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Farm and Food Support Under USDA's Section 32 Program

Geoffrey S. Becker, Resources, Science, and Industry Division

Updated May 29, 2008

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Specialist in Agricultural Policy

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Summary

"Section 32" is a permanent appropriation that since 1935 has earmarked the equivalent of 30% of annual customs receipts to support the farm sector through a variety of activities. Today, most of this annual appropriation is transferred to the U.S. Department of Agriculture (USDA) account that funds child nutrition programs (i.e., $5.7 billion transferred of approximately $7 billion total). However, the Secretary of Agriculture has long had broad discretion in how to spend the non-transferred (unobligated and carry-over) money, which now amounts to approximately $1.5 billion annually. The Secretary historically has chosen to use much of this non-transferred money to purchase non-price-supported commodities like meats, poultry, fruits, vegetables, and fish, which are diverted to school lunch and other domestic food programs; and to fund farm economic and disaster relief activities, among other things.

The 110th Congress in May 2008 passed a new omnibus farm bill (P.L. 110-234). Provisions in this new law now spell out more explicitly how the Secretary is to use the annual Section 32 appropriation. One section of P.L. 110-234 requires new higher minimum levels of fruit, vegetable, and nut purchases (in fresh, frozen, canned, or dried forms) to support domestic nutrition programs. A separate section requires the Department to use Section 32 to fund a fresh fruit and vegetable program for participating elementary schools, with spending to grow from $105 million in FY2009 to $150 million by FY2012. Another part of the new law delineates how the Secretary is to allocate the annual Section 32 appropriation—in order to cover the cost of the fresh fruit and vegetable purchases.

Separately, USDA's FY2008 appropriation (part of the Consolidated Appropriations Act, 2008, P.L. 110-161) also appears to limit somewhat the availability of Section 32 monies. It rescinds a total of $684 million, including $184 million that otherwise was projected to be available in FY2008 for surplus purchases (called "Estimated Future Needs" in AMS budget parlance) and $500 million in prior unobligated balances.

These congressional actions may be expected, in effect, to limit the wide discretion that policymakers have long exercised with regard to program spending under this account. Meanwhile, various Members of Congress and their constituents still want to ensure that a portion of the Section 32 fund will continue to be available—and be used, when necessary—to help producers recover at least a portion of their losses when natural disasters or unanticipated economic setbacks arise and to help domestic nutrition programs through surplus purchases.

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What Is Section 32?

Section 32 of the act of August 24, 1935 (P.L. 74-320 as amended; 7 U.S.C. 612c) authorizes a permanent appropriation equal to 30% of annual U.S. customs receipts. The appropriation was first created to assist Depression-era producers of non-price-supported commodities. The law specifies that Section 32 funds are to be used only for (1) encouraging the export of farm products through producer payments or other means; (2) encouraging the domestic consumption of farm products by diverting surpluses from normal channels or increasing their use by low-income groups; and (3) reestablishing farmers' purchasing power.

The Secretary of Agriculture has always had considerable discretion in deciding how to achieve these broad objectives. Unused amounts of up to $500 million a year may be carried into the next fiscal year. Some believe this discretion is too broad, essentially providing the Secretary with a "blank check" to spend money without enough guidance from Congress. Others believe such flexibility is desirable if the Secretary is to respond to problems in unpredictable agricultural markets or the needs in domestic nutrition programs.

Most of the annual Section 32 appropriation (for example in FY2007, more than $5.7 billion of approximately $7 billion) is simply transferred by annual appropriation laws to the U.S. Department of Agriculture (USDA) account that funds child nutrition programs. However, the Secretary of Agriculture, acting through the Department's Agricultural Marketing Service (AMS), has chosen to use a smaller but still significant portion of Section 32 funds—the portion not transferred—to purchase non-price-supported commodities like meats, poultry, fruits, vegetables, and fish, which are then used in school lunch and other domestic food programs. These purchases are intended both to fulfill requirements (under other federal laws) that such commodities be provided, and also to support farm prices. In addition, the Secretary has chosen to use other non-transferred funds to provide direct or diversion payments to producers for disaster or economic losses, and to provide food commodities to victims of natural disasters, among other activities.

The 2008 farm law (P.L. 110-234), which Congress approved in May 2008, spells out more explicitly how the Secretary is to use the annual Section 32 appropriation. This is expected, in effect, to limit the wide discretion that policymakers previously exercised with regard to program spending under this account.

How the Account Has Operated

An accounting of a completed fiscal year (FY2007) provides a snapshot of how money has traditionally been collected and spent.[1] The program's permanent appropriation was **$7.029 billion**, representing 30% of prior calendar-year customs receipts. This figure was reduced by:

- **$38 million**, a rescission mandated by Congress for budgetary savings.
- **$5.731 billion**, transferred to the child nutrition program cash account, to help pay for federal child nutrition programs budgeted at about $13.345 billion in

[1] Primary sources: USDA *Budget Explanatory Notes for Committee on Appropriations,* FY2007 and FY2008; and unpublished January 2008 data from the AMS budget office. All figures are rounded to the nearest million dollars.

FY2007. (The difference, $7.614 billion, was provided directly to the child nutrition programs through the annual, i.e., FY2007, USDA appropriation.)

- **$83 million** (the equivalent of 30% of customs revenue from fish product imports), transferred to the Commerce Department for fisheries activities.

This left **$1.778 billion**, to which was added **$147 million** in unobligated FY2006 money that was carried into FY2007. A further upward adjustment was made to account for the recovery of **$139 million** in money that was committed earlier but not spent, bringing the amount available for obligation to **$1.464 billion**. From this:

- **$465 million** was designated for planned AMS commodity purchases to partially fill the commodity assistance entitlement set by the school lunch act. (This law mandates USDA commodity support for each meal served—in FY2007, an average of more than 17 cents—for a total of $919 million. To buy these commodities, $454 million, provided from USDA's FY2007 child nutrition appropriation, was added to the $465 million set aside from Section 32 funds.)
- **$200 million** in additional commodities were purchased to fulfill another school lunch act requirement that at least 12% of assistance be provided to schools in the form of commodities.
- **$102 million** was made available by USDA in direct payments mainly to compensate Florida crop producers for hurricane and disease losses, and some for livestock payments.
- **$11 million** went for disaster relief foods (e.g., for Hurricane Katrina).
- **$47 million** was used for AMS administrative expenses for direct food purchasing (including the cost of setting up a new Web-based supply management system), and for oversight of federal marketing orders.
- **$2 million** was used for the removal of defective commodities (primarily canned beef stew contaminated by *E. coli* bacteria);
- **$57 million** was used for "emergency removals" of surplus commodities throughout the fiscal year ($55 million for various fruit and vegetable products; $1 million for lamb, and nearly $1 million for geese).[2]

Subtracting the above spending, AMS had a potential "carryout," or unobligated balance, of **$581 million** at the end of the year. However, the Section 32 law permits no more than **$500 million** to carried into the subsequent fiscal year. So, AMS returned the excess, or **$81 million**, to the U.S. Treasury.

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

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

Uses of Section 32 Funds

Commodity Purchases

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

Early in the program, USDA began donating Section 32 purchases to low-income families and schools, on the premise that the donations would supplement, not displace, normal food purchases by these recipients. Distribution of Section 32 commodities is credited with stimulating growth of the national school lunch program.

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

Second, a smaller—but still significant—amount of Section 32 money is used to purchase non-price-supported commodities directly and provide them to schools and to other domestic feeding programs. These purchases are made for FNS through USDA's Agricultural Marketing Service (AMS). Some of these commodities ($650 million worth in FY2007) are mandated; for example, Sections 6, 13, and 14 of the Richard B. Russell National School Lunch Act (P.L. 79-396) "entitle" schools and other child nutrition program sponsors to commodities worth specific dollar amounts.

Other commodities are provided as a "bonus" to schools and other domestic food programs; these commodities are obtained separately when AMS makes "emergency" commodity purchases to relieve farm surpluses that occur throughout the year (bonus purchases were valued at $57 million in FY2007, the lowest level of such purchases since FY1996).

Entitlement Purchases

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

Kansas City office of USDA's Farm Service Agency (FSA) administers the purchase contracts and pays the vendors.

Contingency Fund Purchases

Over the course of the year, USDA taps the contingency reserve for so-called emergency surplus removals, which are then distributed as "bonuses" to domestic food assistance programs. The department may learn about these needs through its own commodity experts or be informed of surpluses or other economic problems by farm and industry organizations. **Table 1** shows the annual value of these purchases since FY1996.

Table 1. Total Annual Contingency Purchases

(FY1995-FY2006, in millions)

1996	$56.2	2000	$200.2	2004	$226.5
1997	$100.9	2001	$200.2	2005	$149.5
1998	$194.8	2002	$206.9	2006	$81
1999	$144.5	2003	$222.1	2007	$56.9

As **Table 2** on the following page indicates, some commodities are bought more frequently than others. AMS made contingency purchases of salmon in 11 out of the 13 years examined, at a total cost of nearly $112 million. Other relatively frequent purchases were of peaches, apricots, cherries, walnuts, beef, potatoes, apples, asparagus, figs, pears, and pork.

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

Table 2. Section 32 Contingency Fund (Bonus) Purchases, by Commodity, FY1995-FY2007

Commodity	Total Value Purchased (million $)	Number of Years Purchased	Commodity	Total Value Purchased (million $)	Number of Years Purchased
almonds	29.6	3	grapefruit	20.0	5
apples	96.4	7	lamb	28.1	6
apricots	67.5	10	mixed fruit	17.5	2
asparagus	28.0	9	oranges	69.5	4

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

Commodity	Total Value Purchased (million $)	Number of Years Purchased	Commodity	Total Value Purchased (million $)	Number of Years Purchased
beans	16.7	3	peaches	164.4	10
beef	125.8	7	pears	46.7	6
bison	18.5	3	pineapple	21.3	5
black-eyed peas	4.0	2	plums	8.2	3
blackberries	0.9	2	prunes	20.3	3
blueberries	40.6	5	pork	163.3	5
catfish	6.0	2	potatoes	102.8	7
cheese	5.0	1	raisins	88.7	5
cherries	109.1	9	raspberries	4.9	5
corn	5.1	1	salmon	111.7	11
cranberries	73.8	5	strawberries	14.6	4
currants	0.2	1	sweet potatoes	38.2	5
dates	10.8	5	tomatoes	22.8	4
egg products	10.0	1	trail mix	97.1	4
figs	23.5	6	tuna	14.0	2
fowl (spent)	25.8	3	turkey	66.4	4
goose	1.8	2	walnuts	65.9	8
grape juice	26.0	4	**Total**	**1,911.5**	

Source: USDA and House Appropriations Committee, various hearing reports. Each category represents commodities and/or any foods processed from them, purchased by AMS. Purchases for each category are cumulative for the 13-year period covered.

Donations of Contingency Purchases

Besides schools and child care centers, recipients include soup kitchens, food banks, and others serving the needy. The annual total of contingency purchases—and thus the foods provided to these outlets—has varied. Recent annual totals have varied from $56 million in FY1996 to more than $226 million in FY2004; the total has declined steadily since FY2004, to $57 million FY2007 (**Table 1**). The drop in purchases raises concern among many domestic food providers. They concede that the food they have received through this Section 32 activity is a "bonus" and not an "entitlement," but say they had come to rely on the higher levels of prior years to help meet client demand.

Disaster Assistance

In 2002 and again in 2004, the Bush Administration decided to use Section 32 to pay for special disaster initiatives. On September 19, 2002, USDA announced a "Livestock Compensation Program" to cover 2001 and 2002 drought losses by cattle, lamb, and buffalo producers in 37 states. From late FY2002 through FY2003, total Section 32 monies for this program reached just over $1 billion, a level that appeared to be unprecedented under Section 32, according to long-time observers. Some other producer groups and domestic food program interests had contended at the time that diverting so much money to these payments threatened the solvency of the contingency fund needed to make the many bonus purchases throughout the year for fruit, vegetable, poultry, pork, and other commodity groups suffering surpluses and/or low prices. Also, commodity recipients, especially food banks, pointed out that they rely heavily on Section 32 bonus foods (even though such foods are not entitlements) to help supplement their resources.

To help pay for the disaster program and still cover "normal" contingency purchases, officials made several adjustments in various USDA spending accounts for FY2003. Strains on the Section 32 budget also were relieved somewhat when Congress approved a provision in the omnibus FY2003 appropriation resolution (H.J.Res. 2) transferring $250 million from the CCC account to replenish the Section 32 account to carry out emergency surplus removals. The Administration turned to Section 32 in FY2004, FY2005, and FY2006, spending more than $1.3 billion over the four years in direct payments primarily to producers of fruits, vegetables, and nursery crops for hurricane and/or disease losses—for example, $100 million in FY2007 to growers whose trees were eradicated to combat citrus canker. Other notable portions went for livestock assistance for various losses. In a disaster assistance package included within the FY2005 Military Construction Appropriations Act (P.L. 108-324), Congress transferred $90 million from the CCC account to the Section 32 account to cover some of the past spending.

Other Section 32 Uses

USDA also uses its broad discretionary authority to spend Section 32 money on other activities. For example, in FY1999 it used $178.3 million to make direct payments to hog producers affected by low market prices. (An emergency FY1999 appropriation, P.L. 106-31, included an extra $145 million to reimburse Section 32 for a portion of these costs.) Export subsidies and related activities also have been supported in the past. Section 32 funded a pilot food stamp program in the early 1960s, paid for production and diversion payments to other producers in past years, and supported several supplemental feeding programs.

Congress itself periodically designates other uses. For example, it designated an additional $75 million for Section 32 in a 1983 jobs law (P.L. 98-8), to purchase and distribute foods to needy families in high unemployment areas. Congress earmarked $10 million of Section 32 funds for the special purchase of sunflower oil in FY1988, and $50 million for a similar program in FY1994.

Provisions of the 2007-2008 Farm Bill

Administration Proposal

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

Administration officials indicated that these new purchases would not increase Section 32 spending beyond current "baseline" projections. However, it was unclear at the time how the Administration could avoid "new spending" unless it diverted some current Section 32 spending from other commodity purchases (e.g., of meat, poultry, fish) or from other potential Section 32 uses, such as future disaster assistance.

Farm Bill Language

Congress developed its own approach to increased fruit and vegetable purchases in the new farm law (P.L. 110-234). The law encompasses several provisions aimed at fulfilling the goal of increased fruit and vegetable consumption while maintaining Section 32 spending within the budget baseline. First, under the nutrition title (Title IV), §4304 amends the Richard B. Russell National School Lunch Act [after (42 U.S.C. 1769)] to authorize a new program to provide fresh fruits and vegetables in selected elementary schools nationwide, targeting those with higher numbers of students who are eligible for free or reduced price meals. The program is to replace a similar, smaller one funded at about $20 million in FY2008. Under §4304, funding is mandated in the following amounts, to come from Section 32: $40 million on October 1, 2008; $65 million on July 1, 2009; $101 million on July 1, 2010; and $150 million on July 1, 2011. For each succeeding July 1, the 2011 amount is to be adjusted for inflation.

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

Under the new law, the funding for the fresh fruit and vegetable program (noted above) is required to come out of these capped, unobligated amounts. After subtracting this funding, the remainder is the maximum that the Secretary is permitted to spend for all other traditional Section 32 activities, such as surplus commodity purchases, farm economic and disaster assistance, administration of marketing orders, and so forth. For example, in FY2009, $105 million of the $1.173 billion cap must be used for the fresh fruit and vegetable program. That will leave $1.068 billion for all other Section 32 activities. Thus, the apparent effect of the new farm law is to constrain policymakers' historical discretion in Section 32 spending decisions.

A separate provision in the new law (§4404 in the nutrition title) seeks to resolve differing perceptions of a directive, in the 2002 farm bill, to spend not less than $200 million of Section 32 funds annually to buy fruits, vegetables, and other specialty crops for domestic nutrition programs. USDA has maintained that it already spends more than this level each year, when both mandatory and contingency (bonus) purchases are counted. In fact, Section 32 specialty crop purchases averaged $308 million annually over FY2000-FY2006, according to USDA purchase data examined by CRS. The 2002 farm bill conference report had directed that the $200 million should be in additional purchases, and Senate reports accompanying annual USDA appropriations have reminded USDA of these farm bill instructions. However, USDA officials argued that these instructions were not binding because they were in report language rather than in the law itself.

To clarify this situation, §4404 of the new law states that the Secretary shall purchase, "in addition to the purchases" made under the 2002 law, the following amounts of fruits, vegetables, and nuts for domestic nutrition programs: $190 million for FY2008; $193 million for FY2009; $199 million for FY2010, $203 million for FY2011; and $206 million for FY2012 and each subsequent year. In other words, the Department is now bound by law to purchase at least $390 million in fruits, vegetables and nuts in FY2008, a minimum that will gradually increase to $406 million by FY2012. (These purchases can be purchased in frozen, canned, or dried as well as fresh forms under §4404.) The additional purchases required by the 2008 farm bill match CBO projections as to what the Department is likely to spend in future years.

Other language in P.L. 110-234 also will affect Section 32. Under §4305 in the nutrition title, the Secretary is required to purchase whole grains and whole grain products for use in the school lunch and breakfast programs. Under §14222 in the miscellaneous title, the Secretary must make available, in FY2009 only, $4 million in Section 32 funding for these purchases, further reducing the "unobligated" pot of Section 32 money.

FY2008 Appropriations Action

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

Appendix. Section 32 Funding, FY1992-FY2007

Table A-1. Section 32 Funding, FY1992-FY1999

[$1,000]

Fiscal Year:	1992	1993	1994	1995	1996	1997	1998	1999
1. Approp. (30% Customs Rcpts.)	5,161,360	4,978,817	5,355,069	5,789,936	6,263,764	5,923,377	5,730,108	5,701,866
2. Rescission				-5,287	-5,000			-7,958
3. Ag Risk Prot. Act (P.L. 106-224)								
LESS TRANSFERS:								
4. Transfer fr. CCC or Supplemental								145,000
5. Transfer to FNS	-4,675,092	-4,290,455	-4,770,109	-5,249,077	-5,597,858	-5,433,753	-5,151,391	-5,048,150
6. Transfer to Commerce (fisheries)	-64,113	-61,408	-61,944	-64,765	-72,893	-66,381	-65,734	-66,426
6a. GSA Board of Contract Appeals								
7. Budget Authority (net of above lines)	422,155	626,954	523,016	470,807	588,013	423,243	512,983	724,332
8. Unobligated Prior Year Balance	262,430	120,788	246,301	245,951	235,129	300,000	233,868	131,967
9. Recovery Prior Year Obligations	14,634	39,737	20,805	25,755	739	38,784	-	3,528
9a. Offsetting Collections								
10. Available for Obligation (net of above)	699,219	787,479	790,122	742,513	823,881	762,027	758,306	859,827

Fiscal Year:	1992	1993	1994	1995	1996	1997	1998	1999
OBLIGATIONS:								
COMMODITY PROCUREMENT:								
11. CN Commodity Purchases	399,051	399,914	399,714	399,876	399,084	399,949	400,000	400,000
12. State Option Contracts								
13. Removal Defective Commodities								
14. F&V Pilot Project								
15. Emergency Surplus Removals	102,928	63,399	78,452	96,679	56,172	100,947	194,774	144,484
16. Diversion Payments		8,600		-300		9,000		
17. Livestock Drought Relief								
18. Other Direct Payments								178,265
19.Lamb Grading/Certification								
20. Disaster Relief	11,175	4,636	3,463	530	1,168	2,150	15,200	7,014
21. Specialty Crop Purchases (P.L. 106-224)								
22. Oilseed Purchases (CCC)	50,000	50,000	50,000		23,900			
23. TOTAL, COMMODITY PROCUREMENT	563,154	526,549	531,629	496,785	480,324	512,046	609,974	729,763
ADMINISTRATIVE FUNDS:								
24. Commodity Purchase Services	5,989	5,060	4,423	5,907	5,733	5,624	6,176	6,580
25. Marketing Agreements & Orders	9,288	9,569	8,118	9,977	10,016	10,488	10,189	10,853
26. TOTAL, ADMINISTRATIVE FUNDS	15,277	14,629	12,541	15,885	15,750	16,113	16,365	17,433
27. TOTAL OBLIGATIONS	578,431	541,178	544,170	512,669	496,073	528,158	626,339	747,196

Fiscal Year:	1992	1993	1994	1995	1996	1997	1998	1999
[line 10 minus line 27]	*120,788*	*246,301*	*245,951*	*235,129*	*327,808*	*233,868*	*131,967*	*112,630*
28.Unobligated Balance Returned to Treasury					27,808			
29.Unobligated Balance, End of Year	120,788	246,301	245,951	235,129	300,000	233,868	131,967	112,630

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

Table A-2. Section 32 Funding, FY2000-FY2007

[$1,000]

Fiscal Year:	2000	2001	2002	2003	2004	2005	2006	2007
1. Approp. (30% Customs Rcpts.)	5,735,558	5,738,449	6,139,942	5,798,093	5,927,395	6,052,036	6,481,777	7,029,269
2. Rescission	-15		-468			-163,000	-37,601	-37,601
3. Ag Risk Prot. Act (P.L. 106-224)		200,000						
4. Transfer fr. CCC or Supplemental				250,000		90,000		
LESS TRANSFERS:								
5. Transfer to FNS	-4,935,199	-5,127,579	-5,172,458	-4,745,663	-4,699,661	-5,152,962	-5,187,621	-5,731,073
6. Transfer to Commerce (fisheries)	-69,921	-72,828	-79,127	-75,224	-79,724	-77,539	-79,284	-82,817
6a. GSA Board of Contract Appeals								-47
7. Budget Authority (net of above lines)	730,423	738,042	887,889	1,227,206	1,148,010	748,535	1,177,271	1,177,731
8. Unobligated Prior Year Balance	112,630	241,270	107,825	192,156	134,322	408,051	286,160	146,760
9. Recovery Prior Year Obligations	50,355	3,254		40,157	5,518	24,273	60,039	120
9a. Offsetting Collections								139,277
10. Available for Obligation (net of above)	893,408	982,566	995,714	1,459,519	1,287,850	1,180,859	1,523,470	1,463,888

Fiscal Year:	2000	2001	2002	2003	2004	2005	2006	2007
OBLIGATIONS:								
COMMODITY PROCUREMENT:								
11. CN Commodity Purchases	400,000	400,000	399,935	200,000	400,000	399,322	549,792	664,860
12. State Option Contracts				948	3	134	0	0
13. Removal Defective Commodities	500			1,000	67	36	0	1,871
14. F&V Pilot Project			6,000					
15. Emergency Surplus Removals	200,215	200,234	206,898	222,090	226,475	149,496	81,010	56,892
16. Diversion Payments	30,778	11,900						
17. Livestock Drought Relief			172,867	867,000				
18. Other Direct Payments		39,700		8,000	218,750	278,763	700,000	101,650
19.Lamb Grading/Certification		957	592	103	100			
20. Disaster Relief				500	9,200	40,597	1,901	11317
21. Specialty Crop Purchases (P.L. 106-224)		199,991						
22. Oilseed Purchases (CCC)								
23. TOTAL, COMMODITY PROCUREMENT	631,493	852,782	786,292	1,299,641	854,595	868,348	1,332,703	836,590
ADMINISTRATIVE FUNDS:								
24. Commodity Purchase Services	8,406	8,964	6,906	11,199	10,266	10,848	28,866	31,146
25. Marketing Agreements & Orders	12,241	12,995	10,359	14,844	14,938	15,502	15,141	15,493
26. TOTAL, ADMINISTRATIVE FUNDS	20,646	21,959	17,265	26,042	25,204	26,350	44,007	46,639
27. TOTAL OBLIGATIONS	652,140	874,741	803,557	1,325,684	879,799	894,698	1,376,710	883,229
[line 10 minus line 27]	241,270	107,825	192,156	134,322	408,051	286,160	146,760	262,399
28.Unobligated Balance Returned to Treasury								80659
29.Unobligated Balance, End of Year	241,270	107,825	192,156	134,322	408,051	286,160	146,760	500,000

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

Line-by-Line Explanation of Terms in Appendix Tables

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

1. Approp. (30%) of Customs Rcpts

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

2. Rescission

In some years, Congress has rescinded a specified portion of the funds available as unobligated balances (see lines 28 and 29, below). Rescissions, represented in these tables as negative numbers, generally are to achieve budgetary savings. For example, the FY2006 appropriations act for USDA and related agencies (H.R. 2744; P.L. 109-97) contained a Section 32 rescission of $37.6 million. As noted, much more money was rescinded under the appropriation for 2008 (P.L. 110-161), a total of $684 million—$184 million that otherwise was projected to be available in FY2008 for surplus purchases (called "Estimated Future Needs" in AMS budget parlance), plus $500 million in prior unobligated balances.

3. Ag Risk Protection Act (P.L. 106-224)

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

4. Transfer from CCC or Supplemental

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

5. Transfer to FNS

This is the amount (represented as a negative number) that is transferred each year to USDA's Food and Nutrition Service (FNS) to cover a portion of the cost of the child nutrition programs. For example, for FY2007, the total child nutrition appropriation was $13.345 billion; this total is primarily based on the entitlement spending requirements of the National School Lunch Act (42 U.S.C. 1751 *et seq.*) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq.*). To meet this total spending level, the annual appropriation provided $7.614 billion and designated that the other approximately $5.731 billion come from Section 32. These yearly determinations of how much to directly appropriate and how much to transfer from Section 32 generally are made by congressional appropriators based on Administration recommendations.

6. Transfer to Commerce

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

7-10. Budget Authority, through Available for Obligation

To determine how much is available to Section 32 after the required transfers, two items are added to the budget authority in line 7. They are the unobligated prior year balance (line 8), representing what AMS did not spend during the previous year on various Section 32 obligations; and any recoveries of obligations that were made but not spent in prior years (line 9). The "offsetting collections" (line 9a) of $139.3 million were returned to Section 32 from USDA's Farm Services Agency as unused funds from a disaster-related direct payment event.

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

11. CN Commodity Purchases

Section 6(e) of the school lunch act requires USDA-FNS to provide support in the form of commodities for each meal served. In FY2007, this rate averaged more than 17 cents per meal served, for a total of $919 million. Another school lunch act requirement has mandated that at least 12% of total assistance (cash plus commodities combined) be in the form of commodities. To reach this level, USDA had to spend another $200 million for commodities, bringing total commodity "entitlement" spending to $1.119 billion. To buy these commodities, USDA used $665 million in Section 32 money (the amount in this line), plus $454 million in child nutrition account money.

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

12. State Option Contracts

AMS in recent years has been budgeting $5 million annually for such contracts but has never spent the full amount. State option contracts are intended to be used to assist state commodity distribution agencies to convert bulk or raw USDA commodities into products that can be more easily used by domestic feeding programs. Net costs to Section 32 are not incurred because the states reimburse USDA. The Department asserts that this set-aside "avoids the need to have states pay USDA up-front for further processing." Historically the states have requested such contracts for poultry products.[4]

13. Removal Defective Commodities

AMS also has been budgeting $1 million annually for the removal of defective commodities, but rarely spends the full amount. The money is intended to be available in case AMS must respond quickly to remove a commodity obtained by USDA for any domestic food program that is later found to pose a health risk. For example, the $36,000 spent in FY2005 was for a recall of catfish and $67,000 in FY2004 for a recall of ground beef. In FY2007, AMS replaced $1.9 million in beef stew found to have *E. coli* contamination.

14. F&V Pilot Project

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

15. Emergency Surplus Removals

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

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

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

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

16. Diversion Payments

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

17. Livestock Drought Relief

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

18. Other Direct Payments

These have been made to agricultural producers for either economic or disaster-related reasons; usually, these payments are transferred to USDA's Farm Service Agency (FSA) for disbursement. In FY1999, for example, Section 32 funded a total of $178.3 million in direct payments to smaller-sized hog producers, as part of a broader USDA effort to assist the industry during a time of historically low prices. In FY2001, $39.7 million in direct payments were made to lamb and sheep producers experiencing economic losses. In FY2003 and FY2004, respectively, $8 million and $18 million were used for a “ewe lamb replacement and retention program,” again for sheep producers who were dealing with economic and drought problems. The Secretary also approved a total of $422.2 million to be disbursed over two fiscal years, FY2004 and FY2005, as direct payments to fruit, vegetable, and nursery plant growers affected by Florida hurricanes. Another $700 million went for direct payments in FY2006, a portion of it to pay growers whose trees were removed by USDA's Animal and Plant Health Inspection Service citrus canker eradication program; and other portions for hurricane relief, and for livestock grazing losses. In FY2007, another $100 million in direct payments were made for citrus canker tree losses, plus $1.65 million to hog and poultry producers whose animals likely received feed contaminated with melamine.[5]

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[5] In early 2007, pet food ingredients from China that contained the chemical melamine—apparently added to boost the ingredients' protein levels—sickened or killed many dogs and cats in North America. The ingredients subsequently (continued...)

19. Lamb Grading/Certification

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

20. Disaster Relief

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

21. Specialty Crop Purchases

See line 3, above.

22. Oilseed Purchases

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

23. Total, Commodity Procurement

This is the total of lines 11 through 22.

24. Commodity Purchase Services

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

25. Marketing Agreement & Orders

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

26. Total, Administrative Funds

This is the total of lines 24 and 25.

(...continued)

were found in some hog, chicken, and fish feed. For background see CRS Report RL34080, *Food and Agricultural Imports from China*, by Geoffrey S. Becker.

27. Total Obligations

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

28. Unobligated Balance Returned to Treasury

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

29. Unobligated Balance, End of Year

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

Author Contact Information

Geoffrey S. Becker
Specialist in Agricultural Policy
gbecker@crs.loc.gov, 7-7287