

August 15, 2022

Farm and Food Support Under USDA's Section 32 Account

Congress created a mandatory appropriation in 1935—the Funds for Strengthening Markets, Income, and Supply (§32 of the act of August 24, 1935; 7 U.S.C. 612c). The funds support producers of agricultural commodities that are not supported by other farm support programs, such as the Commodity Credit Corporation (CCC). Commodities include primarily fruits, vegetables, meats, poultry, and fish. Ongoing issues for Congress include the scale of funding and how to direct support to various uses.

Recipients of bonus commodities may include schools, child care centers, and food banks.

Known as Section 32, the fund has three primary purposes identified as clauses in the law: (1) to encourage the export of agricultural products; (2) to encourage the domestic consumption of farm products by diverting surpluses and increasing their use; and (3) to reestablish farmers' purchasing power by making payments to farmers.

The Section 32 account is funded by a permanent appropriation of 30% of customs receipts on all imports from the prior calendar year. Following imposition of higher tariffs in 2018, this amount has more than doubled to exceed \$21 billion annually. From that appropriation, three primary allocations are made: a transfer to the U.S. Department of Commerce of 30% of customs receipts from fishery products; a statutory amount retained by the U.S. Department of Agriculture (USDA) to support farmers and domestic food assistance programs (known as a “reserved spending authority”); and a transfer of the remainder to the USDA Food and Nutrition Service (FNS) for the child nutrition programs—amounting to nearly 93% of the Section 32 permanent appropriation in FY2021 (the blue portions of **Figure 1** and top of **Table 1**). The annual Agriculture appropriations act amount for child nutrition includes the Section 32 transfer.

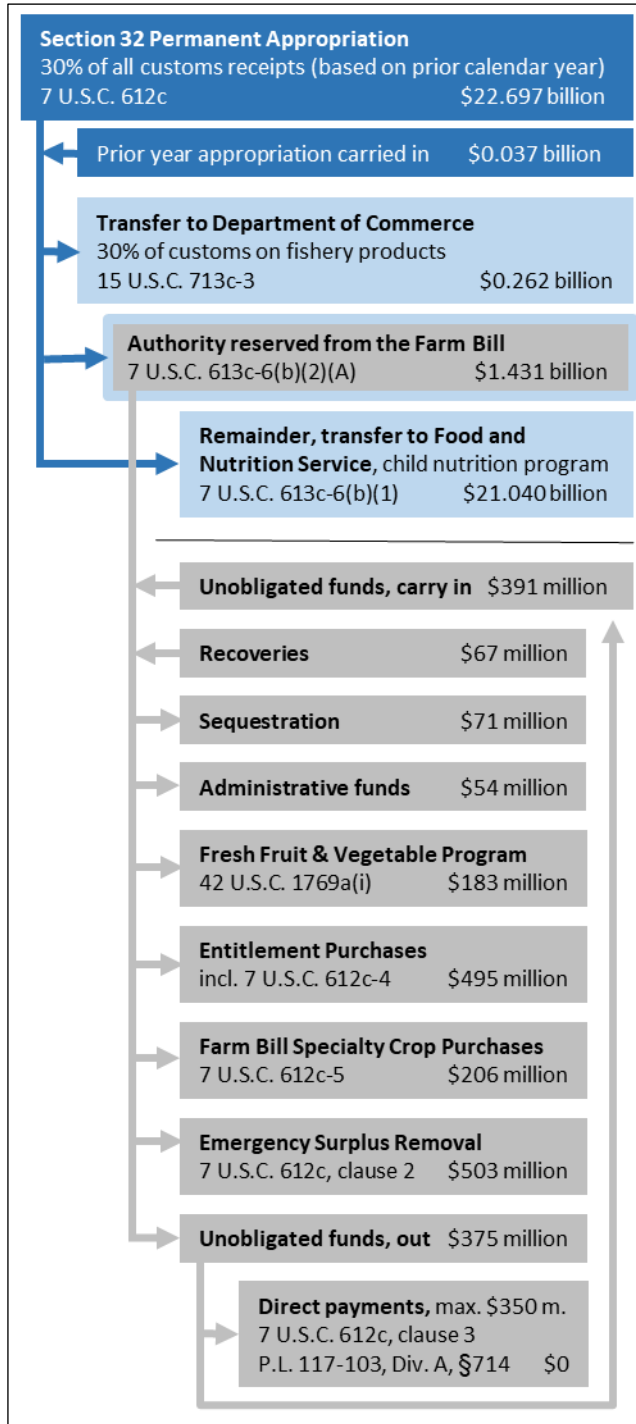
Section 32 Commodity Procurement

Commodities procured with Section 32 funds may be categorized as either entitlement or contingency (both are shown in the gray boxes in **Figure 1** and **Table 1** below the line). USDA's entitlement purchases are mandated by various laws and then planned for what is delivered. For example, various nutrition acts specify an amount that is to be delivered in kind to schools and other entities. Based on local preferences, organizations and USDA develop a purchase plan for the year. USDA's Agricultural Marketing Service (AMS) issues bid specifications, generally for processed products, for deliveries to specific locations.

USDA's contingency purchases (also known as emergency surplus removals) result from Clause 2 discretion to buy surplus commodities to support agricultural markets when farm prices are low. USDA may learn about a need through its own commodity experts or from industry organizations.

Figure 1. USDA's Section 32 Account

Amounts are for the most recent year with actuals, FY2021



Source: CRS using USDA, Agricultural Marketing Service, Congressional Budget Justification for FY2023; and Office of Management and Budget (OMB), FY2023 Budget Appendix.

Table 1. USDA's Section 32 Account: Funding and Uses

Dollars in millions

Description	Authority	FY2020 Actual	FY2021 Actual	FY2022 Estimate	FY2023 Estimate
Permanent appropriation	7 U.S.C. 612c	+15,123	+22,697	+21,679	+27,123
+ Prior year appropriation carried in	—	+1	+37	+6	tbd

Description	Authority	FY2020 Actual	FY2021 Actual	FY2022 Estimate	FY2023 Estimate
- Transfer to Department of Commerce	15 U.S.C. 713c-3	-184	-262	-254	-363
- Reserved spending authority	7 U.S.C. 612c-6 (b)(2)(A)	-1,404	-1,431	-1,464	-1,561
- Transfer to Food and Nutrition Service	7 U.S.C. 612c-6 (b)(1)	-13,537	-21,040	-19,968	-25,200
Detail for reserved spending authority					
Reserved spending authority	7 U.S.C. 612c-6 (b)(2)(A)	+1,404	+1,431	+1,464	+1,561
+ Unobligated balance brought forward	7 U.S.C. 612c	+499	+391	+375	+0
- Recoveries	—	+69	+67	+0	+0
- Sequestration	2 U.S.C. 901a(6)	-72	-71	-73	-78
- Administrative expenses	7 U.S.C. 601 et seq.	-55	-54	-58	-59
- Fresh Fruit and Vegetable Program	42 U.S.C. 1769a(i)	-179	-183	-187	-198
- Entitlement purchases	7 U.S.C. 612c-4, with 42 U.S.C. 1755 and 42 U.S.C. 1762a	-485	-495	-485	-485
- 2008 farm bill specialty crop purchases	7 U.S.C. 612c-5	-206	-206	-206	-206
- Emergency surplus removal (contingency)	7 U.S.C. 612c, Clause 2	-584	-503	-818	-523
- Disaster relief foods	—	na	na	-5	-5
- Removal of defective commodities	—	na	na	-8	-8
= Unobligated balance carried forward	7 U.S.C. 612c	391	375	0	0

Source: CRS using USDA, Congressional Budget Justification for Agricultural Marketing Service; and OMB, Budget Appendix for USDA.

Notes: The itemization of amounts varies between USDA and OMB documents. Amounts here reflect a blended summary of the common total and may not add due to rounding. The FY2023 USDA budget justification has a high estimate for emergency surplus removal in FY2022 that would leave no carryover. Entitlement purchases are specific amounts of foods required to be delivered to schools and other entities.

Limitations and Uses of Section 32

Historically, USDA had considerable discretion with Section 32. Congress reduced that discretion in the 2008 farm bill, which capped the amount that USDA is permitted to spend (P.L. 110-246, §14222). Various farm bills also have required minimum purchases of fruits, vegetables, and other specialty crops. Further, appropriations acts since FY2012 have prohibited using Clause 3 authority for direct payments to farmers for emergencies or disasters. An exception since FY2018 allows up to \$350 million of carryover to be used for Clause 3 direct payments, though this exception has been used minimally. The Clause 3 prohibition evolved with the addition of permanent disaster programs in the 2008 farm bill, ad hoc disaster assistance, and enhancements to the federal crop insurance program.

A small portion of Section 32 pays for some AMS administrative expenses related to purchasing food and oversight of federal marketing orders. Section 32 also provides a limited amount of disaster relief foods to victims of natural disasters. The fund also may pay to remove a defective commodity that is found to pose a health risk after being distributed by USDA. Unobligated balances less than \$500 million may be carried forward to future fiscal years.

USDA Procurement Beyond Section 32

Besides the purchases using Section 32 that are identified in **Figure 1** and **Table 1**, AMS also procures about \$1.5 billion of food for FNS from the child nutrition appropriation. These purchases fulfil other entitlement requirements in the National School Lunch Act and other Child Nutrition Programs statutes.

Purchases for FNS domestic food programs also may be made by USDA's Farm Service Agency using CCC authority. These may include nonperishable commodities, such as grain products, peanut products, dairy products (e.g., evaporated milk), and oils. Unlike CCC support, which is normally limited to price-supported commodities expressed in the farm bill (such as milk, grains and oilseeds, cotton, sugar), Section 32 is less constrained in the variety of commodities that it may support or the manner of support (except within the three broad purposes described in statute).

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IF12193

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