commodity crops; however, they are eligible for other types of USDA support. Unlike programs intended to support the specific commodity crops, programs supporting specialty crops are generally available to all crops. These include marketing and promotion programs, crop insurance and disaster assistance, plant pest and disease protections, trade assistance, and research and extension services, among other types of miscellaneous support. The industry also benefits from fruit and vegetable purchases under various food and nutrition programs.

Some of the programs supporting specialty crops are longstanding farm support programs that benefit all agricultural producers and are regularly contained within omnibus farm bill legislation. However, several programs specifically addressing specialty crops were established following the enactment of the Specialty Crops Competitiveness Act of 2004 (P.L. 108-465), which was enacted outside a farm bill year. Many of the programs in the 2004 act were further expanded and amended in the 2008 farm bill.¹⁰ Other programs were established in the 2002 farm bill¹¹—many of which were started as pilot initiatives that have since become established programs. Other laws, such as the Perishable Agricultural Commodities Act of 1930 (PACA), were enacted long ago to exclusively serve the produce industry to protect sellers in the marketplace.

¹⁰ Food, Conservation, and Energy Act of 2008, P.L. 110-246.

¹¹ Farm Security and Rural Investment Act of 2002, P.L. 107-171.

Table 2. Selected Authorized Funding Levels for Specialty Crops and Organic Agriculture, FY2008-FY2012
(\$ millions)

Program Name (2008 farm bill section number)	Funding Type ^a	Average Annual (Mand.)	FY2008-FY2012 (Mand.)
Specialty Crops			
Technical Assistance for Specialty Crops, TASC (Sec. 3203)	Mandatory	\$7.4	\$37.0
Fresh Fruit and Vegetable (“Snack”) Program (Sec. 4304)	Mandatory/Discretionary ^b	\$101.2	\$506.0
Minimum Purchases under Section 32 program (Sec. 4404)	Mandatory	\$398.2	\$1,991.0
Senior Farmers’ Market Program (Sec. 4231)	Mandatory	\$20.6	\$103.0
SNAP Pilot Projects (Sec. 4141)	Mandatory/Discretionary ^b	\$4.0	\$20.0
Value-Added Producer Grants, VAPG (Sec. 6202)	Mandatory/Discretionary ^c	\$3.0	\$15.0
Specialty Crop Research Initiative, SCRI (Sec. 7311)	Mandatory/Discretionary ^c	\$46.0	\$230.0
Specialty Crop Block Grants (Sec. 10109)	Mandatory	\$44.8	\$224.0
Farmers’ Market Promotion Program (Sec. 10106)	Mandatory	\$6.6	\$33.0
Specialty Crops Market News Allocations (Sec. 10107)	Mandatory	\$9.0	\$45.0
Food Safety Education Initiatives (Sec. 10105)	Discretionary ^d	na	na
Plant Pest/Disease Mgmt./Disaster Prevention (Sec. 10201)	Mandatory	\$31.4	\$157.0
National Clean Plant Network (Sec. 10202)	Mandatory	\$4.0	\$20.0
Subtotal		\$676.2	\$3,381.0
Certified Organic (all crops and livestock)^e			
Organic Agric. Research and Extension Initiative (Sec. 7206)	Mandatory/Discretionary ^b	\$15.6	\$78.0
Nat’l Organic Certification Cost-Share Program (Sec. 10301)	Mandatory	\$4.4	\$22.0
Organic Prod./Market Data Initiative (ODI) (Sec. 10302)	Mandatory/Discretionary	\$1.0	\$5.0
National Organic Program, NOP (Sec. 10303)	Discretionary	na	na
Subtotal		\$21.0	\$105.0
TOTAL		\$697.2	\$3,486.0

Source: CRS, from the 2008 farm bill (P.L. 110-246). Section numbers shown in parentheses. Average annual is the simple average over the five year period. Data for FY2008-FY2012 are totals, and include program funding that may have been allocated on a one-time basis (often made available until expended). Excludes programs that are available to all agricultural producers (such as conservation programs, trade promotion programs, etc.) where the specialty crop portion is not readily identifiable.

Notes: Data in the table reflect mandatory funding only and not authorized appropriations for some programs.

- a. Mandatory funding is made available by multiyear authorizing legislation and does not require annual appropriations or subsequent action by Congress. Discretionary spending requires appropriations action.
- b. Authorized appropriations of “such sums as necessary.”
- c. Authorized annual appropriations (FY2008-FY2012) of \$40 million (VAGP), \$100 million (SCRI), and \$5 million (ODI). NOP appropriations authorized at \$5 million (FY2008) rising to \$11 million (FY2012).
- d. Authorizes appropriations of \$1 million/year (FY2008–FY2012), “to remain available until expended”.
- e. Spending for certified organic agriculture includes funding for all certified organic production, which includes meat and dairy foods, as well as organic commodity crops, in addition to fruits and vegetables.

Selected Specialty Crop Provisions in the 2008 Farm Bill (P.L. 110-246)

Commodities (Title I)

- Planting Flexibility (§§ 1107, 1306)

Conservation (Title II)

- Adjusted Gross Income (AGI) limit (Conservation) (§ 1604)
- Conservation programs incentives (§§ 2701, 2509, 2706, 2707)

Trade (Title III)

- Market Access Program (MAP) (§ 3102)
- Technical Assistance for Specialty Crops (TASC) (§ 3203)

Nutrition (Title IV)

- Fresh Fruit and Vegetable (“Snack”) Program (§ 4304)
- Minimum Purchases under Section 32 program (§ 4404)
- Senior Farmers’ Market Nutrition Program (§ 4231)
- Purchases of Locally Produced Foods (§ 4302)
- Supplemental Nutrition Assistance Program (SNAP) pilot (§ 4141)

Rural Development (Title VII)

- Value-Added Producer Grants (§ 6202)

Research (Title VII)

- Specialty Crop Committee Report (§ 7103)
- Specialty Crop Research Initiative (§ 7311)
- Office of Pest Management Policy (§ 7313)

Horticulture and Organic Agriculture (Title X)

- Specialty Crop Block Grants (§ 10109)
- Farmer’s Market Promotion Program (§ 10106)
- Specialty Crops Market News Allocations (§ 10107)
- Evaluation of USDA Commodity Purchase Process (§ 10101)
- Inclusion of Specialty Crops in Census of Agriculture (§ 10103)
- Food Safety Education Initiatives (§ 10105)
- Plant Pest and Disease Mgmt. and Disaster Prevention (§ 10201)
- National Clean Plant Network (§ 10202)
- Plant Protection Amendment (§ 10203)
- Invasive Pest and Disease Emergency Response Funding (§ 10206)
- Grants to Improve the Movement of Specialty Crops (§ 10403)

Livestock (Title XI)

- Country of Origin Labeling (COOL) (§ 11002)

Crop Insurance and Disaster Assistance Programs (Title XII)

- Tree Assistance Program (TAP); and Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (§§ 12033, 15101)

Source: Compiled by CRS.

USDA programs supporting specialty crop producers are spread across many different titles of the farm bill (see text box above). Many of these programs broadly apply to a range of agricultural commodities, including fruits, vegetables, and other specialty crops. The selected programs described in this report are administered by various USDA agencies, including the Agricultural Marketing Service (AMS), Animal and Plant Health Inspection Service (APHIS), Food and Nutrition Service (FNS), Risk Management Agency (RMA), Farm Service Agency (FSA), National Institute of Food and Agriculture (NIFA), Agricultural Research Service (ARS), Natural Resources Conservation Service (NRCS), Foreign Agricultural Service (FAS), and Rural Development (RD).

Specialty crop producers likely also benefit from other USDA programs, available to all agricultural producers, that are not specifically highlighted in this report. These include other USDA research and cooperative extension programs, as well as USDA conservation and rural development programs, among others.

Other federal agencies play a role in the specialty crop industry. These include agencies that oversee food safety requirements for fruits, vegetables, and other specialty crops, such as the Food and Drug Administration and the Environmental Protection Agency, and agencies that oversee global trade, such as the Department of Commerce and the U.S. International Trade Commission, among others.

Following is a description of the key USDA programs, as well as programs administered by other federal agencies. Where applicable, a primary source of information on these selected programs is the Catalog of Federal Domestic Assistance.¹²

Advisory Committee

USDA established a Fruit and Vegetable Industry Advisory Committee in August 2001, which is currently re-chartered through 2013. The purpose of the committee is to examine the full spectrum of issues faced by the industry and to provide suggestions on how USDA can tailor its programs to better meet the industry's needs.¹³ The committee holds open meetings, which AMS announces in advance in the *Federal Register*. Up to 25 members may be appointed, consisting of those who represent the fruit and vegetable industry, including fruit and vegetable growers/shippers, wholesalers, brokers, retailers, processors, fresh cut processors, food-service suppliers, state agencies involved in organic and non-organic fresh fruits and vegetables at local, regional, and national levels, state departments of agriculture, and trade associations. Committee members are appointed by USDA and serve two- to three-year terms.

¹² CFDA has detailed program descriptions for more than 2,000 federal assistance programs (<https://www.cfda.gov>).

¹³ 76 *Federal Register* 37312, June 27, 2011. See also USDA, <http://www.ams.usda.gov.AMSv1.0/fv>.

Assistance for Production Losses

Federal Crop Insurance

USDA's Risk Management Agency (RMA) administers the federal crop insurance program.¹⁴ Approved private insurance companies sell and completely service the policies, but USDA reinsures potential losses and either fully or partially compensates the companies for any losses incurred. Eligible producers can receive catastrophic insurance, which is basically free except for an administrative fee. Producers can buy up their level of coverage beyond the catastrophic level and pay a premium that is subsidized by the federal government. Revenue insurance, which makes indemnity payments for income lost either from poor production or low market prices, also is available to producers of certain crops in many areas. Such insurance provides an indemnity payment when actual revenue falls below a target level of revenue.¹⁵ USDA decides which crops in which geographical areas will be covered by which types of insurance. The decision is made on a crop-by-crop and county-by-county basis, based on farmer demand for coverage and the level of risk associated with the crop in the region, among other factors. The RMA frequently offers pilot programs with various types of coverage for new crops (particularly specialty crops) or new geographical areas. It uses the performance of these programs to inform its decision on whether to extend coverage permanently.

USDA estimates that, as of 2009, 7.25 million acres of fruits, vegetables, and tree nuts were covered by federal crop insurance, with about 75% share of acres insured across all covered specialty crops (**Figure 4**). This estimate is based on total acreage for examined specialty crops only.¹⁶ If the number of insured acres were matched against the total number of production acres (i.e., regardless of crop insurance availability), this estimate would be much lower at about 58%.¹⁷ This compares with an estimated 83% coverage for major commodity crops (i.e., those under farm commodity price and income support programs). In addition, actual coverage varies depending on crop type. The share of acres insured is greater than 90% for some specialty crops (raisins, prunes, and citrus fruit), but lower than 50% for other crops (cabbage, peppers, processing beans, pumpkins, tropical fruit, and walnuts; see **Figure 4**).

Roughly, about 80 types of fruits, vegetables, and tree nuts are currently covered by individual federal crop insurance plans.¹⁸ Crops covered by individual federal crop insurance plans include almonds, apples, apricots, avocados, bananas, certain beans, blueberries, citrus, cherries, cranberries, figs, grapes (including raisins), macadamia nuts, nectarines, onions, papayas, peaches, pecans, peppers, plums (including prunes), potatoes, pumpkins, sweet corn, certain

¹⁴ Federal Crop Insurance Act, as amended, 7 U.S.C. § 1501-1520 (CFDA# 10.450).

¹⁵ For more information, see CRS Report R40532, *Federal Crop Insurance: Background and Issues*; and CRS Report RS21212, *Agricultural Disaster Assistance*.

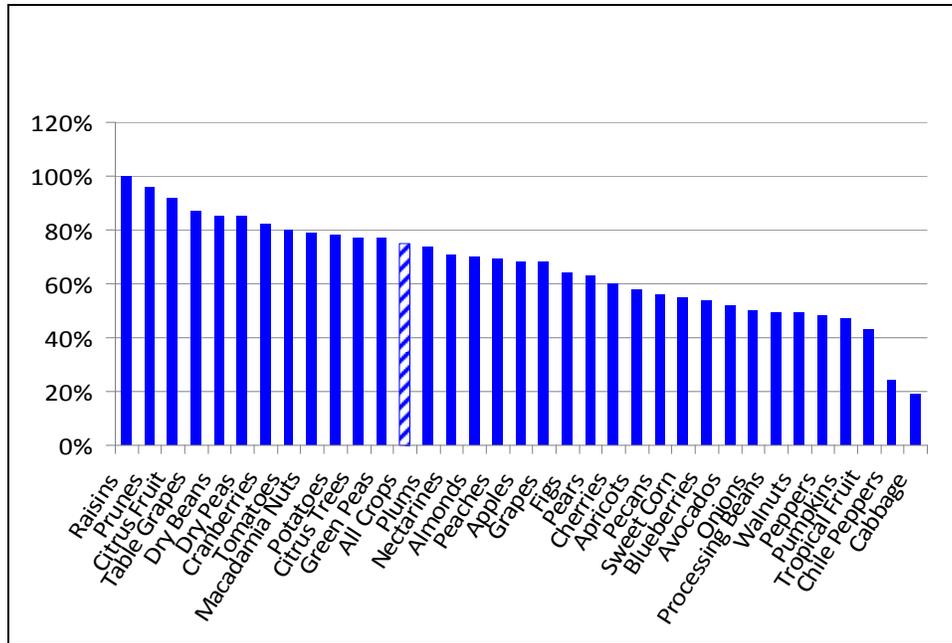
¹⁶ In other words, it excludes crops where federal crop insurance coverage is not provided; it also excludes nursery and floriculture products that are also considered "specialty crops" per the statutory definition.

¹⁷ Calculated as 7.25 million insured acres divided by 12.3 million total acres in fruits, vegetables, and tree nuts (USDA's 2007 *Census of Agriculture*, Specialty Crops, excluding acreage for nursery and floriculture crops which are not included in the RMA figure for insured acres).

¹⁸ USDA, Federal Crop Insurance Corporation (FCIC), *Report to Congress: Specialty Crop Report*, November 2010, Appendix A (Tables 1 and 2), <http://www.rma.usda.gov/pubs/2010/specialtycrop.pdf>. Actual estimates may vary depending on how different crop varieties are counted. See also CRS Congressional Distribution Memo, "Crop Insurance for Specialty and Organic Crops," December 2, 2011.

tomatoes, and walnuts. Other specialty crops, estimated at more than 1 million acres, do not have insurance available.¹⁹ These include asparagus, beets, most types of berries (including strawberries), broccoli, carrots (fresh and for processing), cashews, cauliflower, celery, chives, cucumbers (fresh and for processing), dates, eggplants, garlic, hazelnuts, leeks, lettuce, melons, olives, pistachios, spinach and other leafy greens, squash, tropical plants, and most other root plants.²⁰ Some of these crops may be covered by other types of insurance coverage, such as plans based on historical farm income (e.g., whole farm insurance programs).

Figure 4. Share of Specialty Crop Acres Insured, 2009



Source: Data are from USDA, FCIC, *Report to Congress: Specialty Crop Report*, November 2010. Graphic is from Keith Collins, National Crop Insurance Services, “Crop Insurance for Specialty Crops.” Presentation to the Specialty Crop Caucus, House of Representatives, April 12, 2012.

Participation among specialty crop producers is relatively high in major producing states, including California (71% of total crop area), Florida (91%), and Washington (68%). Participation for pulse crops (e.g., dry peas, dry beans) is high in the major growing states in the Northern Plains, including Minnesota (84%), Montana (83%), North Dakota (96%), and South Dakota (79%). Other states with specialty crop production (and their participation rates) include Michigan (73%), New York (70%), and Oregon (52%). These figures compare with 83% participation for major program crops (i.e., those under farm commodity price and income support programs).²¹

In FY2011, premium subsidies received by all U.S. agricultural producers totaled \$7.5 billion. Of this total, specialty crops received an estimated \$425 million.²² Reportedly, although fruits and

¹⁹ Keith Collins, “Crop Insurance and Specialty Crops,” *Crop Insurance Today*, August 2012.

²⁰ Ibid. USDA, FCIC, *Report to Congress: Specialty Crop Report*, November 2010.

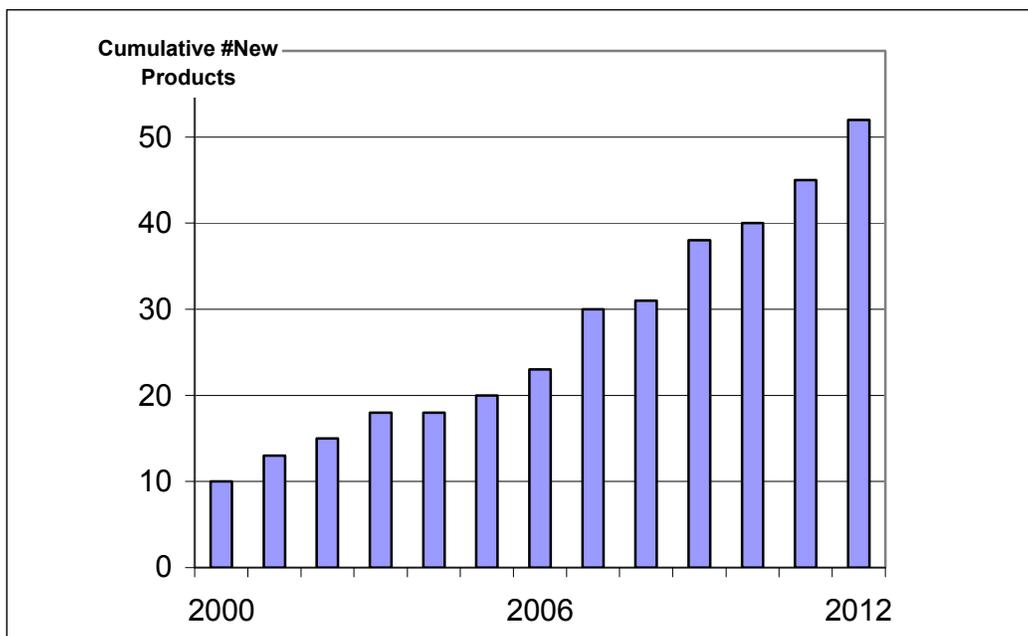
²¹ USDA, FCIC, *Report to Congress: Specialty Crop Report*, November 2010.

²² Annual USDA appropriations acts provide funding for RMA salaries and expenses to operate the program. The crop insurance program receives such sums as are necessary for premium subsidy and program losses and expenses, which (continued...)

vegetables (not including nursery crops) account for 22% of estimated 2011 U.S. crop receipts, fruits and vegetables account for less than 5% of annual crop insurance premiums.²³ This compares to 87% of crop insurance premiums for selected commodity crops (corn, soybeans, wheat, and cotton), which together account for about 58% of annual U.S. crop receipts.

Many of the new crop insurance products introduced each year are intended to broaden coverage of fruits, vegetables, and tree nuts (**Figure 5**). Specialty crop growers reportedly face a number of challenges pertaining to expanding insurance coverage, including generally small acreages (a marketability issue compared to that for commodity crops); multiple crop varieties and farming practices (which contribute to greater complexity and cost); quality and price discovery issues; concerns about grower interest; non-weather risks; and other coverage limitations.²⁴

Figure 5. New Crop Insurance Product Introductions, by Year



Source: Keith Collins, National Crop Insurance Services, “Crop Insurance for Specialty Crops.” Presentation to the Specialty Crop Caucus, House of Representatives, April 12, 2012. Figure shows cumulative number of new products each year (2000-2012). In 2012, new products added included popcorn, strawberries, tangerine trees Citrus VI, camelina, pistachios, olives.

Noninsured Disaster Assistance

Producers of any commercial crops that are not insurable under the federal crop insurance program are potentially eligible for payments up to \$100,000 per person under USDA’s

(...continued)

makes it a mandatory program.

²³ Keith Collins, “Crop Insurance and Specialty Crops,” *Crop Insurance Today*, August 2012.

²⁴ Keith Collins, National Crop Insurance Services, “Crop Insurance for Specialty Crops.” Presentation to the Specialty Crop Caucus, House of Representatives, April 12, 2012.

noninsured assistance program (NAP).²⁵ USDA's Farm Service Agency (FSA) administers NAP, which has permanent authority under the Federal Crop Insurance Reform Act of 1994 (P.L. 103-354, as amended).²⁶ Specialty crops currently eligible for the NAP include mushrooms, flowers, ornamental nursery crops, Christmas trees, turfgrass sod, and ginseng, among other specialty crops. An individual producer is ineligible if the farmer's average nonfarm adjusted gross income exceeds \$500,000. NAP is not subject to annual appropriations, but rather is a mandatory program that receives such sums as necessary through USDA's Commodity Credit Corporation (CCC).²⁷ In FY2011, USDA estimates it made \$71 million in NAP payments to all U.S. agricultural producers.²⁸ Breakouts by individual commodities or commodity groupings are not available.

Other Supplemental Assistance

The 2008 farm bill authorized three supplemental agricultural disaster assistance programs administered by FSA that provide assistance to specialty crop growers for certain losses that occurred on or after January 1, 2008, and before October 1, 2011.²⁹ Each of these three programs expired in 2011 and it remains unclear whether they will be reauthorized.

- The Tree Assistance Program (TAP) provides financial assistance to qualifying orchardists and nursery tree growers to replant or rehabilitate eligible trees, bushes, and vines damaged by natural disasters, if mortality losses are in excess of 15% (after adjustment for normal mortality). It increases the maximum payment to qualifying orchardists and nursery growers to \$100,000 a year to reflect tree removal and replacement costs.³⁰
- The Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP) provides assistance to beekeepers who might provide pollination services for specialty crop growers.³¹ Coverage includes losses from disaster such as adverse weather or other conditions (such as blizzards and wildfires) that are not adequately covered by any other disaster program.
- The Supplemental Revenue Assistance Payments (SURE) program provides supplemental revenue assistance for crop producers to compensate eligible producers for a portion of crop losses that are not eligible for an indemnity

²⁵ USDA, "Noninsured Crop Disaster Assistance Program (NAP) for 2011 and Subsequent Years," August 2011, http://www.fsa.usda.gov/Internet/FSA_File/nap_august_2011.pdf. The regulatory definition of a NAP-eligible crop is one for which catastrophic coverage is not available and which is commercially produced for food or fiber as specified in the regulations. The term also includes floriculture, ornamental nursery, Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

²⁶ As amended by the Federal Agriculture Improvement and Reform Act of 1996 (P.L. 104-127). CFDA# 10.451.

²⁷ USDA's CCC is a government-owned corporation that is authorized to borrow up to \$30 billion at any one time from the U.S. Treasury. The CCC mainly is a financing mechanism for farm bill programs such as commodity price and income supports, agricultural conservation, export assistance, and other mandated authorizations.

²⁸ For more information, see CRS Report R40532, *Federal Crop Insurance: Background and Issues*; and CRS Report RS21212, *Agricultural Disaster Assistance*.

²⁹ FAS, "Disaster Assistance Programs," <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=diap&topic=tap>.

³⁰ P.L. 110-246, § 12033; 7 U.S.C § 1501 et seq. (CFDA# 10.092). USDA, "Tree Assistance Program for Orchardists and Nursery Tree Growers (TAP)," http://www.fsa.usda.gov/Internet/FSA_File/tap051010.pdf.

³¹ Trade Act of 1974 (P.L. 93-618), as amended; 19 U.S.C § 2947a (CFDA# 10.091). USDA, "Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP)," http://www.fsa.usda.gov/Internet/FSA_File/elap_livestock_2011.pdf.

payment under the crop insurance program (i.e., the portion of losses that is part of the deductible on the policy).³² Specialty crop producers were also included in the program's revenue guarantee and loss calculations.

FSA also administers a program that makes low-interest emergency loans to farmers in counties that have been officially declared disaster areas.³³ FSA provides such loans to help producers recover from production losses or physical losses. In the case of specialty crops, destruction of established fruit trees, or buildings and equipment, qualifies as a physical loss. Eligible growers may borrow up to 100% of the actual losses (not to exceed \$500,000).

Market Loss Payments

In the 2008 farm bill, Congress authorized a one-time "market loss payment" program for asparagus growers.³⁴ The program provides payments to producers currently growing asparagus for revenue losses during crop years 2004-2007 due to imports, totaling \$7.5 million for producers of fresh asparagus and \$7.5 million for producers of processed or frozen asparagus. Previously, Congress had authorized market loss payments for apple growers: one in each of the FY2001 and FY2002 Agriculture appropriations laws (P.L. 106-387, P.L. 107-76), and one in the 2002 omnibus farm law (P.L. 107-171). These programs provided \$269 million for apple grower income assistance in the 1999 and 2000 crop years. Market loss programs are administered by FSA.

Protection for Sellers

The Perishable Agricultural Commodities Act of 1930 (PACA) and the Produce Agency Act of 1937 are the primary laws exclusively serving the produce industry.³⁵ Under these acts USDA's Agricultural Marketing Service (AMS) administers a program to protect producers, shippers, distributors, and retailers from loss due to unfair or fraudulent practices in the marketing of fresh and frozen fruits and vegetables. PACA was enacted at the request of the fruit and vegetable industry to establish and enforce a code of fair business practices. Under PACA, commission merchants, dealers, and brokers handling perishable agricultural commodities in interstate and foreign commerce must obtain a license and abide by certain fair trading practices.³⁶ Traders who violate PACA face license suspension or revocation. PACA also provides an administrative dispute resolution process for settling complaints of violations between buyers and sellers.

Congress amended PACA in 1984 to create a statutory trust consisting of a buyer's business-related assets. In the event a buyer fails to make full payment (due to bankruptcy, for example), fruit and vegetable sellers can recover money owed to them before trust assets are made available to general creditors. PACA activities are funded by fees charged for obtaining licenses and for filing complaints. From FY2000 to FY2009, USDA conducted more than 200 enforcement

³² P.L. 110-246, § 12033; 7 U.S.C. § 1501 et seq. USDA, http://www.fsa.usda.gov/Internet/FSA_File/sure_2011.pdf.

³³ Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. § 1961-1984 (CFDA# 10.404). USDA, <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=efl>.

³⁴ P.L. 110-246, § 10404. Also USDA, <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=prsu&topic=mpp>. USDA-administered market loss programs generally compensate agricultural producers for specific market disruptions.

³⁵ 7 U.S.C. § 499a et seq., and § 1622, respectively (CFDA#10.165). Regulations are at 7 CFR Part 46.

³⁶ USDA, AMS presentation, "PACA—Your Partner in Produce." See also USDA, <http://www.ams.usda.gov/paca>. Exemptions include growers who handle only their own product and truckers who haul for hire only.

actions to sanction firms and individuals for PACA violations.³⁷ In 2011, AMS resolved a reported 1,563 commercial disputes. Decisions and orders were issued in 427 formal reparation cases involving award amounts totaling approximately \$11 million. AMS initiated 17 disciplinary cases against firms for alleged PACA violations and issued 19 disciplinary orders—either suspending or revoking a firm’s PACA license, levying civil penalties, or issuing a finding of repeated and flagrant violations against produce firms for violations of the PACA.³⁸

Marketing and Promotion

AMS administers several different types of programs intended to help the produce industry expand its markets. AMS’s mission is to facilitate the competitive and efficient marketing of agricultural products. These programs include marketing orders and agreements, research and promotion programs, collecting and disseminating USDA’s *Market News* reports and information, and providing an array of grading, quality certification, inspection, and product standardization services for fresh and processed produce, among others. AMS administers most of the marketing and promotion programs that benefit specialty crop producers, such as the Specialty Crop Block Grant Program and other programs.

Specialty Crop Block Grant Program

The Specialty Crop Block Grant Program (SCBGP), administered by AMS, was authorized in the Specialty Crops Competitiveness Act of 2004, and further amended by the 2008 farm bill.³⁹

Under the program, USDA provides block grants to the state departments of agriculture within the 50 states, the District of Columbia, and the U.S. territories to enhance the competitiveness of specialty crops. The program receives mandatory funding through the CCC, available without an annual (or discretionary) appropriation. Program funding will have totaled \$224 million over the FY2008-FY2012 period: \$10 million (FY2008); \$49 million (FY2009); and \$55 million annually (FY2010-FY2012).

Under the program, each state receives a base grant plus additional funds based on the state’s share of the total value of U.S. specialty crop production.⁴⁰ California (\$18.7 million), Florida (\$4.4 million), and Washington (\$3.1 million) have been the three largest recipients under this program, accounting for nearly one-half of all available funds.⁴¹ Several states receive about \$1-\$2 million each.⁴² Most other states and territories receive a total of roughly \$200,000 to under \$1 million each. How each state spends its allocation depends on its priorities. In FY2011, a total of 739 projects were funded, covering marketing and promotion (33% of projects), pest and plant health (16%), research (15%), education (14%), food safety (9%), production (6%), and other

³⁷ Ibid.

³⁸ USDA, “2013 Explanatory Notes, AMS,” <http://www.obpa.usda.gov/19ams2013notes.pdf>, p. 19-67.

³⁹ P.L. 108-465, as amended; 7 U.S.C. § 1621 note (CFDA# 10.170). Also see USDA, <http://www.ams.usda.gov/scbgbp>.

⁴⁰ The minimum base grant each state is eligible to receive is equal to the higher of \$100,000 or 1/3 of 1% of the total amount of funding made available for that fiscal year. For FY2010, the base grant portion was \$181,210 per state. The additional allocation is based on the value of specialty crop production in each state relative to national production, using available cash receipt data.

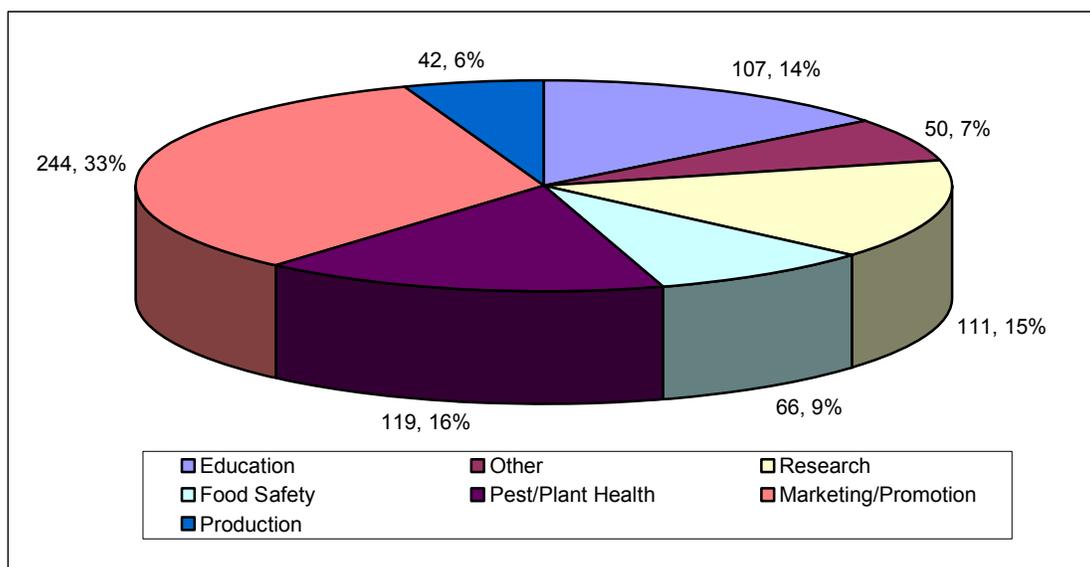
⁴¹ USDA, “Fiscal Year 2011 Awards,” <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5093883>.

⁴² Including Arizona, Georgia, Idaho, Michigan, New York, North Carolina, Oregon, Pennsylvania, Texas, Wisconsin.

types of projects (7%), as shown in **Figure 6**.⁴³ USDA’s annual report describes the funded projects across all states.⁴⁴

Figure 6. Specialty Crop Block Grant Program Projects, by Type

Number of Projects and Percentage of Total Projects, 2011



Source: USDA, “Funded Projects,” <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5093992>.

Value-Added Producer Grants

The Value-Added Producer Grants (VAPG) program was originally authorized by the Agricultural Risk Protection Act of 2000, and amended by subsequent farm bills.⁴⁵ The program, administered by USDA’s Rural Business-Cooperative Service, provides grants to eligible entities, such as independent agricultural commodity producers, agricultural producer groups, farmer and rancher cooperatives, and majority-controlled producer-based businesses, to develop strategies and business plans to further refine, enhance, or otherwise add value to their products. Grants may be used for planning activities (such as development of feasibility studies, business plans, and marketing strategies) and for working capital to implement a marketing strategy for value-added agricultural products and for farm-based renewable energy. The maximum amount of a planning grant is \$100,000 and of a working capital grant is \$300,000. Grant funds may be used to pay up to 50% of a project’s costs, with the applicant contributing at least 50% in cash or in-kind contributions.⁴⁶ Value-added producer grants offer another potential resource for specialty crop growers to engage in market and product development, as well as to finance various value-added activities, such as further processing and packaging of raw agricultural commodities.

⁴³ AMS, “Funded Projects,” <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5093992>.

⁴⁴ Ibid. AMS’ report provides a full listing of all program recipients by state, applicant name, and grant amount.

⁴⁵ P.L. 106-224, § 6202, as amended; 7 U.S.C. § 1621 note (CFDA# 10.352).

⁴⁶ USDA, <http://www.rurde.usda.gov/rbs/coops/vadg.htm>.

Available funding is both mandatory and subject to annual appropriations. Current mandatory funding levels provided \$15 million for FY2008, which is available until expended. Discretionary funding is authorized at \$40 million annually from FY2008 to FY2012.⁴⁷ Since the program began in 2001, the total amount of grant funding provided has ranged from about \$15 million to more than \$20 million annually. In FY2009, \$22.4 million in grants were awarded. A full listing of all FY2011 VAPG recipients is available at USDA's website.⁴⁸

Farmer Direct Marketing Assistance

USDA's farmers' market and various other direct-to-consumer marketing programs provide for market access and assistance to small and medium-size farmers, including fruit and vegetable growers. The intent of the Farmer-to-Consumer Direct Marketing Act of 1976 (P.L. 94-463) was to promote the "development and expansion of direct marketing of agricultural commodities from farmers to consumers" through a range of marketing channels including farmers' markets, farm stands, and roadside stands, community-supported agriculture (CSA), "pick-your-own" farms, Internet marketing, and other types of niche markets. The act originally authorized the Farmers' Market Promotion Program (FMPP), administered by AMS, which was amended in the 2002 and 2008 farm bills.⁴⁹

Under the FMPP, USDA provides grants to establish, improve, and promote farmers' markets and other direct marketing activities. Eligible entities include farmer cooperatives, grower associations, nonprofit/public benefit corporations, local governments, economic development corporations, regional farmers' market authorities, among others. FMPP grants are available to raise market awareness of local foods through promotion, outreach, and advertising; educate farmers and growers in marketing and business planning; and to purchase infrastructure, such as refrigerated trucks, or equipment for a commercial kitchen for value-added products.⁵⁰ Grant awards are limited to \$100,000, with a minimum award of \$5,000. Matching funds are not required. Authorized funding is through the CCC: \$3 million (FY2008); \$5 million (FY2009-FY2010); and \$10 million annually (FY2011-FY2012). A listing of FY2011 awards is at USDA's website.

FMPP grants are also available to bring local farm products into federal nutrition programs through electronic benefits transfer (EBT) technology at direct-market outlets in order to accept Supplemental Nutrition Assistance Program (SNAP, formerly the food stamp program) benefits. In addition to SNAP, FNS administers two other related programs: the WIC Farmers' Market Nutrition Program (WIC-FMNP)⁵¹ and the Senior Farmers' Market Nutrition Program (SFMNP).⁵² These two programs allow for farmers' market purchases by low-income WIC applicants and recipients and also low-income seniors, usually through the use of redeemable

⁴⁷ However, USDA's FY2013 budget justification indicates that annual program funding has remained under \$15 million per year (see USDA, 2013 Explanatory Notes, Rural Business-Cooperative Service," <http://www.obpa.usda.gov/28rbs2013notes.pdf>, p. 73).

⁴⁸ USDA, http://www.rurdev.usda.gov/supportdocuments/BCP_FY2011VAPGAWARDS.pdf (recipients by state, applicant name, and grant amount). Awards for previous years (2001-2010) are also available at USDA's website.

⁴⁹ P.L. 94-463, as amended; 7 U.S.C. § 3005 (CFDA# 10.168). AMS, <http://www.ams.usda.gov/AMSV1.0/FMPP>.

⁵⁰ USDA, "Grants, Loans, and Support," http://www.usda.gov/wps/portal/usda/usdahome?navid=KYF_GRANTS.

⁵¹ FNS, "Grant Levels by State, FY 2006-2011," <http://www.fns.usda.gov/wic/FMNP/FMNPgrantlevels.htm>.

⁵² FNS, "SFMNP Grant Levels, FY 2006-2011," <http://www.fns.usda.gov/wic/SeniorFMNP/SFMNPgrantlevels.htm>.

coupons. For more information on those programs and redemption at farmers' markets, please see "Assistance to Households and Families."⁵³

Market News

The AMS *Market News* program is authorized by various statutes including the Agricultural Marketing Act of 1946 and several omnibus farm bills (1981, 1985, and 2008), among other statutes.⁵⁴ Under the program, AMS collects, analyzes, and disseminates local, regional, national, and international market information for many agricultural commodities, including fruits, vegetables, and ornamentals.⁵⁵ Federal and state reporters collect data (provided on a voluntary basis) at wholesale markets, farmers' markets, shipping points, and other locations, and also by phone and electronically. AMS disseminates the information on the Internet on a variety of schedules, depending upon the needs of the specific commodity. The information includes supply, prices, contractual agreements, inventories, movement, and more.

The total annual appropriation for *Market News* is approximately \$33 million. Of this amount, the 2008 farm bill authorized appropriations of \$9 million annually (FY2008-FY2012), "to remain available until expended," to support the collection and dissemination of market news for specialty crops.⁵⁶ The 2002 and 2008 farm bills also provided funding to support data collection of certified organic agricultural products (discussed later under "Product and Market Data Collection").

Marketing Orders and Agreements

Marketing orders and agreements are managed by administrative committees made up of local growers and handlers who are operating under them. AMS publishes the proposed and final regulations in the *Federal Register*. These regulations may include quality standards; quantity controls; grading, certification, and verification; packaging requirements; research and promotion; packaging standards; among other things. Imported products of commodities covered by a marketing order or agreement are also covered. The activities of marketing orders and agreements are financed by industry assessment fees (commonly called "check-off" fees) collected from handlers, usually at the time of sale. To administer the orders and assure that they operate legally and in the public interest, AMS uses funds provided through annual USDA appropriations acts.⁵⁷

The Agricultural Marketing Agreement Act of 1937 authorizes AMS to facilitate and oversee the operation of marketing orders and agreements, usually at the request of industry.⁵⁸ Producers and handlers in a specific growing area generally initiate the administrative process leading to the establishment of an order or an agreement. Once a two-thirds majority of the parties in that area

⁵³ For other information see CRS Report R42155, *The Role of Local Food Systems in U.S. Farm Policy*.

⁵⁴ 7 U.S.C. §§ 1621 *et seq.*; CFDA# 10.153. USDA, "2013 Explanatory Notes, AMS," <http://www.obpa.usda.gov/19ams2013notes.pdf>, p. 19-1.

⁵⁵ Other commodities are cotton, cottonseed, tobacco, dairy products, livestock, meat, grains, wool, poultry and eggs.

⁵⁶ P.L. 110-246, § 10107. 7 U.S.C. § 1622b(b).

⁵⁷ Marketing orders and research and promotion programs for certain fruit and vegetable crops have come under legal challenge from producers. See CRS Report 95-353, *Federal Farm Promotion ("Check-Off") Programs*.

⁵⁸ 7 U.S.C. § 601 *et seq.* (CFDA# 10.155).

approves a marketing *order* by referendum, the order is binding on all growers and handlers in that area. In contrast, a marketing *agreement* is binding only on growers and handlers who are voluntary signatories to the agreement. Currently there more than 20 active marketing orders and agreements. Fruits, vegetables, and nuts covered by federal marketing orders include almonds, apricots, avocados, sweet and tart cherries, citrus in Florida and Texas, cranberries, dates, grapes, hazelnuts, kiwifruit, nectarines, olives, onions (selected types and regions), peaches, pears in Oregon-Washington, pistachios, California and Washington plums/prunes, potatoes in selected areas, raisins, spearmint oil, tomatoes, and walnuts.⁵⁹

In April 2011, AMS issued a proposed rule for a national marketing agreement reflecting USDA and FDA recommendations for food safety practices for leafy greens, as part of a “National Marketing Agreement Regulating Leafy Green Vegetables.”⁶⁰ Also referred to as the National Leafy Greens Marketing Agreement (NLGMA), the rule would cover the handling of selected leafy greens—spinach, lettuce, and cabbage. It would establish a voluntary program to provide “a governance structure for farmers, handlers, retailers and consumers to work together and develop a practical program so that all types of farming and handling operations can effectively and efficiently comply with food safety requirements.”⁶¹ AMS’s proposal has been under consideration at USDA for the past few years and reflects an industry-led effort to establish a voluntary program requiring compliance of its signatories (marketing agreement), including importers, in meeting certain commercial food quality and safety requirements. The concept originated with the California Leafy Green Products Handler Marketing Agreement, and covers a range of leafy green products.⁶²

USDA’s final rule on the NLGMA has not yet been published. It remains unclear how USDA’s proposed voluntary efforts for leafy greens would interact with food safety regulations for a wider range of fruits and vegetables that are being developed by the Food and Drug Administration (FDA), as mandated by the FDA Food Safety Modernization Act (FSMA, P.L. 111-353). Some groups also argue that USDA’s marketing agreement program could lead to confusion among consumers;⁶³ others question whether USDA has the expertise and the mandate to regulate food safety.⁶⁴ For additional information, see “FDA Food Safety Regulations.”

Inspection, Grading, Standardization, and Other Promotion

The Agricultural Marketing Act of 1946 directs USDA to provide such quality grade standards to encourage uniformity and consistency in commercial practices.⁶⁵ AMS develops quality grade standards for commodities as needed by the agriculture and food industry, mostly under

⁵⁹ USDA, “Marketing Orders and Agreements,” <http://www.ams.usda.gov/fv/>.

⁶⁰ 76 *Federal Register* 24292, April 29, 2011.

⁶¹ USDA, “Proposed NLGMA, Q&A” <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5090539>.

⁶² For other background information, see LGMA’s website (<http://www.caleafygreens.ca.gov/>).

⁶³ See, for example, National Farmers Union (NFU), “Proposed National Leafy Green Marketing Agreement is the Wrong Direction for Food Safety,” June 21, 2011, <http://www.nfu.org/blog/?p=48>; and Center for Science in the Public Interest (CSPI), Comments submitted to USDA on the proposed NLGMA, July 28, 2011, <http://www.cspinet.org/foodsafety/PDFs/CommentOnNatlLeafyGreensMktAgreement-072811.pdf>.

⁶⁴ See, for example, National Sustainable Agriculture Coalition, “Opposition to NLGMA Rises,” June 8, 2011, <http://sustainableagriculture.net/blog/opposition-to-nlgma-rises/>.

⁶⁵ 7 U.S.C. §§ 1621 *et seq.* (CFDA# 10.162). Regulations are at 7 CFR Part 75.

cooperative agreements with 48 states and Puerto Rico.⁶⁶ Under federal-state agreements, AMS-licensed state employees work where needed: in fields during harvest; at land, sea, and air ports of entry; and at packing houses, processing plants, warehouses, and federal and federal-state terminal markets. In FY2011, AMS graded approximately 15.8 billion pounds of processed fruits and vegetables at 381 processing plants, 14 field offices, and 13 inspection points.⁶⁷

Grading is paid for by user fees and is voluntary unless the commodity is regulated for quality under a marketing order or agreement, subject to export requirements, or purchased by USDA or another federal agency for distribution (e.g., through the school lunch program or the military). Shipments of any imported commodity whose domestic production is under a marketing order or agreement must receive AMS grading to assure that the produce is comparable to the U.S. grade, size, quality, and maturity requirements. More than 300 grade standards for fresh and processed fruits, vegetables, nuts and other specialty crops are listed at USDA's website.⁶⁸

Finally, AMS administers several federal commodity research and promotion programs, also known as check-off programs, that have been established at the request of some specialty crop industries.⁶⁹ These programs allow farmers, ranchers, and other stakeholders to pool funds and develop a coordinated program of research, promotion, and consumer information to improve, maintain, and develop markets for their products. Specialty crop industries with check-off programs include blueberries, Hass avocados, mangos, mushrooms, potatoes, and watermelons.

Standards of Identity

The Federal Food Drug and Cosmetic Act (FFDCA) directs FDA to establish definitions and standards for food to “promote honesty and fair dealing” for the benefit of consumers.⁷⁰ Under the statute, FDA is authorized to establish regulations “for any food ..., a reasonable definition and standard of identity, a reasonable standard of quality, and reasonable standards of fill” of the container for any food. FDA has established roughly 300 identity standards in 20 categories of food, consisting of a range of processed foods and meat, dairy, and seafood products, as well as preserved and processed fruit and vegetable products and juices. Standards of identity cover mostly processed and value-added foods, including canned fruits and vegetables, frozen vegetables, fruit and vegetable juices and beverages, jellies and preserves, tree nut products, and other foods.⁷¹ The statute states that no definition and standard of identity and no standard of quality be established for fresh or dried fruits and vegetables, except for avocados, cantaloupes, citrus fruits, and melons.

FDA may initiate the development of a standard in cases where it determines a standard is in the interest of consumers or in response to a petition. The rulemaking process to develop a food standard can be time-consuming, often requires detailed technical expertise, and may generate input by supporters and opponents of the proposed recipes; also, the burden of providing

⁶⁶ All grading services in Oklahoma are currently performed by AMS.

⁶⁷ USDA, “2013 Explanatory Notes, AMS,” <http://www.obpa.usda.gov/19ams2013notes.pdf>, p. 19-45.

⁶⁸ USDA, “USDA Quality Standards,” <http://www.ams.usda.gov/standards/>.

⁶⁹ 7 U.S.C. §§ 1621-1627, 7 U.S.C. §§ 2101-2119, as amended (CFDA# 10.163).

⁷⁰ FFDCA § 401; 21 U.S.C. § 341. Regulations are 21 CFR Parts 130-169. 21 CFR 130 covers general requirements.

⁷¹ Canned fruits (Part 145); fruit juices and beverages (Part 146); jellies and preserves (Part 150); fruit pies (Part 152); canned vegetables (Part 155); vegetable juices (Part 156); frozen vegetables (Part 158); tree nut products (Part 164).

information to support the petition is on the petitioner.⁷² The process is similar to those for other FDA rulemaking actions, such as establishing requirements for food additives and ingredients, color additives, and other product claims.⁷³

Country-of-Origin Labeling

Country-of-origin labeling (COOL) refers to a labeling law that requires retailers (including grocery stores, supermarkets, and club warehouse stores) to notify their customers with information regarding the source (origin) of certain foods. Originally authorized in the 2002 farm bill, COOL prescribes specific criteria that must be met for a covered commodity—both domestic and imported products—to bear a “United States country of origin” declaration.⁷⁴ Covered commodities include many types of specialty crops including fresh and frozen fruits and vegetables, ginseng, pecans and macadamia nuts,⁷⁵ among other foods, such as selected meat products, wild and farm-raised fish and shellfish, and peanuts. AMS is responsible for administration and enforcement. The final rule for all covered commodities went into effect on March 16, 2009.⁷⁶ USDA estimated that about 86,500 fresh and processed fruit and vegetable, ginseng, and tree nut establishments would be affected by the rule.⁷⁷ Reportedly, surveys conducted before the final rule took effect indicated that more than 50% of fresh produce offered for sale in retail grocery stores was labeled with country of origin packaging stickers.⁷⁸

Food Safety

Food safety is a critical issue for the specialty crop industry, as consumers increasingly are recognizing the importance of fruit and vegetable consumption to long-term health and proper weight maintenance. Nonetheless, the nature of production, handling, and preparation makes produce vulnerable to contamination from a wide variety of sources. The fact that produce often is consumed raw contributes to its potential as a source of foodborne illness, attributable in part to the growth in consumer preference for fresh, pre-cut produce, as well as the widespread use of such products in restaurants.

⁷² See, for example, FDA, “FDA’s Standards for High Quality Foods,” <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm094559.htm>. Also see North Dakota State University, “Standard of Identity, Food Additives and Claims,” <http://www.ag.ndsu.edu/foodlaw/processingsector/standardofidentity>.

⁷³ Procedures for establishing food standards are at 21 CFR 130.5 FDA’s guidance for industry is at <http://www.fda.gov/downloads/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodIngredientsandPackaging/RegulatorySubmissions/UCM201599.pdf>. A listing of existing international standards for foods is available from the Codex Alimentarius website: <http://www.codexalimentarius.org/standards/list-of-standards/en/>.

⁷⁴ P.L. 107-171, § 10816, amending the Agricultural Marketing Act of 1946; 7 U.S.C. §§ 1638 *et seq.* Regulations for covered commodities are at 7 CFR Part 60 and Part 65.

⁷⁵ Specialty crops per USDA, “USDA Definition of Specialty Crop,” <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5082113>.

⁷⁶ 74 *Federal Register* 2658-2707, January 15, 2009. Also see USDA, Office of Inspector General “Implementation of Country of Origin Labeling,” August 2011, <http://www.usda.gov/oig/webdocs/01601-04-HY.pdf>

⁷⁷ 74 *Federal Register* 2658-2707, January 15, 2009. Table 1.

⁷⁸ United Fresh Produce Association (UFPA), “Country of Origin Labeling,” http://www.unitedfresh.org/newsviews/country_of_origin_labeling. Other information is at Produce Marketing Association, “Country of Origin Labeling,” <http://www.pma.com/resources/issues-monitoring/country-origin-labeling>.

Statistics compiled by the Center for Science in the Public Interest (CSPI) foodborne illness outbreak database indicate that products classified under the “Produce” category in CSPI’s database were associated with 639 outbreaks and 31,496 associated illnesses between 1990-2009.⁷⁹ Some of the more recent outbreaks have been attributed to leafy greens, alfalfa and clover sprouts, celery, tomatoes, and green onions. Microbial hazards associated with produce include pathogenic (disease-causing) strains of *Escherichia coli*, *Salmonella*, *Vibrio*, *Shigella*, *Cryptosporidium*, *Giardia*, *Cyclospora*, *Toxoplasma gondii*, and the Norovirus or Norwalk-like virus and Hepatitis A viruses.⁸⁰ Also, in 2011, a multi-state outbreak of listeriosis occurred from the contamination of fresh, whole cantaloupe with the pathogen *Listeria monocytogenes*. Such hazards may be introduced during production via agricultural or processing water, soil amendments (manure and municipal biosolids), worker hygiene and sanitary facilities, field and packing facility sanitation, and transportation.

Several federal agencies have oversight responsibility for food safety in the United States.⁸¹ The primary federal agency responsible for produce food safety is the Food and Drug Administration (FDA), within the U.S. Department of Health and Human Services (HHS). Also at HHS, the Centers for Disease Control and Prevention (CDC) monitors trends in foodborne illness. Other agencies include the U.S. Environmental Protection Agency (EPA) and the U.S. Customs and Border Protection (CBP). Some USDA agencies also play a role including AMS, as well as the Animal and Plant Health Inspection Service (APHIS), and USDA’s research agencies. (This list does not include USDA’s Food Safety and Inspection Service (FSIS), which regulates the safety of meat and poultry products, among other animal products.)

FDA Food Safety Regulations

FDA is the primary federal agency responsible for produce food safety, regulating the safety and labeling of all domestic and imported fruit and vegetable products (fresh and processed) and juices and drinks. FDA’s authority under the Federal Food, Drug, and Cosmetic Act (FFDCA) was amended by the 111th Congress when it passed comprehensive food safety legislation in the FDA Food Safety Modernization Act, or FSMA.⁸²

Under FSMA, FDA is developing mandatory food safety regulations and traceability requirements affecting farmers, packers, and processors of both domestically produced and imported products. At the farm production level, requirements under FSMA § 105 will mostly affect produce growers. Most other types of food producers—such as meat, poultry and dairy farms; fisheries; and producers of raw, bulk grains—will likely not be subject to FSMA farm-level requirements. FSMA also exempted from regulation most small grower and processing operations that sell products locally.⁸³ Requirements under FSMA § 105 must be established

⁷⁹ CSPI, Outbreak Alert! Database search for “Produce” (<http://www.cspinet.org/foodsafety/outbreak/pathogen.php#>). Produce includes fruits, vegetables, and dishes containing fruits or vegetables. CSPI’s database includes outbreaks where both the food and pathogen have been identified and currently has information on over 6,000 outbreaks that occurred between 1990 to 2009.

⁸⁰ FDA, “Guidance for Industry Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables,” October 1998, <http://www.fda.gov/downloads/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/UCM169112.pdf>.

⁸¹ For more information, see CRS Report RS22600, *The Federal Food Safety System: A Primer*.

⁸² P.L. 111-353; 21 U.S.C. §§ 301 *et seq.*

⁸³ FSMA explicitly exempts certain food processors and farms from FSMA if they are either a “very small business” as defined by FDA in rulemaking, or if the facility’s or farm’s “average annual monetary value” of all food sold during (continued...)

within two years of enactment, and include science-based, minimum standards for the safe production and harvesting of fruits and vegetables. These standards could address certain farm practices at produce operations, including the use of soil amendments, hygiene, packaging, temperature controls, animals in the growing area and water.⁸⁴ FDA's rules for these and other requirements are still pending, and reportedly have been at OMB for review.

FSMA requirements that could also affect specialty crop producers include food safety requirements for food facilities (FSMA § 103), which could include new mandatory requirements for produce manufacturers. This rule is also under development by FDA.⁸⁵

FDA also has responsibility for ensuring the safety of imported food, including imported produce. Traditionally, FDA has inspected only 1% to 2% of all annual food imports. FSMA requirements pertaining to all FDA-regulated imports, including produce (FSMA § 301) are also being developed. In addition, following the events of September 2001, Congress passed a bioterrorism preparedness law that addresses import safety (among many other issues). The Bioterrorism Act⁸⁶ contains provisions requiring foreign and domestic food establishments to register with FDA and keep thorough records of their purchases and sales, and requiring foreign firms exporting food to the United States to give FDA prior notification of the exact time, location, and contents of incoming shipments.

Other federal agencies play a role in ensuring the safety of imported foods, including CBP, which inspects imported foods, plants, and animals, as well as APHIS, which conducts border inspections, and aims to prevent the introduction or dissemination of plant pests and diseases.

USDA Product Quality and Data Collection Programs

National Marketing Agreement Regulating Leafy Greens

After FSMA was enacted, AMS published a proposed rule in April 2011 to develop and implement USDA-administered requirements, as part of a National Marketing Agreement Regulating Leafy Green Vegetables.⁸⁷ This proposed rule covers the handling of fresh leafy green vegetables—spinach, lettuce, cabbage—only. It remains unclear how USDA's proposed voluntary efforts for leafy greens would interact with FDA's rulemaking process to develop mandatory safety standards for a wider range of fruits and vegetables subject to FSMA. For other information, see "Marketing Orders and Agreements."

(...continued)

the previous three year period was less than \$500,000, provided that the food is sold directly to certain "qualified end users" located in the same state where the facility or farm sold the food or within 275 miles of the facility or farm.

⁸⁴ These are the types of production areas identified in FDA's 1998 guidance (FDA, "Guidance for Industry Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables," October 1998).

⁸⁵ See, for example, FDA, "Guidance for Industry, Necessity of the Use of Food Categories in Food Facility Registrations and Updates to Food Categories," August 2012, draft submitted for public comment.

⁸⁶ The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (P.L. 107-188; 7 U.S.C. 8401).

⁸⁷ 76 *Federal Register* 24292, April 29, 2011.

Qualified Through Verification Program

Since 1996, AMS has offered a voluntary, user-fee, audit-based inspection service for producers of fresh-cut fruits and vegetables to assist produce packers in adopting science-based, preventive measures against food contamination in their plants. The Qualified Through Verification (QTV) program is similar in approach to the preventive Hazard Analysis and Critical Control Point (HACCP) system used by USDA's meat and poultry regulatory agency, the Food Safety and Inspection Service (FSIS).⁸⁸ Although the QTV program relates to the safety of fruits and vegetables from a public health standpoint, it is not a regulatory program.

Microbiological Data Program

AMS has administered the Microbiological Data Program (MDP) since 2001.⁸⁹ MDP is a national food-borne pathogen monitoring program, implemented with the cooperation of state agriculture departments and other federal agencies, that manages the collection, analysis, data entry, and reporting of foodborne pathogens on selected agricultural commodities.⁹⁰ Under the program, fresh produce is tested for the prevalence of harmful bacteria, such as *Salmonella* and pathogenic *E. coli*. Among the types of tested produce is cantaloupe, cilantro, green onions, hot peppers, lettuce, spinach, sprouts and tomatoes. Approximately 17,000 samples have been collected from more than 600 food distribution sites under the program.

According to USDA, FDA is notified whenever a product tests positive for the presence of harmful bacteria and the source of contamination can be removed from the food distribution system. CDC also is notified to aid in the surveillance of food-related outbreaks. Opinions differ on the value of the program, and some groups have sought to eliminate or to redesign the program: Some have expressed concern that such a food safety program does not belong at USDA and should be housed at FDA; other groups maintain that the program provides useful information to consumers and are further concerned that FDA might not have the resources and expertise to maintain the program.⁹¹ In recent years, USDA has spent between \$4 million to \$5 million annually to operate the program.⁹²

Pesticide Residues

EPA is responsible for regulating pesticide use on food and determining whether and under what conditions the proposed pesticide use would present an unreasonable risk to human health or the

⁸⁸ For more information, see AMS, "Qualified Through Verification" (QTV) Program for the Fresh-Cut Produce Industry," July 2012, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=stelprdc5059800>. HACCP refers to a management system that addresses food safety through the analysis and control of biological, chemical, and physical hazards from raw material production, procurement and handling, to manufacturing, distribution and consumption of the finished product.

⁸⁹ Congress provided AMS with funds to initiate MDP in the FY2001 agriculture appropriations bill (amending the Agricultural Marketing Agreement Act of 1946).

⁹⁰ See USDA's website (<http://www.ams.usda.gov/AMSV1.0/mdp>). For other information, see USDA's list of produce commodities tested between 2001 (<http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5059955>) and also AMS, "Microbiological Data Program Progress Update and 2009 Data Summary," January 2011, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5088761>.

⁹¹ D. Acheson, "Should the Microbiological Data Program be Saved?" *Food Safety News*, July 27, 2012.

⁹² USDA, "2013 Explanatory Notes, AMS," <http://www.obpa.usda.gov/19ams2013notes.pdf>, p. 19-89.

environment. When Congress enacted the Food Quality Protection Act of 1996 (FQPA), it established a new standard of safety for pesticide residues on food. Maximum pesticide residue levels (known as “tolerances”) must be set by EPA to ensure with “a reasonable certainty” that “no harm” will come to children as a result of pesticide exposure.⁹³ EPA regulates the labeling, sale, and use of pesticides on domestically produced and imported food toward that safety goal. FDA is responsible for ensuring that tolerance levels for food are not exceeded. Based on the data submitted by pesticide manufacturers when they apply to register a pesticide active ingredient, pesticide product, or a new use of a registered pesticide under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA determines whether and under what conditions the proposed pesticide use would present an unreasonable risk to human health or the environment. If the pesticide is proposed for use on a food crop, EPA also determines whether a “safe” level of pesticide residue, called a “tolerance,” can be established under FFDCA.

In cooperation with EPA, FDA determines which pesticides, insecticides, fungicides, and herbicides may be used on fruit and vegetable crops, and what chemical residue levels will pose the least risk to human health at normal consumption rates. FDA regulations impose the same standards on countries that export produce to the United States, and the agency is responsible for inspecting imports for safety.

At USDA, AMS administers a cooperative federal-state residue testing program through which it collects data on residual pesticides, herbicides, insecticides, fungicides, and growth regulators in over 50 different commodities, including fresh/frozen/canned fruits and vegetables, and fruit juices, among other things.⁹⁴ The pesticides and commodities to be tested each year are chosen based on EPA data needs, and on information about the types and amounts foods consumed, in particular, by infants and children. The Pesticide Data Program (PDP) is a national pesticide residue database program that collects data from fresh, frozen, and canned fruits and vegetables, fruit juices, and nuts, among other foods (domestic and imported) at more than 600 sites in 11 participating states.⁹⁵ In FY2005, more than 11,000 fresh and processed produce samples were tested under the program.⁹⁶

Export and Trade Promotion

USDA trade promotion programs, such as the Market Access Program (MAP) and other market development programs, support many export-oriented markets within the specialty crops and certified organic agriculture. Other trade remedy programs are also available. These programs are mostly administered by USDA’s Foreign Agricultural Service (FAS).

⁹³ For information on U.S. pesticide laws, see CRS Report RL31921, *Pesticide Law: A Summary of the Statutes*.

⁹⁴ Among some of the foods surveyed are canned black beans, orange juice, apples, grapes, pears, asparagus, hot peppers, sweet bell peppers, fresh and frozen sweet corn, green beans, canned spinach, cabbage, pears, fresh and canned spinach, cilantro, sweet potatoes, cantaloupe, lettuce, watermelon, mangoes, canned garbanzo beans, cucumbers, and oranges, and also green beans, pears, and sweet potatoes used in baby food.

⁹⁵ USDA, “Quick Facts about the Pesticide Data Program (PDP),” <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3003252>.

⁹⁶ AMS, *Pesticide Data Program: Annual Summary Calendar Year 2010*, May 2010, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=stelprdc5098550>.

Market Development Programs

The Market Access Program (MAP) was established to facilitate U.S. agricultural exports, as part of the Agricultural Trade Act of 1978, as amended by subsequent farm bills.⁹⁷ The program uses CCC funds to help U.S. producers, exporters, private companies, and other trade organizations finance promotional activities for U.S. agricultural products. MAP (formerly the Market Promotion Program) encourages the development, maintenance, and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program. Activities financed include consumer promotions, market research, technical assistance, and trade servicing. MAP money can be used to support both brand-name promotions and generic promotions.⁹⁸ The program is administered by Foreign Agricultural Service (FAS).

MAP is widely used by some specialty crop growers to encourage domestic exports. The 2008 farm bill also specifically added language to address coverage for certified organic foods.⁹⁹ Mandatory funding, as authorized by the 2008 farm bill, is \$200 million annually through FY2012 for all overseas agricultural promotion and marketing activities. Of this amount, in FY2010, about 30% of all MAP funding—nearly \$60 million—went to specialty crop producer groups in FY2010.¹⁰⁰ Nearly half supported California specialty crop groups in the almond, asparagus, cherry, citrus, kiwifruit, peach, pear, pistachio, prune, strawberry, table grape, tomato, tree fruit, and walnut sectors. Approximately \$8 million supported organizations of the U.S. wine industry. A total of about \$16 million went to groups supporting specialty crops in Florida, Texas, Hawaii, Washington, and some northwestern states in FY2010. Another roughly \$8 million supported national groups in the apple, cherry, cranberry, potato, and watermelon sectors. In FY2010, the Organic Trade Association received \$0.4 million under MAP.

FAS administers other trade development programs that support certain U.S. specialty crops.

- The Quality Samples Program (QSP) helps create export sales of commodities by providing samples to foreign importers, thus paving the way for new partnerships between importers and U.S. exporters.¹⁰¹ Total FY2010 (mandatory) funding for the program was \$1.9 million, of which about 40% of funds were directed toward specialty crop groups (cranberry, ginseng, potato, and walnut samples to potential importers). This amount does not include support through other national, state, or regional export promotion groups that might also provide support for specialty crops, among other agricultural commodities.
- The CCC export credit guarantee program promotes purchases of U.S. agricultural exports by providing competitive credit terms to foreign buyers

⁹⁷ P.L. 95-501, as amended; 7 U.S.C. § 5623 (CFDA# 10.601). Regulations are at 7 CFR Part 1485. Also see USDA, <http://www.fas.usda.gov/mos/programs/map.asp>.

⁹⁸ See USDA, “Market Access program (MAP),” <http://www.fas.usda.gov/mos/programs/map.asp>. Branded promotion requires a 50% match whereas generic promotion requires a 10% match.

⁹⁹ P.L. 110-246, § 3102.

¹⁰⁰ This amount does not include support through other national, state, or regional export promotion groups that might also provide support for specialty crops, among other agricultural commodities. USDA, FAS, “Fiscal Year 2010 Market Access Program Allocations,” <http://www.fas.usda.gov/info/factsheets/MAP.asp>.

¹⁰¹ Section 5(f) of the CCC Charter Act, as amended; 15 U.S.C. 714c(f) (CFDA# 10.605). USDA, <http://www.fas.usda.gov/mos/programs/qsp.asp>.

through credit guarantees.¹⁰² CCC funds guarantee the payments due from approved foreign banks to U.S. exporters or financial institutions. The CCC determines which countries and banks are eligible and at what level of debt, and also selects which commodities and products will be eligible (depending upon market potential). Among the eligible U.S. agricultural commodities are a wide variety of fresh, dried, and processed fruits; canned, dried, fresh, and frozen vegetables; juices; tree nuts; wine; and nursery products.¹⁰³

Additionally, FAS administers other programs, such as the Foreign Market Development (FMD) program and the Food for Progress (FFP) program. FMD (also known as the cooperator program) provides for cost-sharing of overseas marketing and promotion activities with nonprofit U.S. commodity and trade organizations.¹⁰⁴ This program received mandatory CCC funding for overseas promotion of U.S. bulk commodity crops, but not for fruits, vegetables, and tree nuts.¹⁰⁵ FFP provides for the donation of U.S. agricultural commodities to certain developing countries, whereby donated commodities are monetized (sold on the local market) and the proceeds are used to support agricultural development activities.¹⁰⁶ Previously FFP had procured small quantities of U.S. dehydrated potatoes and dehydrated vegetables. In 2009, only dehydrated potatoes comprised an overall very small share of USDA's overseas food aid under the program.¹⁰⁷

Technical Assistance for Specialty Crops

The Technical Assistance for Specialty Crops (TASC) program, administered by FAS, was originally authorized in the 2002 farm bill and reauthorized in the 2008 farm bill.¹⁰⁸ The program provides funds to eligible entities for projects that address sanitary (animal) and phytosanitary (plant) barriers, commonly referred to as SPS barriers to U.S. specialty crop exports. SPS requirements and their potential to be trade barriers, among other types of technical barriers to trade (TBT), has become a more prominent issue as tariffs have been reduced under multilateral trade agreements and various free trade agreements (FTAs) entered into by the United States, such as the North American Free Trade Agreement and other bilateral FTAs.¹⁰⁹ A summary of the current U.S. concerns regarding SPS and TBT issues across all agricultural commodities and U.S.

¹⁰² Agricultural Trade Act of 1978, as amended; 7 CFR 1493, Part A (CDFA# 10.610). USDA, <http://www.fas.usda.gov/excredits/ecgp.asp>.

¹⁰³ FAS, "Eligible Commodities Under the GSM-102 Program," <http://www.fas.usda.gov/excredits/gsmcommodities.html>.

¹⁰⁴ Agricultural Trade Act of 1978, Title VII, 7 U.S.C. § 5721, et seq. (CDFA# 10.600).

¹⁰⁵ USDA, "Foreign Market Development Program," <http://www.fas.usda.gov/info/factsheets/fmd.asp>. Funding for FMD was \$34.2 million (FY2010), of which no funds were directed toward specialty crop groups.

¹⁰⁶ Food for Progress Act of 1985, as amended; 7 U.S.C. § 1736o (CFDA# 10.606). USDA, <http://www.fas.usda.gov/excredits/foodaid/ffp/foodforprogress.asp>.

¹⁰⁷ Food aid data (2009) by commodity (<http://www.fas.usda.gov/excredits/FoodAid/Reports/2009FoodAidTable3.pdf>).

¹⁰⁸ P.L. 107-171, § 3205, as amended; 7 U.S.C. 5680 (CFDA#10.604); additional authorization were made in the Specialty Crop Competitiveness Act of 2004 (P.L. 108-465). Regulations are at 7 CFR part 1487. FAS, "Technical Assistance for Specialty Crops Program," http://www.fas.usda.gov/info/factsheets/Final_TASC_January%202011.pdf.

¹⁰⁹ The so-called SPS Agreement entered into force on January 1, 1995, as part of the establishment of the WTO, following the Uruguay Round of the General Agreement on Tariffs and Trade (GATT). The TBT Agreement resulted from the Tokyo Round in 1979. For more information, see CRS Report RL33472, *Sanitary and Phytosanitary (SPS) Concerns in Agricultural Trade*.

trading partners is provided in annual reports compiled by the Office of the United States Trade Representative (USTR).¹¹⁰

TASC projects should demonstrably benefit the represented industry rather than a specific company or brand, and must address barriers to exports of commercially available U.S. specialty crops for which barrier removal would predominantly benefit U.S. exports. Examples of expenses that CCC may agree to reimburse under the TASC program may include initial pre-clearance programs, export protocol and work plan support, seminars and workshops, study tours, field surveys, development of pest lists, pest and disease research, database development, reasonable logistical and administrative support, and travel and per diem expenses. Eligible recipients include U.S. federal or state government agencies, U.S. nonprofit trade associations, U.S. universities, U.S. agricultural cooperatives, U.S. private companies or any other U.S. organizations. Funding is through the CCC, and was authorized at \$4 million (FY2008), \$7 million (FY2009), \$8 million (FY2010), and \$9 million annually (FY2011 and FY2012). The program is administered by FAS.

Trade Adjustment Assistance for Farmers

The Trade Adjustment Assistance (TAA) for Farmers program provides technical assistance and cash benefits to eligible producers of agricultural commodities and fishermen who experience adverse economic impacts caused by increased imports.¹¹¹ TAA for Farmers provides technical assistance and cash benefits to eligible farmers and fishermen who have been adversely affected by competition from imports of a commodity that they produce,¹¹² if increased imports have contributed importantly to a price decline of at least 20%. Support is available in the form of enhanced technical assistance and seed money to enable a producer to formulate and implement a business adjustment plan. The program is administered by FAS.

Under the program, fish and seafood producers have accounted for most of the cash benefits paid out. Among fruit and vegetable growers, producers of Concord grapes, lychees, olives, wild blueberries, fresh potatoes, Florida avocados, and asparagus were among others that USDA certified to be eligible for assistance. Funding is discretionary, and currently may not exceed \$90 million annually (FY2012-FY2013), and \$22.5 million (first quarter FY2014).

Trade Remedies

In the event of suspected unfair competition from foreign imports, U.S. law makes available certain remedies that the specialty crop industry can pursue, not within USDA, but from the Department of Commerce and the U.S. International Trade Commission. Title VII of the Tariff Act of 1930 provides for the levying of antidumping (AD) duties on imports sold at less than fair value that have caused or threaten to cause material injury to a domestic industry producing a like

¹¹⁰ USTR, *2011 Report on Sanitary and Phytosanitary Measures and 2011 Report on Technical Barriers to Trade*, March 2011, available at USTR's website (<http://www.ustr.gov>). For other information on how SPS barriers may affect specialty crop trade, see CRS Report RL34468, *The U.S. Trade Situation for Fruit and Vegetable Products*.

¹¹¹ Trade Act of 1974, as amended by the Trade Act of 2002 (P.L. 107-210), and the 2009 economic stimulus package (P.L. 111-5) and later in 2010 (P.L. 112-40). 19 U.S.C. § 2401 (CFDA# 10.609). Regulations are at 7 C.F.R. § 1400.3. FAS (<http://www.fas.usda.gov/itp/taa/>). See also CRS Report R40206, *Trade Adjustment Assistance for Farmers*.

¹¹² Covers producers of raw and natural agricultural commodities (crops, livestock, farm-raised aquatic products, and wild-caught seafood that competes with aquaculture products).

product. Where subsidized imports have this injurious effect, Title VII authorizes countervailing duties (CVD) to be imposed.¹¹³

U.S. specialty crop producers on occasion have petitioned the Department of Commerce and the USITC to investigate suspected occurrences of dumping. Previous USITC investigations have highlighted the increased competitive market and trade pressures on U.S. fruit producers from lower-cost foreign fruit and vegetable producers (such as those in China, Thailand, Chile, Argentina, and South Africa) as well as from countries with subsidized fruit and vegetable production (such as in the EU, including Spain).¹¹⁴ Import injury investigations initiated by the United States further highlight concerns that some countries might be supplying imports at prices below fair market value. Since the 1990s, dumping petitions filed by the U.S. fruit and vegetable sectors have included charges against imports of fresh tomatoes (Canada, Mexico), frozen raspberries (Chile), apple juice concentrate (China), frozen orange juice (Brazil), lemon juice (Argentina, Mexico), fresh garlic (China), preserved mushrooms (China, Chile, India, Indonesia), canned pineapple (Thailand), table grapes (Chile, Mexico), and tart cherry juice (Germany, former Yugoslavia).¹¹⁵ Many of these petitions were decided in favor of U.S. domestic producers and resulted in higher tariffs being assessed on U.S. imported products from some of these countries.

Pest and Disease Exclusion

USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for protecting U.S. agriculture from domestic and foreign pests and diseases, responding to domestic animal and plant health problems, facilitating agricultural trade, regulating genetically engineered organisms, and other responsibilities related to animal welfare and wildlife damage management.¹¹⁶ For the fruit and vegetable industries, APHIS addresses pest and disease exclusion (i.e., prevention, detection, and eradication) as well as emergency response, management, trade issue resolution, and capacity building.

The Plant Protection Act (PPA) is the primary law governing APHIS's responsibilities regarding plant health consolidated several plant quarantine authorities, some dating back to the 1880s.¹¹⁷ (The primary law governing animal health is the Animal Health Protection Act, AHPA). PPA authorizes APHIS to cooperate with states, localities and others to prevent the spread of and

¹¹³ 19 U.S.C. § 1673 *et seq.* and 19 U.S.C. 1671 *et seq.* Regulations are at 19 C.F.R. Parts 207 and 351. Other information is in CRS Report RL32371, *Trade Remedies: A Primer*.

¹¹⁴ USITC, Conditions of Competition for Certain Oranges and Lemons in the U.S. Fresh Market, Inv. 332-469, July 2006; USITC, Canned Peaches, Pears, and Fruit Mixtures: Conditions of Competition between U.S. and Principal Foreign Supplier Industries, Inv.332-485, December 2007. Reports available at <http://www.usitc.gov>.

¹¹⁵ USITC, "Import Injury Investigations Case Statistics (FY 1980-2009)," February 2010, http://www.usitc.gov/trade_remedy/documents/historical_case_stats.pdf. Other information is in CRS Report RL34468, *The U.S. Trade Situation for Fruit and Vegetable Products*.

¹¹⁶ For more information, see APHIS, "A 40-Year Retrospective of APHIS, 1972–2012."

¹¹⁷ 7 U.S.C. § 7701 *et seq.* PPA became law in 2000 as part of the Agricultural Risk Protection Act (P.L. 106-224) and consolidated and superseded several U.S. plant health laws, including (1) The Act of August 20, 1912 (7 U.S.C. § 151-164a, 167); (2) The Federal Plant Pest Act (7 U.S.C. § 150aa *et seq.* and 7 U.S.C. 147a); (3) Section 102 (a) - (e) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. § 147a); (4) The Federal Noxious Weed Act of 1974 (7 U.S.C. § 2801 *et seq.*), except §§ 1-15 (7 U.S.C. § 2801 note and 7 U.S.C. § 2814); (5) Joint Resolution of April 6, 1937 (7 U.S.C. § 148 *et seq.*); (6) The Halogeton Glomeratus Act (7 U.S.C. § 1651 *et seq.*); (7) The Golden Nematode Act (7 U.S.C. § 150 *et seq.*); and (8) Section 1773 of the Food Security Act of 1985 (P.L. 99-198; 7 U.S.C. § 148f).

eradicate invasive pests and diseases. The statute also authorizes APHIS to prohibit or restrict the importation, exportation, and the interstate movement of plants, plant products, certain biological control organisms, noxious weeds, and plant pests, and also authorizes APHIS to inspect foreign plant imports, to quarantine any state or premises infested with a new pest or noxious weed, and to cooperate with states in certain control and eradication actions. These authorities have been traditional hallmarks of U.S. plant pest regulations, and are administered by APHIS in collaboration with state departments of agriculture and their plant protection boards.

PPA gives USDA authority to use a wide range of measures to exclude alien pests or prevent the spread of new, but not widespread pests. These measures include inspections, surveillance, quarantines, treatments, or destruction. USDA can develop lists of organisms that can or cannot enter the United States and goods that can be imported from specific countries, and has the authority to certify that U.S. agricultural exports meet the phytosanitary standards of other countries. USDA can require private parties to take remedial actions without cost to the government but must select the least costly, effective measure. USDA has less regulatory authority to address established and widespread pests, but can enter into agreements with foreign governments, state governments, or other organizations to implement the act.

For the most part, APHIS, which has a nationwide network of regional and state offices, serves in a consultative mode to assist state departments of agriculture in planning and operating control and eradication programs using state and private funds. However, when a particularly harmful disease or pest emerges suddenly, state resources for immediate response can be quickly overwhelmed. In such emergency situations, USDA has broad authority to transfer funds from the Commodity Credit Corporation (CCC) to APHIS for emergency control programs. The authority to transfer money for plant and animal health emergencies is found both in annual appropriations acts and in authorizing statutes, including the PPA.¹¹⁸ Such authorities date back to 1948. Discretion rests with the USDA Secretary, who is subject to limited review when making transfers. In recent appropriations, appropriators have expressed the expectation that USDA will continue to use its authority to transfer funds from other appropriations or funds available to USDA for activities related to the arrest and eradication of animal and plant pests and diseases. USDA has exercised this authority in recent years, and it has become an issue within government concerning the method for funding plant and animal health programs. USDA reports that in FY2011 it redirected \$65.9 million in emergency funding for activities covering some plant-related concerns caused by the Asian longhorned beetle, European grapevine moth, and the light brown apple moth, among other pests.¹¹⁹

Pest Detection and Surveillance

The 2008 farm bill amended PPA to provide for early plant pest detection and surveillance, threat identification and mitigation of plant pests and diseases, and technical assistance in the development and implementation of audit-based certification systems and nursery plant pest risk management systems (“section 10201”).¹²⁰ At the same time, Congress also established a related

¹¹⁸ PPA (7 U.S.C. §§ 7751, 7772, 431 and 442); also AHPA (7 U.S.C. §§ 8310, 8316, 10411 and 10417), replacing previous authorities in other laws. For more information, see CRS Report RL32504, *Funding Plant and Animal Health Emergencies: Transfers from the Commodity Credit Corporation*.

¹¹⁹ USDA, “2013 Explanatory Notes, APHIS,” <http://www.obpa.usda.gov/18aphis2013notes.pdf>, p. 18-108.

¹²⁰ P.L. 110-246, § 10201; 7 U.S.C. § 7721. USDA’s website (http://www.aphis.usda.gov/plant_health/plant_pest_info/pest_detection/farm_bill.shtml).

program, the National Clean Plant Network (NCPN), to provide reliable sources of pathogen-free planting stock of high-value specialty crops.¹²¹ According to USDA, certain aspects of these programs connect both programs.¹²² Funding is mandatory through CCC. Section 10201 received authorization for \$12 million (FY2009); \$45 million (FY2010); and \$50 million (FY2011-FY2012 and each fiscal year thereafter). NCPN was provided with \$5 million annually (FY2009-FY2012).

APHIS is implementing Section 10201 across six goal areas: (1) enhancing plant pest/disease survey and analysis; (2) targeting domestic inspection activities at vulnerable points; (3) enhancing pest identification tools and technology; (4) developing programs to safeguard nursery production; (5) enhancing outreach and education; and (6) enhancing mitigation capabilities. In FY2011, APHIS funded 312 projects across all goal areas. About three-fourths of the projects directly provided funds to 48 state departments of agriculture and two territories. The remaining one-fourth of all projects provided funds to universities, federal agencies, tribal organizations, and nonprofit entities. Funds were used by APHIS for certain programs, including development of an improved data management system. More detailed information is available in USDA's FY2013 budget justification.¹²³

APHIS, ARS, and NIFA are working to develop the NCPN under a memorandum of understanding. As of 2012, APHIS has entered into 19 cooperative agreements with clean plant centers.¹²⁴ Centers use NCPN funds to (1) diagnose for harmful pathogens that cause disease in covered specialty crops, (2) apply therapeutic measures to eliminate these pests, (3) establish plantings of clean plant 'starter' material and make this material available to nurseries and growers, and (4) engage with nurseries and growers in education/outreach programs to communicate the economic value to industry of using clean nursery stock. These activities are expected to provide additional sources of healthy planting stock for fruit trees, grapes, citrus, berries, and hops.

The 2008 farm bill also authorized "such sums as necessary" to establish a Pest and Disease Revolving Loan Fund to provide loans to local governments to finance purchases of equipment to monitor, remove, dispose of and replace pest- and disease-infested trees in quarantine areas. The Forest Service is drafting rules and identifying appropriate mechanisms to implement the fund.¹²⁵

Specialty Crop and Plant Pest Management

APHIS is asking to spend an estimated \$151.1 million to address specialty crop pests in FY2013, roughly 20% of its total appropriation for that year.¹²⁶ Much of this is allocated to APHIS's Emerging Plant Pest (EPP) program. Under EPP, APHIS cooperates with states to develop,

¹²¹ P.L. 110-246, § 10202; 7 U.S.C. § 7761. USDA (http://www.aphis.usda.gov/plant_health/ncpn/index.shtml); USDA's fact sheet (http://www.aphis.usda.gov/plant_health/ncpn/downloads/NCPN-FactSheet2010-11-22.pdf).

¹²² See, for example, APHIS, "White Paper, Section 10201(d)(1) of the Farm Bill pertaining to Audit-based Certification," http://www.nationalplantboard.org/docs/sanc_Farm_Bill_10201d_White_Paper_draft_1.pdf.

¹²³ USDA, "2013 Explanatory Notes, APHIS," <http://www.obpa.usda.gov/18aphis2013notes.pdf>, p. 18-104-106.

¹²⁴ These include either universities or state agencies in Arkansas, Alabama, Arizona, California, Florida, Hawaii, Louisiana, Michigan, Missouri, New York, North Carolina, Oregon, South Carolina, Texas, and Washington.

¹²⁵ Comments by Rayne Pegg, AMS Administrator, before the House Subcommittee on Horticulture and Organic Agriculture, October 28, 2009. Amends 36 CFR 230 (see 77 *Federal Register* 7900, February 13, 2012).

¹²⁶ USDA, "2013 Explanatory Notes, APHIS," <http://www.obpa.usda.gov/18aphis2013notes.pdf>, p. 18-15.

implement, and fund action plans for surveying, reporting, and controlling emerging pest threats. EPP provides APHIS with the infrastructure to carry out urgent plant pest and disease programs, some of which currently are or have been partially funded through emergency CCC transfers. For specialty crops, EPP is working to address concerns within the following areas: Citrus Health Response Program, Asian longhorned beetle, emerald ash borer, glassy-winged sharpshooter, pale cyst nematode, and light brown apple moth.

Additionally, APHIS gets appropriated funds for its Pest Detection program.¹²⁷ The program helps ensure that any new introductions of harmful plant pests and diseases are detected as soon as possible, before they cause significant damage. Under the program, APHIS works with its state cooperators and also the scientific community, universities, the public, non-profit entities, and industry to carry out surveys for high-risk pests, diseases, and weeds in the field. Funding is provided through the Cooperative Agricultural Pest Survey (CAPS) program. Information collected through CAPS is compiled into detailed maps and other formats, and filed in the electronic National Agricultural Pest Information System (NAPIS) database. The program helps identify pest-free regions and allow for continued export of commodities from particular areas of the country. When significant quarantine pests are found, APHIS and cooperators rapidly decide an appropriate course of action. The CAPS/NAPIS system allows for early detection of significant pests, which in turn helps organize eradication efforts before pests cause major economic damage. These efforts also support inspections of commodities, conveyances, and passenger baggage conducted by CBP at sea ports, airports, and land border crossings. APHIS is asking to spend an estimated \$25.6 million to address pest detection across all crops and program areas in FY2013.¹²⁸

Import Inspection and Quarantine

APHIS and the Department of Homeland Security's (DHS's) Bureau of Customs and Border Protection (CBP) administer the Agricultural Quarantine Inspection (AQI), which protects the United States from the risks associated with the introduction of invasive agricultural pests and diseases.¹²⁹ Under the program, APHIS and CBP administer foreign plant quarantines, whereby the importation of certain plants and plant products into the United States may be prohibited or restricted.¹³⁰ APHIS inspects passengers, cargo, and conveyances traveling from Hawaii, Puerto Rico, and other islands to the mainland. Among APHIS's pest and disease exclusion activities are to (1) develop protocols for plant materials in trade; (2) maintain quarantine facilities and treat regulated imported products; (3) conduct pre-clearance programs for products being imported into the United States and certification programs for U.S. agricultural exports; and (4) support scientific projects to detect and identify high-risk plant pathogens, and develop protocols for quarantine testing.¹³¹ The program is funded through a combination of appropriations and user fees. APHIS expects it will spend about \$25 million for the APHIS AQI program in FY2013

¹²⁷ APHIS' website (http://www.aphis.usda.gov/plant_health/plant_pest_info/pest_detection/index.shtml). Also see APHIS, "2008 Farm Bill: Plant Pest and Disease Management and Disaster Prevention," July 2012.

¹²⁸ USDA, "2013 Explanatory Notes, APHIS," <http://www.obpa.usda.gov/18aphis2013notes.pdf>, p. 18-15.

¹²⁹ Until 2002, APHIS held sole responsibility for operating the AQI. In 2002, in the law creating DHS (P.L. 107-296), Congress transferred the inspection function and more than 2,600 APHIS inspectors to DHS.

¹³⁰ Quarantine regulations are at 7 CFR part 319 and apply to many commodities, including nursery stock.

¹³¹ For more information, see APHIS' website (http://www.aphis.usda.gov/plant_health/) and also "Plant Inspection Station Strategic Plan, 2007-2012."

(covering all U.S. agriculture).¹³² Within APHIS, these activities are carried out under the agency's Plant Protection and Quarantine (PPQ) program.

The Center for Plant Health Science and Technology (CPHST), located on USDA's research campus in Beltsville, MD, is a key component of the APHIS's National Plant Pathogen Laboratory Accreditation Program (NPPLAP). The lab is responsible for proficiency test panel development, delivery, and first-level evaluation of proficiency tests conducted by scientists who perform diagnostics on behalf of APHIS using CPHST-validated methods.¹³³ In addition, APHIS maintains a searchable database, known as the Fruits And Vegetables Import Requirement (FAVIR) database, which provides an online reference to regulations and information pertaining to the importation of fruits and vegetables into the United States.¹³⁴ APHIS also maintains information on specific agricultural pests and diseases,¹³⁵ among other types of program activities.

Export Facilitation

Along with overseeing U.S. import requirements, APHIS also provides assistance to U.S. specialty crop growers who have the capacity to export crops abroad. APHIS helps to maintain and expand existing markets and create new markets, assisting U.S. exporters to meet the entry requirements of other countries and also resolve trade issues to facilitate U.S. exports, and also building international support for trade agreements.¹³⁶ APHIS attachés, located at U.S. embassies abroad, work with host country officials to establish and oversee foreign-based inspection programs to ensure that products designated for export to the United States are pest-free, and that inspection officials at U.S. ports of entry receive early warning of pest and disease problems that may be emerging in exporting countries. APHIS helps manage and resolve sanitary (animal) and phytosanitary (plant), or SPS, barriers to U.S. exports to other countries (see previous discussion "Technical Assistance for Specialty Crops").

As part of its responsibilities, APHIS, along with other U.S. agencies, represents the United States in the World Trade Organization (WTO) and other international bodies that set SPS standards for trade, and is the USDA negotiator in WTO phytosanitary disputes that concern U.S. agricultural trade. APHIS also helps negotiate and resolve SPS and other types of technical barriers to trade that could potentially affect U.S. trade relationships. USDA reports that through the resolution of SPS issues, APHIS "successfully negotiated trade issues that contributed to the opening of new markets, and retention and expansion of existing markets valued at a total of approximately \$2.75 billion (estimated) in 2011."¹³⁷ APHIS also is the agency in charge of certifying that U.S. specialty crop exports meet other countries' phytosanitary regulations before they are shipped.¹³⁸

¹³² USDA, "2013 Explanatory Notes, APHIS," <http://www.obpa.usda.gov/18aphis2013notes.pdf>, p. 18-15 and 18-30.

¹³³ See USDA's website (http://www.aphis.usda.gov/plant_health/cphst/npgqbl.shtml).

¹³⁴ The FAVIR database is available at <https://epermits.aphis.usda.gov/manual/index.cfm?ACTION=pubHome>.

¹³⁵ See USDA's website: http://www.aphis.usda.gov/plant_health/plant_pest_info/index.shtml.

¹³⁶ For more information, see APHIS' website: http://www.aphis.usda.gov/import_export/sanitary_phytosanitary.shtml.

¹³⁷ USDA, "2013 Explanatory Notes, APHIS," <http://www.obpa.usda.gov/18aphis2013notes.pdf>, p. 18-58.

¹³⁸ See USDA's FAQs (http://www.aphis.usda.gov/import_export/plants/plant_exports/faqs.shtml) and other information at http://www.aphis.usda.gov/import_export/plants/plant_exports/export_certificates_forms.shtml.

Research and Cooperative Extension

USDA's research and extension service play an important role in specialty crop and organic production through programs directed specifically at specialty crops, as well as general research and extension services available to all U.S. agricultural producers.

The United States has a nationwide network of public agricultural laboratories and academic institutions supported in full or in part by annual USDA appropriations. There are four USDA Research, Education, and Economics (REE) agencies: Agricultural Research Service (ARS); National Institute of Food and Agriculture (NIFA), Economic Research Service (ERS), and National Agricultural Statistics Service (NASS).

- ARS is USDA's chief scientific in-house research agency, and provides scientific and technical support for USDA's regulatory agencies, including APHIS. ARS conducts basic and applied research on the full range of subjects important to specialty crops, from production through processing and food safety. ARS also is the designated lead agency for federal nutrition research.
- NIFA is the USDA agency that distributes federal funds to support research and extension programs at the land grant colleges of agriculture in every state.¹³⁹ NIFA supports research, education, and extension programs in the Land-Grant University System and other partner organizations; it does not perform actual research, education, and extension but instead helps fund programs at the state and local level. NIFA allocates some funds to each state according to formulas spelled out in authorizing laws, and distributes the rest through various competitive grant programs.
- ERS is USDA's economic research agency, covering agriculture, food, natural resources, and rural development issues. The agency publishes market analysis and outlook reports for most commodities including specialty crops.
- NASS is USDA's principal data collection agency. In addition to periodic data publications and special reports, NASS also conducts the U.S. *Census of Agriculture* every five years, and conducts the *Census of Horticultural Specialties* once every 10 years. The latter provides the only comprehensive and detailed data compilation of U.S. fruit, vegetable, tree nut, floriculture, nursery, and other specialty crop operations.¹⁴⁰

This report covers selected USDA research programs that directly support U.S. specialty crop growers, and does not address other research and extension services that generally support all agricultural producers. For example, NIFA is the federal partner in the Cooperative Extension System that provides federal funding to support state, local, and regional offices at land-grant colleges and universities in each U.S. state and territory. These offices are staffed by experts who provide practical and research-based information to agricultural producers, small business owners, and the public. NIFA's website provides contact information and a map of the land-grant colleges and universities across all states and territories.¹⁴¹ Other NIFA grant programs may also

¹³⁹ Formerly Cooperative State Research, Education, and Extension Service or CSREES.

¹⁴⁰ For information, see USDA (http://www.agcensus.usda.gov/Publications/Census_of_Horticulture_Specialties/).

¹⁴¹ NIFA, "Cooperative Extension Offices," <http://www.csrees.usda.gov/Extension/>; map (http://www.csrees.usda.gov/qlinks/partners/partners_map.pdf).

provide indirect support. For example, some specialty crop and organic producers generally benefit from other programs intended to assist farmers in developing and implementing sustainable and innovative farming strategies, such as Sustainable Agriculture Research and Education (SARE) grants through USDA NIFA, and also information services through the National Sustainable Agriculture Information Service (known as the ATTRA project).¹⁴²

Specialty Crop Research Initiative

The Specialty Crop Research Initiative (SCRI) was authorized in the 2008 farm bill, to provide grants to solve critical industry issues through research and extension activities.¹⁴³ SCRI gives priority to projects that are multistate, multi-institutional, or trans-disciplinary; and includes explicit mechanisms to communicate results to producers and the public. Projects must address at least one of five focus areas: research in plant breeding, genetics, and genomics to improve crop characteristics; efforts to identify and address threats from pests and diseases, including threats to specialty crop pollinators; efforts to improve production efficiency, productivity, and profitability over the long term; new innovations and technology, including improved mechanization and technologies that delay or inhibit ripening; and methods to prevent, detect, monitor, control, and respond to potential food safety hazards in the production and processing of specialty crops. The 2008 farm bill provided a total of \$230 million in mandatory CCC funds (\$30 million in FY2008; \$50 million annually for FY2009-FY2012), plus annual appropriations of \$100 million (FY2008-FY2012). A listing of funded projects is available at USDA's website.¹⁴⁴

Methyl Bromide

Through its “National Program 308” (NP 308), ARS is the primary federal research agency conducting research on alternatives to the use of methyl bromide (MeBr)—a pesticidal gas widely used in specialty crop production as a soil fumigant and structural fumigant to control pests use.¹⁴⁵ NP 308 was initiated after methyl bromide was listed as a stratospheric ozone depletor, which was followed by worldwide controls on production, emissions, and trade under the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, and domestically under Title VI of the U.S. Clean Air Act.¹⁴⁶ The program followed the 1995 formation of the Methyl Bromide Alternatives Working Group to track and facilitate adoption of alternatives to methyl bromide, and the allocation of ARS funds starting in FY1999 toward research to develop alternatives to

¹⁴² Appropriate Technology Transfer for Rural Areas (ATTRA) project, authorized in the 1985 farm bill. For more information, see CRS Report RL31837, *An Overview of USDA Rural Development Programs*.

¹⁴³ P.L. 101-246, § 7311 (amended the 1998 Agricultural Research, Extension, and Education Reform Act, AREERA); 7 U.S.C. § 7632 *et seq.* (CFDA# 10.309). In establishing the initiative, the 2008 farm bill also removed specialty crop research from USDA's list high priority research and extension activities (7 U.S.C. § 5925), which had been added in the 2005 Specialty Crop Competitiveness Act (P.L. 106-465, § 302).

¹⁴⁴ USDA's website (<http://www.csrees.usda.gov/fo/specialtycropresearchinitiative.cfm>.) under “Abstracts of Funded Projects” (recipient names, award amount, and project terms).

¹⁴⁵ The program followed the 1995 formation of the Methyl Bromide Alternatives Working Group to track and facilitate adoption of alternatives to methyl bromide, and the allocation of ARS funds starting in FY1999 toward research to develop alternatives to methyl bromide, principally at the University of California and the California Strawberry Commission, and the University of Florida. ARS, “National Program 308: Methyl Bromide Alternatives Strategic Vision,” http://www.ars.usda.gov/research/programs/programs.htm?np_code=308.

¹⁴⁶ EPA, “The Phaseout of Methyl Bromide,” <http://www.epa.gov/ozone/mbr/>.

methyl bromide, principally at the University of California and the California Strawberry Commission, and the University of Florida.

Under the Montreal Protocol, MeBr has been officially phased out as of January 1, 2005. Allowable exemptions to the phase-out include an exemption for Quarantine and Preshipment (QPS) to eliminate quarantine pests, as well as exemptions for *critical use*, or so-called Critical Use Exemptions (CUEs), of which agricultural production is one.¹⁴⁷ CUEs were designed for agricultural users with no technically or economically feasible alternatives to using MeBr. Strawberries, tomatoes, peppers, eggplant, cucurbits,¹⁴⁸ and ornamental nursery crops are particularly dependent on pre-planting soil fumigation with MeBr.¹⁴⁹ Other commodities rely on MeBr to control pests in storage, among other types of post-harvest uses in food processing. Each year some specialty crop growers seek exemptions for critical use in part because research suggests the continued difficulty of finding comparably effective alternatives. Currently, many signatories of the protocol have further agreed to fully phase out MeBr by January 1, 2015, with no provision to exempt critical uses.¹⁵⁰

Nutrition and Food Assistance

USDA's Food Nutrition Service (FNS) administers a range of domestic nutrition and food assistance programs. The major laws governing these programs are the Richard B. Russell National School Lunch Act; the Child Nutrition Act; Section 32; the Food Stamp Act, the Emergency Food Assistance Act; and Section 5 of the Agriculture and Consumer Protection Act of 1973.¹⁵¹ Congressional jurisdiction over these laws in the Senate is exercised by the Senate Agriculture, Nutrition, and Forestry Committee. However, in the House of Representatives, the jurisdiction is split between the House Education and the Workforce Committee, and the House Agriculture Committee. These programs do not purchase or benefit the fruits and vegetable industry exclusively, but many aspects of the programs do benefit the industry or have potential to do so.

Commodity Procurement for Domestic Food Assistance Programs

Numerous food distribution programs administered by FNS provide children and low-income individuals access to food and nutrition by providing both funding and USDA-purchased commodity foods. USDA purchase and donation of commodity foods provides food to needy populations, while at the same time supports U.S. agricultural producers, including fruit and vegetable growers. Many of these programs grew out of the programs supporting U.S. agriculture during the Depression.

¹⁴⁷ CUEs are permitted under Section 604(d) of the Clean Air Act and also under the Protocol.

¹⁴⁸ Squashes, melons, cucumbers, and gourds, etc.

¹⁴⁹ EPA, "List of Critical Uses," <http://www.epa.gov/ozone/mbr/cueuses.html>; and USDA, "National Program 308 MeBr Alternatives," http://www.ars.usda.gov/research/programs/programs.htm?np_code=308&docid=14368.

¹⁵⁰ United Nations Environmental "Report of the Technology and Economic Assessment Panel," May 2011, http://ozone.unep.org/teap/Reports/TEAP_Reports/TEAP_Progress_Report_May_2011.pdf, p. 149.

¹⁵¹ This report does not cover spending on fruit, vegetable, and tree nut products financed under nutrition programs authorized by the Older Americans Act (administered by the Department of Health and Human Services), for which no information regarding specific food types of food purchases is available, nor does it address federally supported nutrition education initiatives aimed at increasing consumption of fruits and vegetables.

As part of the USDA Foods program, FNS, AMS, and FSA work together to directly purchase commodities—including fruit, vegetable, and tree nut products—for distribution or donation to various organizations, including schools that provide federally-supported meals.¹⁵² FNS is responsible for general oversight, regulation, and administration of domestic USDA foods program, is the primary liaison between USDA and the administering state agency, and also tracks entitlement and takes food orders from states. AMS and FAS are responsible for purchasing and delivering USDA-purchased foods.¹⁵³

There are two types of USDA-purchased food commodities.

- **Mandated, or “entitlement” commodity purchases.** Entitlement commodities refers to food purchases and donations that, by law, *must* be purchased and to which schools, organizations, or states (depending on the program) are entitled. USDA generally purchases entitlement commodities based on preferences expressed by recipient organizations (e.g., schools, state food assistance or program operators).
- **Contingency, or “bonus” commodity purchases.** Periodically, USDA taps its contingency reserve for so-called emergency surplus removals (or diversions), which are then distributed as “bonuses” to domestic food assistance programs. Bonus buys normally are based on market conditions, may be influenced by surpluses or other economic problems with the farming community, and are often intended to stabilize market conditions. In the case of specialty crops, bonus buys tend to include types of fruits, vegetables, and tree nuts not routinely seen on lists of entitlement purchases (e.g., asparagus, apricots, blackberries, almonds).¹⁵⁴

USDA directly purchases and then donates a variety of non-price-supported commodities, including specialty crops, for consumption through domestic nutrition and food assistance programs. These purchases and donations help feed groups of nutritionally vulnerable recipients and organizations that serve these groups (such as low-income school children, and participants at family child care homes, child care centers, Head Start programs, and adult care centers, among others) while also helping to balance supply and demand for various commodities.

Federal programs that receive USDA Foods include:¹⁵⁵

- individuals and household programs, such as the Commodity Supplemental Foods Program (CSFP), The Emergency Food Assistance Program (TEFAP), the Food Distribution Program on Indian Reservations (FDPIR), and disaster feeding programs; and
- schools and institution programs, such as the National School Lunch Program (NSLP), Summer Food Service Program (SFSP), Child and Adult Care Food

¹⁵² In this case, the term “commodity foods” refers to all USDA purchased foods, which includes fruits and vegetables, and livestock, poultry, and seafood products, and applies more broadly than “commodity crops.”

¹⁵³ USDA FNS, “White paper: USDA Foods in the National School Lunch Program,” May 2010, <http://www.fns.usda.gov/fdd/foods/healthy/WhitePaper.pdf>. AMS generally serves as the commodity purchasing agency, and the Farm Service Agency also assists in making commodities available.

¹⁵⁴ For more information, see CRS Report RL34081, *Farm and Food Support Under USDA’s Section 32 Program*.

¹⁵⁵ USDA FNS, “Food Distribution Programs Overview,” September 2011. For information on these and other domestic assistance programs, see CRS Report R42353, *Domestic Food Assistance: Summary of Programs*.

Program (CACFP), and Nutrition Services Incentive Program (NSIP, formerly Nutrition Program for the Elderly).¹⁵⁶

Most funding for USDA commodity purchases is classified as “mandatory”—that is, the level is dictated by underlying law. (For example, child nutrition programs are due a specific number of cents per meal in commodity foods.) A lower level of spending is “discretionary”—the amount is set by appropriations decisions or dependent on market conditions. Primary funding sources for USDA commodity procurement include Section 6 of the Richard B. Russell National School Lunch Act; Section 32 of the Act of August 24, 1935 (“Section 32”);¹⁵⁷ and Section 416 of the Agricultural Act of 1949.

Depending on the year, roughly 180 food items may be available, including fresh, frozen, packaged, canned, dried, and bulk foods. USDA purchases of fruit and vegetable products represent a significant share of all USDA food purchases. USDA reports that fruit and vegetable purchases by AMS were valued at \$613.7 million (FY2010) and \$594.3 million (FY2009).¹⁵⁸ Of total USDA food donation assistance, USDA purchases of fruits and vegetables accounted for more than one-half of the value of all USDA entitlement purchases. The 2002 and 2008 farm bills established minimum levels of specialty crop purchases under Section 32. Minimum purchases for fruits, vegetables, and other specialty crops under Section 32 totaled \$406 million in FY2012.¹⁵⁹ In addition, special rules relate to *fresh* fruits and vegetables to child nutrition programs. Under provisions in the 2002 and 2008 farm bills, at least \$50 million worth of fresh fruits and vegetables must be provided annually through an arrangement with a Department of Defense (DoD) procurement agency (the Defense Supply Center in Philadelphia). (The initiative is named the Department of Defense Fresh Fruit and Vegetable Program or “DoD Fresh.”¹⁶⁰) The amount is based on the dollar value of commodities that child nutrition programs are entitled to.

Year-to-date AMS purchases in FY2012 (as of August 10, 2012) indicate that fruits and vegetables account for nearly 40% of all purchases (**Table 3**) shows the types of fruits and vegetables purchased over the most recent period under the program. Limited data on the value of USDA bonus buys indicate that fruit and vegetable purchases totaled \$1.3 billion over the period from FY2000-FY2009, not including the amount of cash reimbursement to states¹⁶¹ (**Table 4**). In the case of commodity food assistance programs, USDA reports that of total USDA purchases for child nutrition programs by food type—including both entitlement purchases and bonus buys—fruits and vegetables accounted for 27% in FY2009.¹⁶² AMS also provides purchasing services to

¹⁵⁶ NSIP is jointly administered by HHS and USDA’s FNS.

¹⁵⁷ 7 U.S.C. § 612c. Section 32 requires that 30% of annual customs receipts be used by USDA to buy U.S. agricultural commodities. For information see CRS Report RL34081, *Farm and Food Support Under USDA’s Section 32 Program*.

¹⁵⁸ FNS, Purchases by Product, USDA Fruit and Vegetable Programs, Fiscal Year 2010 (10/01/09-09/30/10), <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5088443>. Historical data are available at AMS, “Commodity Purchasing,” <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateJ&page=CPDAnnualPurchaseSummary>. Total purchases exceeded roughly \$1 billion in FY2010.

¹⁵⁹ The 2002 farm bill provided \$200 million annually and each year thereafter (P.L. 107-171 § 10603); the 2008 farm bill provided an additional \$206 million for FY2012 and each year thereafter (P.L. 110-246, § 4404).

¹⁶⁰ DoD Fresh is a mechanism created by USDA to increase fresh produce offerings to schools. DoD Fresh, which utilizes the logistical capacity of the United States military to delivery food to U.S. military bases across the country and world, began as a USDA pilot project in 1996. This program now operates in more than 40 states. The program works in partnership with USDA to take advantage of DoD’s buying power, distribution system, and nationwide network of suppliers.

¹⁶¹ Entitlement funding for USDA foods totaled \$1.057 billion; bonus funding totaled \$0.178 billion.

¹⁶² FNS, “USDA Foods,” http://www.fns.usda.gov/fdd/foods/healthy/CNP_PPT_LONG-FINAL.pdf, p. 8.

FNS to supply food to recipients in nutrition assistance programs and is reimbursed for the administrative costs associated with these purchases.¹⁶³

Purchases Using Child Nutrition Programs' Cash Assistance

In addition to USDA's purchase of fruits and vegetables as part of the Department's commodity procurement for and donation to domestic food assistance programs, USDA also provides cash assistance based on per-meal reimbursements for the child nutrition programs. "Child nutrition programs" is a category used to describe FNS programs that help to provide food for children in school or institutional settings. The National School Lunch and School Breakfast programs provide a per-meal subsidy for each meal that is served for free, for a reduced-price, or for a full-price (called a "paid" meal). The Child and Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP) will, under certain circumstances, provide free meals or snacks to all the children at a site, because it is the site (not the child) that is subject to eligibility criteria.¹⁶⁴ These federal funds provide an additional—and proportionally larger—means for institutional purchasing of all foods, including fruits and vegetables. In the case of NSLP, in FY2011, the value of federal commodity food aid to participating schools has just over \$1 billion a year while NSLP cash assistance in FY2011 was over \$10 billion.

In FY2011, more than 31.8 million children each day got their lunch through the National School Lunch Program.¹⁶⁵ Federal assistance for school food programs in FY2011 totaled approximately \$14.4 billion, which consisted of \$13.2 billion in cash assistance and \$1.2 billion in donated food assistance.¹⁶⁶ The National School Lunch Program accounted for the bulk of this assistance, with a total cost \$11.1 billion in FY2011.¹⁶⁷

Table 3. Annual USDA Food Commodity Purchases, Specialty Crops,
FY2012 (YTD, ending August 10, 2012)

Commodity	Costs (\$million)	Quantity (million pounds)
Apple	44.5	76.8
Apricot	5.3	7.0
Beans, Dried	20.0	43.6
Bean, Dry/Legume, Dry	11.2	16.0
Blueberry	1.7	1.2
Carrot	12.7	23.7
Cherry	2.3	2.7
Corn	10.7	19.2

¹⁶³ 31 U.S.C. § 1535.

¹⁶⁴ For more information, see CRS Report R42353, *Domestic Food Assistance: Summary of Programs*.

¹⁶⁵ FNS, "National School Lunch Program," <http://www.fns.usda.gov/cnd/lunch/aboutlunch/NSLPFactSheet.pdf>.

¹⁶⁶ FNS, "Federal Cost of School Food Programs, data as of July 26, 2012," <http://www.fns.usda.gov/pd/cncosts.htm>. Primary funding sources for USDA food purchases include (as amended): Section 6 of the Richard B. Russell National School Lunch Act; Section 32 of the Act of August 24, 1935; and Section 416 of the Agricultural Act of 1949.

¹⁶⁷ *Ibid.* Consisted of \$10.105 billion in cash assistance and \$1.036 billion in donated food assistance.

Commodity	Costs (\$million)	Quantity (million pounds)
Cranberry	5.1	9.6
Fruit Mix/Nut Mix	2.1	0.8
Grape Juice	9.6	13.3
Grapefruit Juice	0.5	1.1
Green Bean	15.6	32.2
Green Pea	8.0	13.2
Mixed Fruit	31.3	46.8
Mixed Vegetable	0.7	1.1
Orange & Orange Juice	10.6	20.0
Peach	46.3	65.8
Pear	26.3	41.0
Plum	15.7	12.0
Potato	28.1	101.3
Pumpkin	0.7	0.8
Raisin	3.8	2.4
Spinach	2.1	3.8
Strawberry	13.3	12.1
Sweet Potato	4.8	10.2
Tomato	33.4	84.2
Vegetable Soup/Chicken Soup	4.4	5.0
Subtotal, Fruits and Vegetables	370.6	666.9
Subtotal, Livestock and Seafood	316.9	148.1
Subtotal, Poultry Products	272.9	270.7
Total AMS Purchases To Date	\$960.4	1,085.7

Source: AMS, "Annual Purchase Summary," <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5099583>. FNS reports no purchases of almonds, asparagus, blackberry, date, fig, fruit cocktail, hominy, pistachio, raspberry, and walnut over the period. Historical data are at USD's website: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateJ&page=CPDAnnualPurchaseSummary>.

Table 4. Section 32 Contingency Fund (Bonus) Purchases, Specialty Crops, FY2000-FY2009

Commodity	Number of Years Purchased	Total Value Purchased (million \$)	Commodity	Number of Years Purchased	Total Value Purchased (million \$)
Almonds	3	29.5	Grapefruit	2	20.1
Apples	6	88.8	Mixed Fruit	2	79.5
Apricots	7	49.6	Orange Juice	5	99.5
Asparagus	7	28.3	Peaches	6	141.7
Beans	4	40.8	Pears	5	42.0

Commodity	Number of Years Purchased	Total Value Purchased (million \$)	Commodity	Number of Years Purchased	Total Value Purchased (million \$)
Blueberries	3	35.7	Pineapple	5	21.2
Caneberries ^a	3	4.5	Plums	4	8.2
Cherries	7	99.9	Potatoes ^b	6	113.2
Cranberries	5	80.6	Strawberries	3	12.8
Dates	3	7.2	Tomatoes	7	40.3
Figs	4	17.0	Trail Mix	4	78.5
Grape Products	6	95.0	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. Does not include purchases of livestock, poultry, and seafood products. For other information, see CRS Report RL34081, *Farm and Food Support Under USDA's Section 32 Program*

- a. Includes raspberries and blackberries.
- b. Includes sweet potatoes.

The cash reimbursement to states is on the basis of the number of meals or snacks served to children at participating schools at reimbursement rates that vary according to household income status. USDA studies of school food purchase data, the relative share of school food purchases fresh fruits and vegetables (except for potatoes) appears to be increasing.¹⁶⁸ In recent years, Congress has substantially expanded support for fruit and vegetables within USDA's food and nutrition programs—both in the 2008 farm bill and in the 2010 reauthorization of child nutrition legislation (Healthy, Hunger-Free Kids Act, P.L. 111-296). The latter specifically required that USDA issue updated nutrition guidelines. The final regulation issued in January 2012 included requirements for participating schools to serve more fruits and vegetables.¹⁶⁹ Health and nutrition concerns are likely to be among the leading drivers of increased demand for fresh fruits and vegetables in the next few years.¹⁷⁰

Fresh Fruit and Vegetable (“Snack”) Program

The Fresh Fruit and Vegetable Program (FFVP, also referred to as the Fruit and Vegetable “Snack” Program) gives cash grants to states and Indian reservations to provide free snacks of fresh fruits and vegetables to elementary school children during the school day.¹⁷¹ FFVP started as

¹⁶⁸ FNS, “School Food Purchase Study-III Final Report,” March 2012, http://www.fns.usda.gov/Ora/menu/Published/CNP/FILES/SFSP3III_Final.pdf.

¹⁶⁹ For more information, see CRS Report R41354, *Child Nutrition and WIC Reauthorization: P.L. 111-296*. Other resources related to the updated guidelines and compliance requirements are at FNS' website: <http://www.fns.usda.gov/cnd/Governance/Legislation/nutritionstandards.htm>.

¹⁷⁰ See, e.g., “Rabobank Says Value-Added Fresh Vegetables Positioned for Growth,” March 10, 2012, https://www.rabobankamerica.com/content/documents/news/2012/value_added_fresh_vegetables_positioned_for_growth.pdf.

¹⁷¹ P.L. 110-246, § 4303, amending the NSLA; 42 U.S.C § 1769 (CFDA# 10.582). USDA websites: (continued...)

a pilot program in the 2002 farm bill—funded with a one-time mandatory appropriation of \$6 million—providing cash grants to selected states and Indian reservations, and covered both fresh and dried fruits and vegetables. FFVP was reauthorized and expanded in the 2004 Child Nutrition and WIC Reauthorization Act to include more states and reservations, also making it a permanent part of child nutrition law. The 2004 law provided mandatory funding of \$9 million a year through FY2008. The 2008 farm bill permanently authorized the program nationwide and provided additional funding through Section 32, but limited purchases to fresh fruits and vegetables only. Funding for the program is permanent and now total more than \$150 million per school year (taking into accounts necessary indexed cost adjustments). The program is administered through FNS. The agency expects to allocate to states a total of about \$158 million for school year 2011/2012.¹⁷² In most states, FFVP is primarily administered through states education agencies, except for Texas and New Jersey, where FFVP is administered by their agriculture agencies.

Assistance to Households and Families

A range of FNS programs provide foods for use in the home to individuals and families. These programs include the Commodity Supplemental Foods Program (CSFP), The Emergency Food Assistance Program (TEFAP), Food Distribution Programs on Indian Reservations (FDPIR), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and various disaster feeding programs. CSFP, WIC, and FDPIR provide specific foods based on the program's "food package" requirements.¹⁷³

FNS's largest nutrition assistance program—based on participation and expenditures—is the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program), which provides benefits issued on Electronic Benefit Transfer (EBT) cards to households. SNAP benefits are not the same as cash: they are only redeemable at authorized stores, equipped with EBT machines, and may only be redeemed for SNAP-eligible foods. In general, SNAP benefits may be redeemed for any foods for home preparation and consumption, subject to certain exceptions.¹⁷⁴

Previous studies by USDA indicate about 20% of SNAP benefits were spent on fruit and vegetable products (broadly defined) in FY2001.¹⁷⁵ Federal initiatives are being developed to

(...continued)

<http://www.fns.usda.gov/cnd/ffvp/> and <http://www.fns.usda.gov/cnd/ffvp/handbook.pdf>. The 2002 farm law included authority to use funding for *dried* fruits and vegetables, while the expanded and extended program does *not* include these products.

¹⁷² The annual grant include a minimum grant amount (1% of the funds made available), with an additional allocation to each state based on its population share. Priority is given to schools where more than 50% of the students are eligible for free or reduced price meals. See also FNS, <http://www.fns.usda.gov/cnd/ffvp/>.

¹⁷³ WIC food packages and nutrition education are primary means by which the program affects the dietary quality and habits of participants. For more information, see USDA, "WIC Food Packages," <http://www.fns.usda.gov/wic/benefitsandservices/foodpkg.htm>.

¹⁷⁴ For an overview of SNAP, see CRS Report R42505, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*.

¹⁷⁵ FNS, *Availability of Fresh Produce in Nutrition Assistance Programs*, CN-02-FV, May 2002, <http://www.fns.usda.gov/Ora/menu/Published/CNP/FILES/FreshProduce.pdf>.

further promote fruit and vegetable consumption under existing domestic nutrition assistance programs.¹⁷⁶

Redeeming Nutrition Assistance Program Benefits at Farmers' Markets

Farmers' markets may accept EBT benefits and become SNAP-licensed retailers; they have done so at an increasing rate.¹⁷⁷ USDA reported that in 2010 that 1,611 farmers' markets or individual farmers were authorized to accept SNAP benefits, and they redeemed a total of \$7.5 million in SNAP benefits—an increase of 263% in authorizations and a 49% in benefits redeemed compared to the previous five-year period.¹⁷⁸

In addition to SNAP benefits, two other programs provide available resources to patronize and support farmers markets under two FNS-administered programs related to USDA's Farmer's Market Promotion Program (FMPP) (see "Farmer Direct Marketing Assistance"). These are:

- WIC Farmers' Market Nutrition Program (WIC-FMNP) and
- Senior Farmers' Market Nutrition Program (SFMNP).

These programs provide redeemable benefits to consumers at farmers' markets, allowing for farmers' market purchases (including fruit, vegetable, and tree nut products) by low-income WIC applicants and recipients and also low-income seniors, usually through the use of redeemable coupons.¹⁷⁹ Program benefits from SNAP and the farmers market nutrition programs may be redeemed for a range of agricultural products, including fruits, vegetables, and other specialty crops.

Certified Organic Foods

For some specialty crop producers, obtaining organic certification to sell their products as "organic" represents a viable business strategy. The Organic Foods Production Act (OFPA) of 1990 and USDA's National Organic Program (NOP) regulations require that agricultural products labeled as "organic" originate from farms or handling operations certified by a state or private entity that has been accredited by USDA.¹⁸⁰

Organic agriculture accounts for a small but growing share of the U.S. farming sector. USDA reports that farm sales from organic fruit and vegetable operations totaled \$1.2 billion in 2008,

¹⁷⁶ See FNS, "Increasing Fruit and Vegetable Consumption through the USDA Nutrition Assistance Programs," March 2008, http://www.fns.usda.gov/ora/menu/Published/NutritionEducation/Files/fruit_veggie_report.pdf.

¹⁷⁷ For information see USDA, FNS, "SNAP: Learn How You Can Accept SNAP Benefits At Farmers' Markets," <http://www.fns.usda.gov/snap/ebt/fm.htm>. For other information, see CRS Report R42155, *The Role of Local Food Systems in U.S. Farm Policy*.

¹⁷⁸ USDA FNS, "SNAP's Benefit Redemption Division (BRD) Annual Report for Fiscal Year 2010," May 3, 2011, <http://www.fns.usda.gov/snap/retailers/pdfs/2010-annual-report.pdf>. Based on a total out of 6,132 farmers' markets.

¹⁷⁹ The FNS provides grants to state agencies, such as state health, agriculture and other agencies and Indian Tribal Organizations (ITOs), in nearly all states. A map of participating states is at <http://www.fns.usda.gov/wic/SFMNP-FMNP-Map.pdf>. Participating state agencies must submit a plan describing how the agency intends to implement, operate and administer the program. Grant payments are made by a letter of credit, and state agencies may withdraw funds only as needed.

¹⁸⁰ OFPA was enacted as part of the 1990 farm bill (P.L. 101-624). NOP regulations are at 7 C.F.R. 205.

about 4% of all farm-level fruit and vegetable sales in the United States.¹⁸¹ Following the 2008 farm bill, an average of approximately \$54 million annually (FY2008-FY2012) in mandatory and discretionary program funding was authorized to be spent on certified organic agricultural production (**Table 2**). In addition to certified organic fruits, vegetables, and tree nuts, this annual estimate spans all certified organic production, including meat and dairy foods, as well as organic commodity crops.

Among organic fruit and vegetable growers, USDA reports that there were approximately 3,900 vegetable farms, 3,300 fruit and tree nut farms, and 1,600 berry farms growing certified organic products. Ranked by acres in production, organic fruit and vegetable production is focused in California, Washington, Oregon, Florida, and Colorado.

Despite some shared program interests and also a shared title of the 2008 farm bill,¹⁸² significant differences often exist between U.S. specialty crop and organic producers in terms of their overall farm bill priorities and in the types of key farm bill programs each group supports.

USDA programs supporting organic agricultural producers are spread across many different titles of the farm bill (see text box). The selected programs described in this report are administered by mostly by AMS and USDA's research and extension agencies. Other information about programs geared to certified organic producers is available in USDA's organic resource guide.¹⁸³

Selected Organic Agriculture Provisions in the 2008 Farm Bill (P.L. 110-246)

Conservation (Title II)

- Organic Transition Support (Sec. 2501).
- Technical Asst. on Organic Conservation Practices (§ 2706)
- Organic Certification Crosslink (Sec. 2301).
- Organic Transition Incentives for Beginning Farmers (§ 2111)

Trade (Title III)

- Market Access Program (MAP) (§ 3102)

Credit (Title V)

- Organic Credit provision (§ 5002)

Research (Title VII)

- Organic Agriculture Research and Extension Initiative (§ 7206)
- Integrated Research, Education, and Extension Competitive Grants Program—Organic Transitions (ORG) (§ 7306)

Horticulture and Organic Agriculture (Title X)

- National Organic Certification Cost-Share Program (§ 10301)
- Organic Production and Marketing Data Collection (§ 10302)

¹⁸¹ USDA, *2008 Organic Production Survey*, Volume 3, AC-07-SS-2, July 2010.

¹⁸² Specifically, Title X of the 2008 farm bill is titled "Horticulture and Organic Agriculture," and covers fruits, vegetables, and other specialty crops and organic agriculture (even though organic agriculture includes products other than fruits and vegetables, including meat and poultry products, milk and dairy foods, and field crops).

¹⁸³ USDA, *USDA Organic Resource Guide 2012, Your Guide to Organic and Organic-Related USDA Programs*, August 2012, <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5100093>.

- National Organic Program (§ 10303)

Crop Insurance and Disaster Assistance (Title XII)

- Organic Crop Insurance (Sec. 12023)

Source: Compiled by CRS.

National Organic Program

The National Organic Program (NOP), authorized by OFPA, is a regulatory program administered by AMS. The mission of the program is to “ensure the integrity” of USDA organic products, by overseeing the development of “national standards for organically-produced agricultural products to assure consumers that products with the USDA organic seal meet consistent, uniform standards.”¹⁸⁴ The NOP regulations became operational in 2002, establishing a voluntary production and handling certification program that specifies the methods, practices and materials that may be used in how certified organic production is to be grown, raised, and processed.¹⁸⁵ Products labeled as “organic” must originate from farms or handling operations certified by a state or private entity that has been accredited by USDA.

Funding for the program covers regulatory enforcement and review and development of NOP regulations, among other activities such as responding to requests for international equivalency agreements. Funding is subject to appropriations, and annual authorizations have risen from under \$2 million per year (FY2002-FY2007) to about \$7 million per year (FY2010-FY2012).¹⁸⁶ Authorized annual appropriations in the 2008 farm bill were \$11.0 million for FY2012 plus “such additional sums as are necessary.”¹⁸⁷ No user fees are charged for appropriated activities.¹⁸⁸

Organic Certification Cost-Share Program

Two USDA programs provide funding to reimburse eligible producers and handlers to offset the costs of NOP certification paid by producers to accredited agents for certification services. These programs include the National Organic Certification Cost-Share Program (NOCCSP)¹⁸⁹ and the Agricultural Management Assistance (AMA) Organic Certification Cost-Share Program.¹⁹⁰

¹⁸⁴ For information, see USDA’s website (<http://www.ams.usda.gov/AMSV1.0/nop>). See also NOP’s “Fact Sheet,” NOP’s “2010-2012 Strategic Plan,” and “National Organic Program,” <http://www.ams.usda.gov/AMSV1.0/organicinfo>.

¹⁸⁵ The NOP regulations prohibit the use of genetic engineering, irradiation, and sewage sludge in certified organic production and handling.

¹⁸⁶ USDA, “2013 Explanatory Notes, AMS,” <http://www.obpa.usda.gov/19ams2013notes.pdf>, p. 19-89. For a history of actual funding since the program began in 2002, see presentation by Miles McEvoy (AMS), “National Organic Program,” October 25, 2010, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5087263>.

¹⁸⁷ P.L. 110-246, § 10303.

¹⁸⁸ However, USDA’s program that accredits certification agents is fee-based, allowing accredited certification agents to charge fees to producers (cost-reimbursement basis) for organic certification services (7 CFR § 205.640).

¹⁸⁹ Authorized in the 2002 farm bill (107-171, § 10606), as amended. 7 U.S.C. § 6523 (CFDA#10.171).

¹⁹⁰ Authorized under the Federal Crop Insurance Act (FCIA), as amended (Title 7, Part 36, Section 1501-1524). 7 U.S.C §§ 1501-1524 (CFDA# 10.163). See also USDA’s website (www.ams.usda.gov/NOPCostSharing).

Both programs are administered by AMS. Detailed information about these two programs is available in USDA's annual reports to Congress and also USDA's annual fiscal year *Notice of Funds Availability* (NOFA) for each program.¹⁹¹

Both cost-share programs operate under a cooperative agreement between USDA and state agencies (typically state departments of agriculture). The state agencies process and review applications for cost share funds, which are reimbursed by USDA. Eligible applicants are producers and handlers who have received or renewed USDA organic certification from an accredited certifying agent. Applicants may be reimbursed for up to 75% of the cost of NOP certification, but no more than \$750 per year. The program is administered on a first-come, first-served basis until funds are exhausted.¹⁹²

For FY2012, total available program funds for both cost-share programs was \$7.3 million.¹⁹³ Funds are made available each year on a state-by-state basis, with each state/territory receiving an allocation based on their historical activity and their number of certified organic operations. Each program has a separate funding allocation (and is separate from the NOP budget). Funding levels differ depending on the program. For NOCCSP, the 2008 farm bill allocated \$22.0 million on a one-time basis “to remain available until expended” from available mandatory CCC funds.¹⁹⁴ Accordingly, USDA obligated roughly \$5-\$6 million annually to states for reimbursements to farmers through FY2012.¹⁹⁵ For AMA funds, roughly \$1.5 million have been available annually over the same period through USDA appropriated funds.¹⁹⁶ Combined, both programs provided financial assistance to nearly 9,400 producers in FY2011.¹⁹⁷

Product and Market Data Collection

USDA's Organic Production and Market Data Initiatives (ODI) builds on AMS *Market News* program (see section “Market News” in this report) and requires USDA to keep segregated data on the production and marketing of organic agricultural production, including price and market data. ODI was originally authorized in the 2002 farm bill, and expanded in the 2008 farm bill. The 2008 farm bill provided one-time funding of \$5 million “to remain available until expended” from mandatory CCC funds, along with authorized appropriations of not more than \$5 million annually (FY2008-FY2012) also “to remain available until expended.”¹⁹⁸ USDA reports that it now covers about 246 different organic agricultural products—cotton, dairy and dairy products, fruits and vegetables, meat and grain, and poultry and eggs—while also developing additional

¹⁹¹ 76 *Federal Register* 54999-55000, September 6, 2011, <http://www.gpo.gov/fdsys/pkg/FR-2011-09-06/pdf/2011-22611.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2011-09-06/pdf/2011-22613.pdf>; and USDA/AMS, *NOP Cost-Share Programs 2012 Report to Congress*, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5097859>.

¹⁹² A list of state contacts is available from USDA (<http://www.ams.usda.gov/NOPCostShareProgramParticipants>) and the National Association of Organic Programs (www.nasda.org/nasop/).

¹⁹³ USDA/AMS, *NOP Cost-Share Programs 2012 Report to Congress*. Table 1.

¹⁹⁴ P.L. 110-246, § 10301 (amended P.L. 107-171, § 10606, which provided a one-time amount of \$5 million).

¹⁹⁵ As reported in various AMS reports to Congress, NOCCSP allocations were: \$4.9 million (FY2003-FY2008); \$5.9 million (FY2009); \$4.8 million (FY2010); \$5.0 million (FY2011); and \$5.7 million (FY2012). Allocations under NOCCSP ranged from \$5,000 to \$1,050,000 per state/territory.

¹⁹⁶ USDA, “2013 Explanatory Notes,” <http://www.obpa.usda.gov/19ams2013notes.pdf> (p. 19-10). Allocations under AMA ranged from \$15,000 to \$450,000 per state.

¹⁹⁷ USDA/AMS, *NOP Cost-Share Programs 2012 Report to Congress*. Table 2 and Table 3.

¹⁹⁸ P.L. 110-246, § 10107, amending P.L. 107-171, § 7407. 7 U.S.C. 5925c.

organic market information tools within *Market News*.¹⁹⁹ ODI is administered by three USDA agencies: AMS, the Economic Research Service (ERS), and the National Agricultural Statistics Service (NASS).

Organic Agriculture Research and Extension Initiative

The Organic Agriculture Research and Extension Initiative (OREI) provides grants to facilitate the development of organic agriculture production, breeding, and processing methods through the integration of research and extension activities.²⁰⁰ It funds projects intended to enhance the ability of producers and processors who have already adopted organic standards to grow and market high quality organic agricultural products. Priority concerns include projects addressing the biological, physical, and social sciences, including economics. A list of funded projects is available at USDA's website.²⁰¹ Funding is mandatory through the CCC: \$18 million (FY2009) and \$20 million annually (FY2010-FY2012), plus annual appropriations of \$25 million (FY2009-FY2012). The program is administered by NIFA.

Organic Transitions Program

The Organic Transitions Program (ORG) funds research, extension, and education programs to improve the competitiveness of organic producers and those transitioning to organic practices, including the development and implementation of biologically based pest management practices.²⁰² ORG supports the development and implementation of research, extension and higher education programs to improve the competitiveness of organic livestock and crop producers, as well as producers who are adopting organic practices. A listing of funded projects is available at USDA's website.²⁰³ Appropriations of "such sums as necessary" are authorized through FY2012, and are currently estimated to total about \$4.0 million annually.²⁰⁴ The program is administered by NIFA.

EQIP Organic Initiative

As part of the Environmental Quality Incentives Program (EQIP), administered by USDA's Natural Resources Conservation Service (NRCS), the 2008 farm bill includes provisions to assist organic producers with natural resource concerns and requirements for the National Organic Program (NOP).²⁰⁵ The EQIP Organic Initiative provides financial and technical assistance to implement approved conservation practices, and to develop and implement conservation plans (or

¹⁹⁹ USDA, "2013 Explanatory Notes," <http://www.obpa.usda.gov/19ams2013notes.pdf>, p. 19-89.

²⁰⁰ Authorized in the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA, P.L. 105-185, § 244), which amended the 1990 farm bill. 7 U.S.C. § 5925b (CFDA# 10.307).

²⁰¹ USDA's website (<http://www.nifa.usda.gov/fo/organicagricultureresearchandextensioninitiative.cfm/>) under "Abstracts of Funded Projects" (recipient names, award amount, and project terms).

²⁰² AREERA § 406, as amended, established the "Integrated Research, Education, and Extension Competitive Grants Program," of which ORG is a part. 7 U.S.C. § 7626 (CFDA# 10.303).

²⁰³ USDA's website (<http://www.csrees.usda.gov/fo/organictransitionsprogram.cfm>) under "Abstracts of Funded Projects" (recipient names, award amount, and project terms).

²⁰⁴ USDA, NIFA, "2013 Explanatory Notes," <http://www.obpa.usda.gov/17nifa2013notes.pdf> p. 17-74.

²⁰⁵ EQIP was originally authorized in the 1985 farm bill (P.L. 99-198), as amended; 16 U.S.C. 3830 (CFDA# 10.912). General information about EQIP is at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip>.

Organic System Plans), and to assist producers who are transitioning to organic production. Eligible applicants include certified organic producers or producers: pursuing NOP certification, transitioning to organic production, or selling less than \$5,000 organic products.²⁰⁶ Assistance per producer is limited to \$20,000 annually and \$80,000 during a six-year period. USDA reports that the initiative funded contracts totaling \$23.8 million (FY2010) and \$22.5 million (FY2011) to producers across all states.²⁰⁷ In some states, obligations to producers totaled more than \$1 million annually (California, Colorado, Iowa, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, Washington, and Wisconsin).²⁰⁸

Other Farm Bill Programs

A number of other farm bill programs assist specialty crop producers that are not specifically addressed in this report. Many of these programs are important to some specialty crop producers. For example, in the commodities title, the 2008 farm bill authorized a pilot project in selected states²⁰⁹ to allow fruits and vegetables grown on acreage participating in the commodity support programs to be used for processing on up to 75,000 acres. Expansion of “planting flexibility” policies that would further allow growers who receive federal payments to also plant fruits and vegetables on acres on which they receive benefits (base acres) is generally opposed by the major specialty crop groups.²¹⁰

Another example is conservation programs that may benefit all eligible U.S. agricultural producers, including specialty crop growers. Changes in recent farm bills expanded incentives to encourage greater farmer participation through cost-sharing and technical assistance programs, such as Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program (CSP), and Conservation Reserve Program (CRP), as well as competitive grants including Conservation Innovation Grants, Cooperative Conservation Partnership Initiatives, and Conservation Technical Assistance.²¹¹

Labor Protections

Most fruit and vegetable production, processing and distribution—from planting and harvesting to packaging and transportation—is highly labor-intensive, making produce growers especially dependent on hired and contract labor. USDA reports that labor expenses at fruit and vegetable farms total 48% and 36%, respectively, as a share of total variable expenses.²¹² This compares to 17% across all farms, and 5%-6% on corn and soybean farms. Reportedly, the fruit and vegetable

²⁰⁶ NRCS, “EQIP Organic Initiative,” http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/programs/?cid=nrcs143_008224.

²⁰⁷ NRCS, “Organic Initiative, 2011 Year-End Review,” http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1046662.pdf.

²⁰⁸ CRS communication with NRCS staff, March 2012. Data are for FY2010.

²⁰⁹ Including Illinois, Indiana, Michigan, Wisconsin, Iowa, Minnesota, and Ohio.

²¹⁰ For more information, see CRS Report RL34019, *Eliminating the Planting Restrictions on Fruits and Vegetables in the Farm Commodity Programs*.

²¹¹ For information on these programs, see CRS Report R40763, *Agricultural Conservation: A Guide to Programs*.

²¹² S. Zahniser, et al., *The Potential Impact of Changes in Immigration Policy on U.S. Agriculture and the Market for Hired Farm Labor: A Simulation Analysis*, ERR-135, May 2012, USDA/ERS, <http://www.ers.usda.gov/amber-waves/2012-june/immigration-policy.aspx>.

industry often relies upon a mostly-immigrant workforce and faces labor shortages in some produce growing areas.²¹³

H-2A Program

Under current law, certain lower-skilled foreign workers, sometimes referred to as guest workers, may be admitted to the United States to perform temporary service or labor under temporary worker visas. For agricultural workers, the H-2A visa program²¹⁴ establishes a means for agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature. It allows employers to petition for the temporary admission of foreign workers to the United States to perform agricultural labor or services of a seasonal or temporary nature, provided that U.S. workers are not available.²¹⁵ Eligible applicants under the H-2A program are agricultural employers and may include an individual proprietorship, a partnership or corporation, or an association of agricultural producers.

The program is administered by the Department of Labor (DOL), the Department of Homeland Security (DHS), and the Department of State. Employers must demonstrate to DOL that sufficient domestic workers are not available and that employment of foreign workers will not adversely affect U.S. workers who are similarly employed. DHS handles the visa determinations. After receiving a labor certification from DOL, an employer petitions DHS for approval to hire foreign workers. A Department of State foreign office issues the visas.²¹⁶

Farmworker Assistance Programs

DOL administers a number of programs intended to benefit domestic agricultural workers, whose lives tend to be characterized by poverty, frequent moving, and chronic unemployment and underemployment. One such program is DOL's Employment and Training Administration (ETA), the National Farmworker Jobs Program (NFJP).²¹⁷ NFJP provides grants for services provided by state/local government agencies and private non-profit institutions and organizations that operate employment and training programs. Grantees provide job training and other employment and education services and related assistance to migrant and seasonal farmworkers (MSFWs) to address chronic seasonal unemployment and underemployment, and to increase the income and stability of farmworker families. DOL also administers and enforces requirements under the Migrant and Seasonal Agricultural Worker Protection Act,²¹⁸ which provides for certain employment-related protections to migrant and seasonal agricultural workers, and is responsible for monitoring farm labor contractors and the wages, working conditions, and housing

²¹³ UFPA, "Labor and Immigration Reform," <http://www.unitedfresh.org/newsviews/immigration>.

²¹⁴ Named after the authorizing section in the Immigration and Naturalization Act (INA) of June 27, 1952, § 101(a)(15)(H)(ii)(a), 8 U.S.C. § 1101 et seq. (CFDA#17.273). The INA, as amended, is the basis of current immigration law. DOL's website (<http://www.foreignlaborcert.doleta.gov/h-2a.cfm>).

²¹⁵ See CRS Report R42434, *Immigration of Temporary Lower-Skilled Workers: Current Policy and Related Issues*.

²¹⁶ DOL's *Employment Law Guide* (for H-2A visas) is at <http://www.dol.gov/asp/programs/guide/taw.htm>.

²¹⁷ Authorized by the Workforce Investment Act of 1998 (WIA, P.L. 105-220, § 167), 29 U.S.C. § 1912 (CFDA#17.264). Related programs started under the Economic Opportunity Act of 1964. Regulations are at 20 CFR Part 652 and 660-671. ETA's website (<http://www.doleta.gov/msfw/>).

²¹⁸ 29 U.S.C. § 1801 et seq. (CFDA#17.308 and 17.303).

arrangements of migrant and seasonal laborers, among other things. DOL's Occupational Safety and Health Administration administers workplace and field safety and sanitation requirements. Additionally, there are special provisions for the education of farmworkers' children under the No Child Left Behind Act (Department of Education).²¹⁹

Author Contact Information

Renée Johnson
Specialist in Agricultural Policy
rjohnson@crs.loc.gov, 7-9588

²¹⁹ See CRS Report RL31325, *The Federal Migrant Education Program as Amended by the No Child Left Behind Act of 2001*.