SOUTH DAKOTA
Farmers Union

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June 15, 2022

Melissa R. Bailey
Associate Administrator
Agricultural Marketing Service, USDA
1400 Independence Ave SW
Washington, DC 20250

RE: USDA Agricultural Marketing Service request for public comment; "Access to Fertilizer: Competition and Supply Chain Concerns"; Docket Number AMS-AMS-22-0027; Federal Register Pages 15191-15194

Dear Associate Administrator Bailey:

On behalf of the nearly 20,000 family farmer, rancher, and rural members of the South Dakota Farmers Union (SDFU), thank you for the opportunity to comment on competition and supply chain concerns in fertilizer markets. We are pleased to share information that will assist USDA in preparing a report connected to the Executive Order on Promoting Competition in the American Economy. Adequate competition in fertilizer markets is essential to ensure fair prices, reliable access for farmers, and domestic and global food security.

Consolidation in the fertilizer industry and evidence of anticompetitive practices

Fertilizers, especially nitrogen, phosphorus, and potassium (potash), are critical agricultural inputs. High fertilizer prices harm family farmers and ranchers and can also impact consumers to the extent higher input costs are transmitted through food supply chains. While fertilizer prices and availability are partially determined by the interaction of supply and demand[1], the fertilizer industry is also marked by extremely high concentration. The domination of the fertilizer

[1] "Fertilizer Use and Price, Summary Findings," *USDA Economic Research Service (ERS)*, Last Updated October 30,2019. https://www.ers.usda.gov/data-products/fertilizer-use-and-price/summary-of-findings/

industry by a handful of monopolies and oligopolies, as well as anticompetitive behavior among these firms, is well documented.[2]

A report[3] from the American Antitrust Institute in 2013 explained the issues of prices, profits, and capacity in the fertilizer industry as follows:

> *Fertilizer producers exercise market power through some combination of setting prices and controlling production. Dominant fertilizer manufacturers may well have attempted to maintain collusive prices for several quarters by reducing production to match consumption, rather than to competitively lower prices to induce higher sales volume. The decrease in prices 2009 to 2010 may have served not just to restore sales quantities, but also to dissuade smaller firms from expanding or new firms from entering the market. Production cutbacks and extended mine shutdown could well have been designed to boost prices after they dipped. Later empirical analysis of price-cost margins supports the notion that dominant producers engaged in coordinated price setting in fertilizer markets.*

This report provides a helpful overview of dynamics that have existed in the fertilizer industry. Concentrated market structures and the risk of collusive behavior remain today.

Record high fertilizer prices, supply chain shocks, and concentration concerns

Fertilizer availability and high prices are major issues for farmers this spring. Retail fertilizer prices have reached record highs in 2022 for nitrogen, phosphorus, and potassium. Prices were already considerably higher in 2021 compared to the previous year, and they have continued to rise in 2022. Compared to 2021 prices, as of late April 2022, 10-34-0 is 48% more expensive, MAP is 54% higher, DAP is 68% more expensive, UAN28 is 81% higher, UAN32 is 87% more expensive, urea is 99% higher, potash is 103% higher and anhydrous is 117% more expensive.[4] Higher crop prices are helping to offset the increased cost of fertilizer for American producers, but there is no guarantee that high crop prices will hold.

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[2] C. Robert Taylor and Diana L. Moss, "The Fertilizer Oligopoly: the case for global antitrust enforcement," The American Antitrust Institute, 2013. https://www.antitrustinstitute.org/wp-content/uploads/2013/10/FertilizerMonograph.pdf

[3] Ibid.

[4] Russ Quinn, "DTN Retail Fertilizer Trends: MAP fertilize price index ties all-time record," *DTN Progressive Farmer*, April 27, 2022. https://www.dtnpf.com/agriculture/web/ag/crops/article/2022/04/27/map-fertilizer-price-index-ties-time?itm_source=parsely-api

Causes of current price increases include supply shocks from multiple causes, including the ripple effects of the COVID-19 pandemic, Russia's invasion of Ukraine, weather events, and transportation challenges. Excessive market power and lack of competition in the fertilizer industry likely contributes to pricing and availability challenges as well.

[5] Through the Farmers Union Fairness for Farmers campaign, members have given voice to the devastating impact that monopolies have had on family agriculture. The ongoing implications of drastically fluctuating fertilizer prices and fertilizer supply constraints are of real concern for SDFU members. Farmers in South Dakota are facing hardship because of availability issues, being unable to secure the release of fertilizer orders that were placed several months before and for which they have paid in full due to unexpected unavailability. In addition, farmers face financial barriers when fertilizer has been able to secure, paying as much as two to three times more than what they paid the year before. For some farmers, these availability and financial concerns are the least of their problems because drought and extreme weather conditions have reduced their need and opportunity to use fertilizer

Potential solutions

Despite convincing evidence of anticompetitive pricing of fertilizer and highly concentrated market structures, most antitrust authorities have shown scant interest in investigating the fertilizer industry. Public and private enforcement, and reconsideration of certain antitrust exemptions may be warranted. SDFU views this request for comment on fertilizer as a welcome and helpful start.

There is also a need to increase domestic production of fertilizer. SDFU appreciates USDA for seeking to address this issue by making available $250 million through a grant program to support new, independent fertilizer production to supply American farms.[6]

Finally, consideration should be given to incentivizing and assisting farmers in transitioning to production systems that are less reliant on synthetic and foreign-produced fertilizer and facilitating widespread adoption of precision agriculture technology by ensuring that such technology is more affordable and widely available.

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[5] https://nfu.org/fairness-for-farmers/

[6] "USDA Announces Plans for $250 Million Investment to Support Innovative American-made Fertilizer to give US Farmers more choices in the Marketplace," USDA, press release no. 0060.22, March 11, 2022. https://www.usda.gov/media/press-releases/2022/03/11/usda-announces-plans-250-million-investment-support-innovative

Conclusion

Thank you for considering our request for an extension. If you have any questions or would like to discuss SDFU's position further, please contact Doug Sombke, SDFU President, via e-mail at dsombke@sdfu.org or by phone at 605-350-4211.

Sincerely,

Doug Sombke
President