

MANDATORY PRICE REPORTING ACT OF 2015

MAY 29, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONAWAY, from the Committee on Agriculture,
submitted the following

R E P O R T

[To accompany H.R. 2051]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 2051) to amend the Agricultural Marketing Act of 1946 to extend the livestock mandatory price reporting requirements, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE .

This Act may be cited as the “Mandatory Price Reporting Act of 2015”.

SEC. 2. EXTENSION OF LIVESTOCK MANDATORY REPORTING.

(a) EXTENSION OF AUTHORITY.—Section 260 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636i) is amended by striking “September 30, 2015” and inserting “September 30, 2020”.

(b) EMERGENCY AUTHORITY.—Section 212(12)(C) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a(12)(C)) is amended by inserting “, including any day on which any Department employee is on shutdown or emergency furlough as a result of a lapse in appropriations” after “conduct business”.

(c) CONFORMING AMENDMENT.—Section 942 of the Livestock Mandatory Reporting Act of 1999 (7 U.S.C. 1635 note; Public Law 106-78) is amended by striking “September 30, 2015” and inserting “September 30, 2020”.

SEC. 3. SWINE REPORTING.

(a) DEFINITIONS.—Section 231 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635i) is amended—

(1) by redesignating paragraphs (9) through (22) as paragraphs (10) through (23), respectively;

(2) by inserting after paragraph (8) the following new paragraph:

“(9) NEGOTIATED FORMULA PURCHASE.—The term ‘negotiated formula purchase’ means a purchase of swine by a packer from a producer under which—

- “(A) the pricing mechanism is a formula price for which the formula is determined by negotiation on a lot-by-lot basis; and
 “(B) the swine are scheduled for delivery to the packer not later than 14 days after the date on which the formula is negotiated and swine are committed to the packer.”;
- (3) in paragraph (12)(A) (as so redesignated), by inserting “negotiated formula purchase,” after “pork market formula purchase,”; and
- (4) in paragraph (23) (as so redesignated)—
 (A) in subparagraph (C), by striking “and” at the end;
 (B) by redesignating subparagraph (D) as subparagraph (E); and
 (C) by inserting after subparagraph (C) the following new subparagraph:
 “(D) a negotiated formula purchase; and”.
- (b) DAILY REPORTING.—Section 232(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j(c)) is amended—
- (1) in paragraph (1)(D), by striking clause (ii) and inserting the following new clause:
- “(ii) PRICE DISTRIBUTIONS.—The information published by the Secretary under clause (i) shall include—
 “(I) a distribution of net prices in the range between and including the lowest net price and the highest net price reported;
 “(II) a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices; and
 “(III) the total number and weighted average price of barrows and gilts purchased through negotiated purchases and negotiated formula purchases.”; and
- (2) in paragraph (3), by adding at the end the following new subparagraph:
 “(C) LATE IN THE DAY REPORT INFORMATION.—The Secretary shall include in the morning report and the afternoon report for the following day any information required to be reported under subparagraph (A) that is obtained after the time of the reporting day specified in such subparagraph.”.

SEC. 4. LAMB REPORTING.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall revise section 59.300 of title 7, Code of Federal Regulations, so that—

- (1) the definition of the term “importer”—
 (A) includes only those importers that imported an average of 1,000 metric tons of lamb meat products per year during the immediately preceding 4 calendar years; and
 (B) may include any person that does not meet the requirement referred to in subparagraph (A), if the Secretary determines that the person should be considered an importer based on their volume of lamb imports; and
- (2) the definition of the term “packer”—
 (A) applies to any entity with 50 percent or more ownership in a facility;
 (B) includes a federally inspected lamb processing plant which slaughtered or processed the equivalent of an average of 35,000 head of lambs per year during the immediately preceding 5 calendar years; and
 (C) may include any other lamb processing plant that did not meet the requirement referred to in subparagraph (B), if the Secretary determines that the processing plant should be considered a packer after considering its capacity.

SEC. 5. STUDY ON LIVESTOCK MANDATORY REPORTING.

(a) IN GENERAL.—The Secretary of Agriculture, acting through the Agricultural Marketing Service in conjunction with the Office of the Chief Economist and in consultation with cattle, swine, and lamb producers, packers, and other market participants, shall conduct a study on the program of information regarding the marketing of cattle, swine, lambs, and products of such livestock under subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635 et seq.). Such study shall—

- (1) analyze current marketing practices in the cattle, swine, and lamb markets;
- (2) identify legislative or regulatory recommendations made by cattle, swine, and lamb producers, packers, and other market participants to ensure that information provided under such program—
 (A) can be readily understood by producers, packers, and other market participants;
 (B) reflects current marketing practices; and

- (C) is relevant and useful to producers, packers, and other market participants;
- (3) analyze the price and supply information reporting services of the Department of Agriculture related to cattle, swine, and lamb; and
- (4) address any other issues that the Secretary considers appropriate.
- (b) REPORT.—Not later than January 1, 2020, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the findings of the study conducted under subsection (a).

BRIEF EXPLANATION

The Mandatory Price Reporting Act of 2015, H.R. 2051, amends the Agricultural Marketing Act of 1946 to extend the livestock mandatory price reporting requirements.

PURPOSE AND NEED FOR LEGISLATION

The Livestock Mandatory Reporting Act of 1999 (Act of 1999) expires on September 30, 2015. Stakeholders from the livestock and meat industry are generally supportive of livestock mandatory reporting (LMR) and have worked cooperatively to achieve consensus toward reauthorization of the Act for a five-year period.

The Act of 1999, which passed as an amendment to the Agricultural Marketing Act of 1946, established a program of information regarding the marketing of cattle, swine, lambs, and the products of such livestock. The purpose was to provide information that could be readily understood by producers, improve the price and supply reporting services of USDA, and encourage competition in the marketplace for livestock and livestock products. The statutory authority for the program lapsed on September 30, 2005, not because of controversy over whether the program should continue, but because the House and Senate passed different versions of reauthorization legislation. Ultimately, the Senate passed the House version by unanimous consent the following October.

When authorization lapsed, AMS sent letters to all packers required to report under the Act of 1999 requesting that they continue to submit information voluntarily. About 90 percent of packers cooperated in submitting information during the lapse. Finally, in October 2006, Congress passed the Livestock Mandatory Reporting Reauthorization Act, re-establishing the regulatory authority for the LMR program through September 30, 2010, and separating the reporting requirements for sows and boars from barrows and gilts, among other changes. AMS began re-implementing the regulations right away. The final rules were not completed until May 2008 because AMS had to account for changes to the program.

The 2008 Farm Bill directed the Secretary of Agriculture (Secretary) to conduct a study to determine advantages, drawbacks, and potential implementation issues associated with adopting mandatory wholesale pork reporting. The study concluded that voluntary negotiated wholesale pork price reporting was thin and becoming thinner. It also found some support for moving to mandatory price reporting at every segment of the industry and that the benefits of moving from a voluntary to a mandatory reporting program for wholesale pork would likely exceed the cost. The 2010 Reauthorization Act reauthorized LMR for an additional five years and added a provision for mandatory reporting of wholesale pork cuts. It directed the Secretary to engage in negotiated rulemaking

to make required regulatory changes for mandatory wholesale pork reporting. AMS completed the negotiated rulemaking process and implemented mandatory wholesale pork reporting on January 7, 2013.

The LMR program provides the market with information on pricing; contracting for purchase; and supply and demand conditions for livestock, livestock production, and livestock products. Consistent with its mission to facilitate marketing, AMS publishes this information to ensure open, transparent price discovery and provide all market participants—large and small—with comparable levels of market information for cattle, swine, pork, sheep, beef, and lamb meat. AMS produces approximately 62 daily reports and 47 weekly reports.

During the fiscal year 2014 government shutdown, AMS Market News, including livestock mandatory reporting data, was not available. AMS's inability to deliver the mandatory price information for livestock, meat, and certain dairy products caused a significant disruption to the orderly marketing of these products and generated extensive media coverage. Many stakeholders asked AMS to consider LMR an "excepted activity" that would continue in the case of another government shutdown.

In order to remain relevant with current marketing practices, AMS regularly meets with industry and trade member associations to discuss LMR and marketing trends. One of the major concerns in the livestock industry is the shrinking negotiated spot market. The number of livestock marketed on a negotiated basis has been declining for years as more processors, producers, and feedlots have entered into formula marketing agreements. Industry members say that some negotiated markets are becoming too thin to be an adequate market basis. At the recent House Appropriations budget hearing, AMS was asked about current reporting methodology for hogs and concerns of price manipulation and volatility in the negotiated hog market. To address this issue, AMS is developing a 5-day rolling average of the daily negotiated hog prices to include in reports. This should help normalize the reported information and mute the volatility.

Livestock industry associations have had under consideration other potential LMR regulatory changes. Some in the industry would like to enhance the reporting requirements to more accurately capture weekly basis information and near-term negotiated formula transactions. The swine industry has expressed an interest in amending report time requirements for barrows and gilts while some in the lamb industry want to lower the reporting threshold requirements, add a definition for committed lambs, and include lamb pelts as a reported commodity.

The legislation reflects a consensus among livestock and meat industry participants working toward reauthorization of the Act. A representative of AMS in attendance at a reauthorization hearing held in the Livestock and Foreign Agriculture Subcommittee was asked generally about reauthorization of the LMR program and the specific requests of industry and responded that USDA supports reauthorization of the program and saw no issues of concern in the bill ultimately presented for Committee consideration.

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1. Short title

Section 1 of the bill designates the title of the bill as the “Mandatory Price Reporting Act of 2015.”

Section 2. Extension of livestock mandatory reporting

Subsection (a) of section 2 extends the authority for continuing mandatory price reporting until September 30, 2020.

Subsection (b) requires USDA to continue to receive and publishing the required daily reporting information during a government shutdown scenario.

Subsection (c) is a conforming amendment for the extension of authority.

Section 3. Swine reporting

Subsection (a) of section 3 amends the definitions section for swine reporting to include a definition of “negotiated formula purchase.” The subsection further adds “negotiated formula purchase” to the definitions for “other purchase arrangement” and “type of purchase” as an enumerated purchase.

Subsection (b) adds “the total number and weighted average price of barrows and gilts purchased through negotiated purchases and negotiated formula purchases” to the list of information the Secretary is required to publish in a prior day report. The subsection also adds a requirement for the Secretary to report information required in the afternoon report but that occurs after the reporting deadline in both the following day morning and afternoon reports.

Section 4. Lamb reporting

Section 4 requires the Secretary to revise the pertinent parts of the regulations to modify the definition of the term “importer.” The modification requires that the Secretary include only importers that imported an average of 1,000 metric tons of lamb during the immediately preceding 4 calendar years. The Secretary may include an importer that does not meet that requirement if the Secretary determines the importer should be considered based on the volume of lamb imports.

Section 4 further requires the Secretary to modify the term “packer” to include an entity with 50 percent ownership or more in the facility as well as a federally inspected processing plant which slaughtered or processed an average of 35,000 head per year during the immediately preceding 5 calendar years. The definition may include other processing plants if the Secretary determines that the plant should be considered based on its capacity.

Section 5. Study on livestock mandatory reporting

Section 5 requires the Agricultural Marketing Service along with the Office of the Chief Economist, and in consultation with the relevant market participants, to conduct a study on the implementation of livestock mandatory price reporting. The one-time report to Congress is due not later than January 1, 2020.

Hearings held by the House Agriculture Committee on April 23, 2015 concerning the reauthorization of LMR revealed significant

changes that have occurred in the lamb industry since the inception of the program and continuing in the most recent 5 year reauthorization period. The Committee appreciates the desire of the lamb industry to maintain, to the maximum extent possible, the broad discretion available to USDA that currently exists in the underlying statute. It is evident that many of the changes proposed by the entire livestock industry are related to the desire to ensure robust reports while at the same time preserving the confidentiality of the reporting entities. As restructuring occurs in the packing industry this becomes more challenging.

The Committee hearing on LMR reauthorization details the long process with USDA that the lamb industry, working through the American Sheep Industry Association (ASI), has taken in an attempt to enact necessary changes in order for LMR to more accurately reflect current industry conditions. The Committee has legislatively addressed some of these proposals put forth by ASI. For example, roughly 30% of the lambs produced in the U.S. are done so by a producer cooperative. Currently the definitions of “packer” and “packer owned” lamb sale transactions prohibit reporting of these sales to be included in MPR. The term “packer” is amended to apply to an entity with 50% or more ownership in a federally inspected facility that slaughtered or processed lambs. This should allow USDA/AMS with the flexibility to allow reporting of transactions resulting between producers and processors who are in business as cooperatives or engaged in other types of non-traditional marketing arrangements.

However, addressing certain ASI proposals legislatively should not be interpreted to mean that the Committee does not support other proposals included in testimony offered by ASI. It merely reflects the Committee’s intent to respect ASI’s desire to maintain as much statutory discretion as possible in the underlying statute. Indeed, the Committee expects USDA to continue the process with ASI and enact such of their proposals as is appropriate to reflect current conditions in the industry and make the LMR report as useable and relevant as possible to the lamb industry. For instance, the Committee understands that additional issues of particular interest to the lamb industry are as follows:

Define the terms:

- “Lambs Committed” and require the reporting of this category as “lambs that are intended to be delivered to a packer beginning on the date of an agreement to sell these lambs” and require weekly reporting of the quantity and delivery period of all lambs committed.

- “Packer-owned” to be defined as lambs that a packer owns for at least 28 days immediately prior to slaughter. For producer-owned cooperatives who process lambs and may or may not have them custom-killed and other non-traditional marketing arrangements, require weekly reporting of at least the volume, grades and base price for these transactions.

Require USDA to:

- “Collect and report pelt price and quality information (classification and descriptors) for lambs purchased on a negotiated, formula or forward contracted basis under LMR.

- “Review, not less frequently than every other year, calculations to determine net carcass value of lamb carcasses and boxed lamb.

As USDA engages in the promulgation of regulations enacting LMR for another five year period, the Committee encourages USDA to carefully review long developed proposals by the lamb industry and make such appropriate changes to existing regulations in order to ensure that LMR reports accurately reflect current market conditions. In addition, the Committee expects that the required USDA study and report not only identify industry recommendations prior to the next reauthorization, but also provide a clear indication to the industry of USDA's position on recommendations so that any necessary legislative changes may be addressed.

COMMITTEE CONSIDERATION

I. HEARINGS

On April 22, 2015, the Subcommittee on Livestock and Foreign Agriculture held a public hearing to review reauthorization of the Livestock Mandatory Reporting Act.

Members of the Subcommittee heard testimony and discussed reauthorization of the Livestock Mandatory Reporting Act. First enacted in 1999, the Act was developed in response to changing markets with an increasing number of animals being sold via marketing arrangements under which prices were not publicly disclosed. As these structural changes continued, livestock producers requested that the then-voluntary price reporting mechanism be made mandatory. Thus, the resulting Act mandated price reporting for live cattle, boxed beef, and live swine, and it allowed USDA to establish mandatory price reporting for lamb sales as well. During the hearing, the following witnesses testified on matters included in H.R. 2051:

- Mr. Mark Dopp, Senior Vice President, Regulatory Affairs and Scientific Affairs/General Counsel, North America Meat Institute, Washington, DC
- Mr. James R. Heimerl, Heimerl Farms Ltd, Johnstown, OH; on behalf of the National Pork Producers Council
- Mr. Burton Pfliger, President, American Sheep Industry Association, Centennial, CO
- Mr. Ed Greiman, Chairman, Cattle Marketing and International Trade Committee, National Cattlemen's Beef Association, Garner, IA
- Dr. Craig Morris, Deputy Administrator, Livestock Poultry and Seed Program, Agricultural Marketing Service, USDA, Washington, DC

II. FULL COMMITTEE

The Committee on Agriculture met, pursuant to notice, with a quorum present, on April 30, 2015, to consider H.R. 2051, the Mandatory Price Reporting Act of 2015.

H.R. 2051 was placed before the Committee for consideration. Without objection, a first reading of the bill was waived and it was open for amendment at any point.

Chairman Conaway, Mr. Peterson, Mr. Rouzer, and Mr. Costa were recognized for statements. Chairman Conaway offered a technical amendment, which passed by a voice vote. Mr. Peterson was then recognized to offer a motion that the bill H.R. 2051 be reported, as amended, favorably to the House with recommendation

that it do pass. The motion was subsequently approved by voice vote.

At the conclusion of the meeting, Chairman Conaway advised Members that pursuant to the rules of the House of Representatives Members had until May 4, 2015, to file any supplemental, minority, additional, or dissenting views with the Committee.

Without objection, staff was given permission to make any necessary clerical, technical or conforming changes to reflect the intent of the Committee. Chairman Conaway thanked all the Members and adjourned the meeting.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the House of Representatives, H.R. 2051 was reported by voice vote with a majority quorum present. There was no request for a recorded vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the body of this report.

BUDGET ACT COMPLIANCE (SECTIONS 308, 402, AND 423)

The provisions of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 21, 2015.

Hon. K. MICHAEL CONAWAY,
*Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2051, the Mandatory Price Reporting Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jim Langley.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2051—Mandatory Price Reporting Act of 2015

Summary: H.R. 2051 would reauthorize, through fiscal year 2020, reports that are produced by the U.S. Department of Agriculture (USDA) on the marketing and prices of cattle, swine, lambs, and products of such livestock. Current authority to produce those reports ends on September 30, 2015. The bill also would re-

quire the Secretary of Agriculture to begin daily reporting of certain negotiated purchases of swine and to conduct a study on the need to report on livestock prices to the federal government.

CBO estimates that implementing this bill would cost \$36 million over the 2016–2020 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The bill contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state and local laws. CBO estimates the cost of complying with the mandate would be small and would fall well below the threshold established in UMRA for intergovernmental mandates (\$77 million in 2015, adjusted annually for inflation).

H.R. 2051 would impose private-sector mandates, as defined in UMRA, on certain packers, processors, and importers of livestock by extending and amending mandatory reporting requirements related to cattle, swine, and lambs. Based on information from USDA and industry experts, CBO estimates that the aggregate cost of the mandates would total about \$1 million annually and fall well below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2015, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 2051 is shown in the following table. The costs of this legislation fall within budget function 350 (agriculture).

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	8	7	7	7	7	36
Estimated Outlays	8	7	7	7	7	36

Basis of estimate: CBO assumes that H.R. 2051 will be enacted by October 1, 2015, and that the necessary amounts will be appropriated over the next five years.

The legislation would extend until September 30, 2020, the authority of the Secretary of Agriculture to require certain livestock packers, processors, and importers, to continue reporting prices and supply and demand information to the government on a daily and weekly basis. USDA’s Agricultural Marketing Service (AMS) processes and provides this information to the public. Based on information from AMS, CBO estimates that continuing to provide these reports to the public would cost \$7 million a year.

H.R. 2051 also would require the Secretary, in consultation with relevant producers and packers, to identify legislative or regulatory recommendations to improve the collection and dissemination of information under the livestock reporting program. Based on the cost of similar work, CBO estimates that this study would cost \$1 million in 2016.

Pay-as-You-Go considerations: None.

Impact on state, local, and tribal governments: Under current law, the Department of Agriculture’s program for price reporting preempts state and local laws that are in addition to, or inconsistent with, any requirements of the program. Because H.R. 2051 would reauthorize the program and thus extend the preemption that would otherwise expire on September 30, 2015, the bill would

impose an intergovernmental mandate as defined in UMRA. While the preemption would limit the application of state and local laws, it would impose no duty that would result in significant additional spending. Consequently, CBO estimates that the costs would fall well below the threshold established in UMRA for intergovernmental mandates (\$77 million in 2015, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 2051 would impose private-sector mandates, as defined in UMRA, on certain packers, processors, and importers of livestock. The bill would extend through 2020 mandatory reporting requirements related to cattle, swine, and lamb. The bill also would add an additional pricing category to report for packers and processors of swine and lower the reporting threshold for importers and packers of lamb. Based on information from USDA and industry experts, CBO estimates that the aggregate cost of the mandates would total about \$1 million annually and fall well below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2015, adjusted annually for inflation).

Estimate prepared by: Federal costs: Jim Langley; Impact on state, local, and tribal governments: J'nell Blanco Suchy; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to extend mandatory price reporting for cattle, swine, and lamb.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

FEDERAL MANDATES STATEMENT

The Committee adopted as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

EARMARK STATEMENT REQUIRED BY CLAUSE 9 OF RULE XXI OF THE
RULES OF HOUSE OF REPRESENTATIVES

H.R. 2051 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House Representatives.

DUPLICATION OF FEDERAL PROGRAMS

This bill does not establish or reauthorize a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee does not believe that the legislation directs an executive branch official to conduct any specific rule making proceedings within the meaning of 5 U.S.C. 551.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

AGRICULTURAL MARKETING ACT OF 1946

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TITLE II

* * * * *

Subtitle B—Livestock Mandatory Reporting

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CHAPTER 1—PURPOSE; DEFINITIONS

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SEC. 212. DEFINITIONS.

In this subtitle:

- (1) **BASE PRICE.**—The term “base price” means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of carcass weight.
- (2) **BASIS LEVEL.**—The term “basis level” means the agreed-on adjustment to a future price to establish the final price paid for livestock.

(3) CURRENT SLAUGHTER WEEK.—The term “current slaughter week” means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.

(4) F.O.B.—The term “F.O.B.” means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

(5) LIVESTOCK.—The term “livestock” means cattle, swine, and lambs.

(6) LOT.—The term “lot” means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller.

(7) MARKETING.—The term “marketing” means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

(8) NEGOTIATED PURCHASE.—The term “negotiated purchase” means a cash or spot market purchase by a packer of livestock from a producer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(9) NEGOTIATED SALE.—The term “negotiated sale” means a cash or spot market sale by a producer of livestock to a packer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(10) PRIOR SLAUGHTER WEEK.—The term “prior slaughter week” means the Monday through Sunday prior to a reporting day.

(11) PRODUCER.—The term “producer” means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

(12) REPORTING DAY.—The term “reporting day” means a day on which—

(A) a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer;

(B) the Secretary is required to make information concerning the business described in subparagraph (A) available to the public; and

(C) the Department of Agriculture is open to conduct business, *including any day on which any Department employee is on shutdown or emergency furlough as a result of a lapse in appropriations.*

(13) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(14) STATE.—The term “State” means each of the 50 States.

* * * * *

CHAPTER 3—SWINE REPORTING

SEC. 231. DEFINITIONS.

In this chapter:

(1) **AFFILIATE.**—The term “affiliate”, with respect to a packer, means—

(A) a person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the packer;

(B) a person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the packer; and

(C) a person that directly or indirectly controls, or is controlled by or under common control with, the packer.

(2) **APPLICABLE REPORTING PERIOD.**—The term “applicable reporting period” means the period of time prescribed by the prior day report, the morning report, and the afternoon report, as required under section 232(c).

(3) **BARROW.**—The term “barrow” means a neutered male swine.

(4) **BASE MARKET HOG.**—The term “base market hog” means a barrow or gilt for which no discounts are subtracted from and no premiums are added to the base price.

(5) **BOAR.**—The term “boar” means a sexually-intact male swine.

(6) **FORMULA PRICE.**—The term “formula price” means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

(7) **GILT.**—The term “gilt” means a young female swine that has not produced a litter.

(8) **HOG CLASS.**—The term “hog class” means, as applicable—

(A) barrows or gilts;

(B) sows; or

(C) boars or stags.

(9) **NEGOTIATED FORMULA PURCHASE.**—*The term “negotiated formula purchase” means a purchase of swine by a packer from a producer under which—*

(A) the pricing mechanism is a formula price for which the formula is determined by negotiation on a lot-by-lot basis; and

(B) the swine are scheduled for delivery to the packer not later than 14 days after the date on which the formula is negotiated and swine are committed to the packer.

[(9)] (10) **NONCARCASS MERIT PREMIUM.**—The term “noncarcass merit premium” means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

[(10)] (11) **OTHER MARKET FORMULA PURCHASE.**—

(A) **IN GENERAL.**—The term “other market formula purchase” means a purchase of swine by a packer in which the pricing mechanism is a formula price based on any

market other than the market for swine, pork, or a pork product.

(B) INCLUSION.—The term “other market formula purchase” includes a formula purchase in a case in which the price formula is based on one or more futures or options contracts.

[(11)] (12) OTHER PURCHASE ARRANGEMENT.—The term “other purchase arrangement” means a purchase of swine by a packer that—

(A) is not a negotiated purchase, swine or pork market formula purchase, *negotiated formula purchase*, or other market formula purchase; and

(B) does not involve packer-owned swine.

[(12)] (13) PACKER.—The term “packer” means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

(A) the term includes only a swine processing plant that is federally inspected;

(B) for any calendar year, the term includes only—

(i) a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding five calendar years; and

(ii) a person that slaughtered an average of at least 200,000 sows, boars, or any combination thereof, per year during the immediately preceding five calendar years; and

(C) in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant or person in determining whether the processing plant or person should be considered a packer under this chapter.

[(13)] (14) PACKER-OWNED SWINE.—The term “packer-owned swine” means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.

[(14)] (15) PACKER-SOLD SWINE.—The term “packer-sold swine” means the swine that are—

(A) owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and

(B) sold for slaughter to another packer.

[(15)] (16) PORK.—The term “pork” means the meat of a porcine animal.

[(16)] (17) PORK PRODUCT.—The term “pork product” means a product or byproduct produced or processed in whole or in part from pork.

[(17)] (18) PURCHASE DATA.—The term “purchase data” means all of the applicable data, including weight (if purchased live), for all swine purchased during the applicable reporting

period, regardless of the expected delivery date of the swine, reported by—

- (A) hog class;
- (B) type of purchase; and
- (C) packer-owned swine.

[(18)] (19) SLAUGHTER DATA.—The term “slaughter data” means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of when the price of the swine was negotiated or otherwise determined, reported by—

- (A) hog class;
- (B) type of purchase; and
- (C) packer-owned swine.

[(19)] (20) SOW.—The term “sow” means an adult female swine that has produced one or more litters.

[(20)] (21) SWINE.—The term “swine” means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

[(21)] (22) SWINE OR PORK MARKET FORMULA PURCHASE.—The term “swine or pork market formula purchase” means a purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

[(22)] (23) TYPE OF PURCHASE.—The term “type of purchase”, with respect to swine, means—

- (A) a negotiated purchase;
- (B) other market formula purchase;
- (C) a swine or pork market formula purchase; **[and]**
- (D) a negotiated formula purchase; and*
- [(D)] (E)** other purchase arrangement.

SEC. 232. MANDATORY REPORTING FOR SWINE.

(a) **ESTABLISHMENT.**—The Secretary shall establish a program of swine price information reporting that will—

- (1) provide timely, accurate, and reliable market information;
- (2) facilitate more informed marketing decisions; and
- (3) promote competition in the swine slaughtering industry.

(b) **GENERAL REPORTING PROVISIONS APPLICABLE TO PACKERS AND THE SECRETARY.**—

(1) **IN GENERAL.**—The Secretary shall establish and implement a price reporting program in accordance with this section that includes the reporting and publication of information required under this section.

(2) **PACKER-OWNED SWINE.**—Information required under this section for packer-owned swine shall include quantity and carcass characteristics, but not price.

(3) **PACKER-SOLD SWINE.**—If information regarding the type of purchase is required under this section, the information shall be reported according to the numbers and percentages of each type of purchase comprising—

- (A) packer-sold swine; and
- (B) all other swine.

(4) **ADDITIONAL INFORMATION.**—

(A) REVIEW.—The Secretary shall review the information required to be reported by packers under this section at least once every 2 years.

(B) OUTDATED INFORMATION.—After public notice and an opportunity for comment, subject to subparagraph (C), the Secretary shall promulgate regulations that specify additional information that shall be reported under this section if the Secretary determines under the review under subparagraph (A) that—

(i) information that is currently required no longer accurately reflects the methods by which swine are valued and priced by packers; or

(ii) packers that slaughter a significant majority of the swine produced in the United States no longer use backfat or lean percentage factors as indicators of price.

(C) LIMITATION.—Under subparagraph (B), the Secretary may not require packers to provide any new or additional information that—

(i) is not generally available or maintained by packers; or

(ii) would be otherwise unduly burdensome to provide.

(c) DAILY REPORTING; BARROWS AND GILTS.—

(1) PRIOR DAY REPORT.—

(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary, for each business day of the packer, such information as the Secretary determines necessary and appropriate to—

(i) comply with the publication requirements of this section; and

(ii) provide for the timely access to the information by producers, packers, and other market participants.

(B) REPORTING DEADLINE AND PLANTS REQUIRED TO REPORT.—A packer required to report under subparagraph (A) shall—

(i) not later than 7:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts purchased or priced, and

(ii) not later than 9:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts slaughtered,

during the prior business day of the packer.

(C) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this paragraph shall include—

(i) all purchase data, including—

(I) the total number of—

(aa) barrows and gilts purchased; and

(bb) barrows and gilts scheduled for delivery; and

and

- (II) the base price and purchase data for slaughtered barrows and gilts for which a price has been established;
- (ii) all slaughter data for the total number of barrows and gilts slaughtered, including—
- (I) information concerning the net price, which shall be equal to the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of barrows and gilts delivered at the plant—
- (aa) including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer; and
- (bb) excluding any sum earlier paid to a producer that must later be repaid to the packer;
- (II) information concerning the average net price, which shall be equal to the quotient (stated per hundred pounds of carcass weight of barrows and gilts) obtained by dividing—
- (aa) the total amount paid for the barrows and gilts slaughtered at a packing plant during the applicable reporting period, including all premiums and discounts, and including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer, or the accumulation of a balance to later be repaid by the packer to the producer, less all discounts; by
- (bb) the total carcass weight (in hundred pound increments) of the barrows and gilts;
- (III) information concerning the lowest net price, which shall be equal to the lowest net price paid for a single lot or a group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;
- (IV) information concerning the highest net price, which shall be equal to the highest net price paid for a single lot or group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;
- (V) the average carcass weight, which shall be equal to the quotient obtained by dividing—
- (aa) the total carcass weight of the barrows and gilts slaughtered at the packing plant during the applicable reporting period, by
- (bb) the number of the barrows and gilts described in item (aa),

adjusted for special slaughter situations (such as skinning or foot removal), as the Secretary determines necessary to render comparable carcass weights;

(VI) the average sort loss, which shall be equal to the average discount (in dollars per hundred pounds carcass weight) for barrows and gilts slaughtered during the applicable reporting period, resulting from the fact that the barrows and gilts did not fall within the individual packer's established carcass weight or lot variation range;

(VII) the average backfat, which shall be equal to the average of the backfat thickness (in inches) measured between the third and fourth from the last ribs, 7 centimeters from the carcass split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the barrows and gilts slaughtered during the applicable reporting period;

(VIII) the average lean percentage, which shall be equal to the average percentage of the carcass weight comprised of lean meat for the barrows and gilts slaughtered during the applicable reporting period, except that when a packer is required to report the average lean percentage under this subclause, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert to the carcass measurements or lean percentage of the barrows and gilts of the individual packer to correlate to a common percent lean measurement; and

(IX) the total slaughter quantity, which shall be equal to the total number of barrows and gilts slaughtered during the applicable reporting period, including all types of purchases and barrows and gilts that qualify as packer-owned swine; and

(iii) packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(D) PUBLICATION.—

(i) IN GENERAL.—The Secretary shall publish the information obtained under this paragraph in a prior day report—

(I) in the case of information regarding barrows and gilts purchased or priced, not later than 8:00 a.m. Central Time, and

(II) in the case of information regarding barrows and gilts slaughtered, not later than 10:00 a.m. Central Time,

on the reporting day on which the information is received from the packer.

[(i) PRICE DISTRIBUTIONS.—The information published by the Secretary under clause (i) shall include a distribution of net prices in the range between and including the lowest net price and the highest net price reported. The publication shall include a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices.]

(i) *PRICE DISTRIBUTIONS.*—*The information published by the Secretary under clause (i) shall include—*

(I) *a distribution of net prices in the range between and including the lowest net price and the highest net price reported;*

(II) *a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices; and*

(III) *the total number and weighted average price of barrows and gilts purchased through negotiated purchases and negotiated formula purchases.*

(2) MORNING REPORT.—

(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11:00 a.m. Central Time, on each reporting day.

(3) AFTERNOON REPORT.—

(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Sec-

retary not later than 2:00 p.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased up to that time of the reporting day through each type of purchase other than negotiated purchase, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.

(C) *LATE IN THE DAY REPORT INFORMATION.*—*The Secretary shall include in the morning report and the afternoon report for the following day any information required to be reported under subparagraph (A) that is obtained after the time of the reporting day specified in such subparagraph.*

(d) DAILY REPORTING; SOWS AND BOARS.—

(1) PRIOR DAY REPORT.—The corporate officers or officially designated representatives of each packer of sows and boars shall report to the Secretary, for each business day of the packer, such information reported by hog class as the Secretary determines necessary and appropriate to—

(A) comply with the publication requirements of this section; and

(B) provide for the timely access to the information by producers, packers, and other market participants.

(2) REPORTING.—Not later than 9:30 a.m. Central Time, or such other time as the Secretary considers appropriate, on each reporting day, a packer required to report under paragraph (1) shall report information regarding all sows and boars purchased or priced during the prior business day of the packer.

(3) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this subsection shall include all purchase data, including—

(A) the total number of sows purchased and the total number of boars purchased, each divided into at least three reasonable and meaningful weight classes specified by the Secretary;

(B) the number of sows that qualify as packer-owned swine;

- (C) the number of boars that qualify as packer-owned swine;
 - (D) the average price paid for all sows;
 - (E) the average price paid for all boars;
 - (F) the average price paid for sows in each weight class specified by the Secretary under subparagraph (A);
 - (G) the average price paid for boars in each weight class specified by the Secretary under subparagraph (A);
 - (H) the number of sows and the number of boars for which prices are determined, by each type of purchase;
 - (I) the average prices for sows and the average prices for boars for which prices are determined, by each type of purchase; and
 - (J) such other information as the Secretary considers appropriate to carry out this subsection.
- (4) PRICE CALCULATIONS WITHOUT PACKER-OWNED SWINE.—A packer shall omit the prices of sows and boars that qualify as packer-owned swine from all average price calculations, price range calculations, and reports required by this subsection.
- (5) REPORTING EXCEPTION: PUBLIC AUCTION PURCHASES.—The information required to be reported under this subsection shall not include purchases of sows or boars made by agents of the reporting packer at a public auction at which the title of the sows and boars is transferred directly from the producer to such packer.
- (6) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 11:00 a.m. Central Time on the reporting day on which the information is received from the packer.
- (7) ELECTRONIC SUBMISSION OF INFORMATION.—The Secretary of Agriculture shall provide for the electronic submission of any information required to be reported under this subsection through an Internet website or equivalent electronic means maintained by the Department of Agriculture.
- (e) WEEKLY NONCARCASS MERIT PREMIUM REPORT.—
- (1) IN GENERAL.—Not later than 4:00 p.m. Central Time on the first reporting day of each week, the corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary a noncarcass merit premium report that lists—
 - (A) each category of standard noncarcass merit premiums used by the packer in the prior slaughter week; and
 - (B) the amount (in dollars per hundred pounds of carcass weight) paid to producers by the packer, by category.
 - (2) PREMIUM LIST.—A packer shall maintain and make available to a producer, on request, a current listing of the dollar values (per hundred pounds of carcass weight) of each noncarcass merit premium used by the packer during the current or the prior slaughter week.
 - (3) AVAILABILITY.—A packer shall not be required to pay a listed noncarcass merit premium to a producer that meets the requirements for the premium if the need for swine in a given category is filled at a particular point in time.

(4) PUBLICATION.—The Secretary shall publish the information obtained under this subsection as soon as practicable, but not later than 5:00 p.m. Central Time, on the first reporting day of each week.

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CHAPTER 5—ADMINISTRATION

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SEC. 260. TERMINATION OF AUTHORITY.

The authority provided by this subtitle terminates on **[September 30, 2015]** *September 30, 2020*.

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SECTION 942 OF THE LIVESTOCK MANDATORY REPORTING ACT OF 1999

SEC. 942. TERMINATION OF AUTHORITY

The authority provided by this title and the amendments made by this title (other than section 911 of subtitle A and the amendments made by that section) terminate on **[September 30, 2015]** *September 30, 2020*.