

AMENDMENT TO
RULES COMMITTEE PRINT 119-22
OFFERED BY MS. BUDZINSKI OF ILLINOIS

At the end of subtitle D of title XII, add the following:

1 **SEC. ____ . FERTILIZER MANDATORY REPORTING.**

2 Subtitle A of the Agricultural Marketing Act of 1946
3 (7 U.S.C. 1621 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 210B. FERTILIZER MANDATORY REPORTING.**

6 “(a) **DEFINITIONS.**—In this section:

7 “(1) **AFFILIATE.**—The term ‘affiliate’ means,
8 with respect to a manufacturer or wholesaler (ex-
9 cluding a cooperative), a person that directly or indi-
10 rectly owns, controls, or holds, with voting power,
11 not less than 5 percent of the outstanding voting se-
12 curities of the manufacturer or wholesaler (excluding
13 a cooperative).

14 “(2) **COOPERATIVE.**—

15 “(A) **IN GENERAL.**—The term ‘cooperative’
16 means—

17 “(i) an association of agricultural pro-
18 ducers acting pursuant to—

1 “(I) the Act entitled ‘An Act to
2 authorize association of producers of
3 agricultural products’ (commonly
4 known as the ‘Capper-Volstead Act’)
5 (7 U.S.C. 291 et seq.);

6 “(II) the Agricultural Adjust-
7 ment Act (7 U.S.C. 601 et seq.), reen-
8 acted with amendments by the Agri-
9 cultural Marketing Agreement Act of
10 1937; or

11 “(III) the Act of July 2, 1926
12 (commonly known as the ‘Cooperative
13 Marketing Act’) (7 U.S.C. 451 et
14 seq.);

15 “(ii) a farmers’ cooperative organiza-
16 tion described in subsection (b)(1) of sec-
17 tion 521 of the Internal Revenue Code of
18 1986 and exempt from taxation under sub-
19 section (a) of that section; and

20 “(iii) an association of agricultural
21 producers otherwise operating on a cooper-
22 ative basis for the benefit of its members.

23 “(B) INCLUSIONS.—The term ‘cooperative’
24 includes any entity not less than 25 percent of

1 which is owned by a cooperative, as defined in
2 subparagraph (A).

3 “(3) MARKETED.—The term ‘marketed’ means
4 the sale or other disposition in commerce of—

5 “(A) nitrogen, phosphorous, or potassium
6 for use as fertilizer; or

7 “(B) a fertilizer product.

8 “(4) RETAILER.—The term ‘retailer’ means a
9 person or entity that primarily sells fertilizer prod-
10 ucts at retail.

11 “(5) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of Agriculture.

13 “(6) WHOLESALER.—The term ‘wholesaler’
14 means any person or entity, not including a coopera-
15 tive, engaged in the business of buying and selling
16 fertilizer or fertilizer products for resale or distribu-
17 tion.

18 “(b) ESTABLISHMENT.—The Secretary shall estab-
19 lish a program of fertilizer and fertilizer product price in-
20 formation reporting that will—

21 “(1) provide timely, accurate, and reliable mar-
22 ket information that can be readily understood by
23 farmers and market participants;

24 “(2) facilitate more informed marketing deci-
25 sions; and

1 “(3) promote competition in the fertilizer and
2 fertilizer products industry.

3 “(c) GENERAL REPORTING PROVISIONS APPLICABLE
4 TO MANUFACTURERS, WHOLESALERS, AND THE SEC-
5 RETARY.—Whenever the prices or quantities of fertilizer
6 or fertilizer products are required to be reported or pub-
7 lished under this section, the prices or quantities shall be
8 categorized so as to clearly delineate—

9 “(1) the prices or quantities, as applicable, of
10 the fertilizer or fertilizer product marketed in the
11 United States by a domestic manufacturer or whole-
12 saler or an affiliate of a domestic manufacturer or
13 wholesaler; and

14 “(2) the prices or quantities, as applicable, of
15 the fertilizer or fertilizer product marketed in the
16 United States by a foreign manufacturer or whole-
17 saler or an affiliate of a foreign manufacturer or
18 wholesaler.

19 “(d) WEEKLY REPORTING.—

20 “(1) NITROGEN, PHOSPHOROUS, AND POTAS-
21 SIUM.—The corporate officers or officially des-
22 ignated representatives of each manufacturer or
23 wholesaler of nitrogen, phosphorous, or potassium
24 for use as fertilizer shall report to the Secretary at
25 least weekly—

1 “(A) the prices, as marketed, for nitrogen,
2 phosphorous, or potassium, as applicable; and

3 “(B) the quantities of nitrogen, phos-
4 phorous, or potassium, as applicable, manufac-
5 tured and marketed, as applicable.

6 “(2) FERTILIZER PRODUCTS.—The corporate
7 officers or officially designated representatives of
8 each manufacturer or wholesaler of a fertilizer prod-
9 uct shall report to the Secretary at least weekly—

10 “(A) the prices for the fertilizer product;
11 and

12 “(B) the quantity of the fertilizer product
13 manufactured or marketed, as applicable.

14 “(3) MANDATORY REPORTING EXEMPTION FOR
15 COOPERATIVES AND NON-MANUFACTURER RETAIL-
16 ERS; VOLUNTARY REPORTING.—The Secretary
17 shall—

18 “(A) exempt all cooperatives and retailers
19 (except for retailers that are also manufactur-
20 ers) from any mandatory price reporting under
21 this section; and

22 “(B) provide a mechanism for cooperatives
23 and retailers to voluntarily and confidentially
24 report the prices and quantities described in

1 subparagraphs (A) and (B) of paragraphs (1)
2 and (2)—

3 “(i) directly to the Secretary; or

4 “(ii) through the program established
5 under subsection (e).

6 “(4) PUBLICATION.—The Secretary shall make
7 the information reported to the Secretary under this
8 subsection available to the public—

9 “(A) not less frequently than weekly; and

10 “(B) in a manner that ensures the infor-
11 mation is published—

12 “(i) on a national basis; and

13 “(ii) on a regional or statewide basis,
14 as the Secretary determines to be appro-
15 priate.

16 “(5) COMPETITIVE EFFECTS ANALYSIS.—The
17 Secretary may conduct a competitive effects analysis
18 of the information reported to the Secretary under
19 this subsection.

20 “(e) FERTILIZER RETAIL SURVEY.—

21 “(1) IN GENERAL.—The Secretary shall estab-
22 lish a program within Market News of the Agricul-
23 tural Marketing Service—

24 “(A) to conduct not less frequently than
25 weekly surveys of retail fertilizer prices;

1 “(B) to obtain commercially available esti-
2 mates of the retail prices described in subpara-
3 graph (A); and

4 “(C) to provide State or regional estimates
5 or benchmarks and formulas to allow estimation
6 of local prices.

7 “(2) MAINTENANCE OF EXISTING ACTIVI-
8 TIES.—The program established under paragraph
9 (1) shall supplement, and not supplant, existing
10 input price collection activities of the Secretary.

11 “(f) SUMMARY OF DATA.—

12 “(1) IN GENERAL.—The Secretary shall, di-
13 rectly or through 1 or more cooperative agreements
14 with 1 or more affiliated agricultural research pro-
15 grams, not less frequently than weekly summarize
16 and make available on a dashboard or other resource
17 easily accessible to farmers and market partici-
18 pants—

19 “(A) the information reported to the Sec-
20 retary under subsection (d); and

21 “(B) the retail survey prices and commer-
22 cially available estimates obtained under sub-
23 section (e).

24 “(2) PROTECTION OF CONFIDENTIALITY.—In
25 carrying out paragraph (1), the Secretary shall ag-

1 gregate the information and data in a manner that
2 prevents confidential business information and the
3 identity of persons, including parties to a contract,
4 from being disclosed publicly.

5 “(3) DISCLOSURE BY FEDERAL GOVERNMENT
6 EMPLOYEES.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), no officer, employee, or agent of the
9 United States shall, without the consent of the
10 manufacturer, wholesaler, or other person con-
11 cerned, divulge or make known in any manner
12 any facts or information regarding the business
13 of the manufacturer, wholesaler, or other per-
14 son that was acquired through reporting re-
15 quired under subsection (d).

16 “(B) EXCEPTION.—Information obtained
17 by the Secretary under subsection (d) may be
18 disclosed—

19 “(i) to agents or employees of the De-
20 partment of Agriculture in the course of
21 their official duties under this subtitle;

22 “(ii) as directed by the Secretary or
23 the Attorney General, for enforcement pur-
24 poses; or

1 “(iii) by a court of competent jurisdic-
2 tion.

3 “(C) DISCLOSURE UNDER FREEDOM OF
4 INFORMATION ACT.—Notwithstanding any other
5 provision of law, no facts or information ob-
6 tained under this subtitle shall be disclosed in
7 accordance with section 552 of title 5, United
8 States Code.

9 “(g) REVIEW.—Not less frequently than once every
10 2 years, the Secretary shall review the information re-
11 quired to be reported to the Secretary by manufacturers
12 and wholesalers under this section.

13 “(h) OUTDATED INFORMATION.—If the Secretary de-
14 termines under a review under subsection (g) that infor-
15 mation required to be reported under this section no
16 longer accurately reflects the methods by which nitrogen,
17 phosphorous, and potassium for use as fertilizer or fer-
18 tilizer products are valued and priced by manufacturers
19 and wholesalers, the Secretary shall, after public notice
20 and an opportunity for comment, promulgate regulations
21 to specify additional information that shall be reported
22 under this section.

23 “(i) APPLICATION OF ANTITRUST LAWS.—

1 “(1) IN GENERAL.—Nothing in this section
2 modifies, impairs, or supersedes the operation of any
3 of the antitrust laws.

4 “(2) DEFINITION OF ANTITRUST LAWS.—In
5 this subsection, the term ‘antitrust laws’—

6 “(A) has the meaning given the term in
7 subsection (a) of the first section of the Clayton
8 Act (15 U.S.C. 12); and

9 “(B) includes section 5 of the Federal
10 Trade Commission Act (15 U.S.C. 45) to the
11 extent that such section applies to unfair meth-
12 ods of competition.”.

