Northeast Interstate Dairy Compact

The United States Constitution provides that individual states may, with the consent of Congress, form compacts among themselves to solve common problems. An interstate compact is the highest and most binding legal tool available for formal cooperation among states. A compact is essentially a treaty between two or more states and is authorized by Article 1, Section 10 of the United States Constitution.

The Constitution requires compacts to be approved by Congress if they will effect either the political balances within the federal system or a specific government power. Once a compact receives approval from two or more participating states' legislatures and is approved by Congress, Congress then has the power to amend or rescind the interstate compact at any time. Since the late 1700's, nearly 200 compacts have been formed in the United States.

In 1988, legislators in several northeastern states begin developing language for the Northeast Interstate Dairy Compact (the compact). The compact grew out of previous meetings and concerns that dairy farmers throughout the Northeast were receiving a low price for their milk. There were also concerns expressed over the lack of uniformity in milk marketing regulations, which inhibited the efficient marketing of milk in the Northeast.

After approval of the compact by six northeastern states, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island andVermont, legislation granting congressional consent was introduced in the Senate on May 2, 1994. This bill, S. 2069, provided that six additional northeastern states, Delaware, Maryland, New Jersey, New York, Pennsylvania and Virgina could also enter the compact along with states contiguous to compact states following congressional approval provided each state passed authorizing legislation. That bill failed to reach the Senate floor.

There were various attempts to include language in the 1996 Farm Bill authorizing the compact. Both the House and Senate versions of the Farm Bill failed to include Congressional approval, but the final Conference bill contained a provision that provided Congressional consent for the compact under certain conditions. The 1996 Farm Bill provided that the Secretary could grant the States that had ratified the Compact the authority to implement based upon a finding of a compelling public interest in the Compact

The Northeast Interstate Dairy Compact would establish a commission to administer the compact. The commission would be composed of delegations consisting of not less than three nor more than five persons from each state included in the compact. Delegation members must be residents and voters in the appointing state and at least one member of each delegation must be a dairy producer and at least one must be a consumer representative.

The commission would have authority limited to the area served by the compact to: (1) review existing laws and regulations and measure their impact on the production, marketing and shipments of milk, (2) prepare model dairy laws and regulations dealing with inspection, sanitary codes, labelling, standards, producer security programs and fair trade laws, (3) encourage the solution of problems, (4) review and recommend changes in the existing structure for assembly and distribution of milk, (5) investigate costs and charges for producing, hauling, processing, distributing, selling and other services, (6) examine current economic forces affecting production, consumption, farm prices, and the financial conditions of dairy farmers, and (7) establish an over-order price to producers above the Federal order minimum price. This last authority has been by far the most controversial.

The commission must hold a public hearing prior to the initial adoption of regulations establishing a compact over-order price. At the public hearing, the commission is required to make findings with respect to: whether the public interest will be served by the establishment of minimum milk prices and what the level of prices that will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the compact states and for manufacturing purposes.

The commission's authority to impose an over-order price only applies to milk used as fluid (Class I). The commission would be required to take into account the following factors when establishing the over-order Class I price: the supply-demand balance for milk in the compact states, the costs of producing milk, the prevailing price for milk outside the compact, the purchasing power of the public and the price necessary to yield a reasonable return to milk producers and distributors. The commission cannot establish the over-order Class I price higher than $1.50 per gallon times the change in the Consumer Price Index since 1990. After deciding on a price level, the commission would hold a producer referendum on the proposed price with two-thirds of the voting producers required for approval. The commission must take such actions as necessary to ensure that the over-order price does not create an incentive for producers to generate additional milk supplies. The commission would have the authority to require that all handlers, except producer-handlers, receiving milk from producers located in the compact states pay producers the over-order price for milk used in fluid products.

Regulations establishing a compact over-order price may contain provisions for the reimbursement to participants of the Women's, Infants and Children Special Supplemental Food Program (WIC) to offset the increased cost of fluid milk products. In addition, the commission is required to compensate the Commodity Credit Corporation (CCC) for the cost of any increase in CCC dairy purchases which results from milk production in the compact states increasing faster than the national rate.

Agri-Mark

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To: Interested Parties

From: Bob Wellington

Date: April 4, 1996

RE: Northeast Dairy Compact

Duration

The Northeast Dairy Compact has been ratified by Congress as part of the Farm Bill passed by the U.S. Senate on March 28 and the U.S. House of Representatives on March 29. The approval of the Compact was for a limited duration and is linked to the time table for reducing the number of Federal Milk orders from 33 to 14 (or fewer). This should take approximately two to three years, but could last longer if legal or administrative problems delay the mergers.

USDA Approval

Congress has also established one last hurdle before the Compact can become effective. The Farm Bill dictated that the U.S. Secretary of Agriculture must determine that there is a "compelling public interest" in the New England region before allowing the Compact to proceed. We are in the process of providing both political motivation and economic and social justification for the Secretary. Although his approval is not assured, I believe it is likely within the next month or so.

Compact Members

While the Secretary is deliberating, we are encouraging the six New England states to go ahead and appoint their Compact Commission members. As written in law, each state must have from three to five members on their state Compact delegation; one member must be a dairy farmer and another must be a consumer representative. The rest can be of the state's choosing.

In Vermont, the delegation must have three dairy farmers (including one independent), one consumer representative, and one handler, with the Commission of Agriculture serving as a non-voting member. In Massachusetts, the delegation must have two dairy farmers, one consumer, one handler, and the Commissioner of Food and Agriculture (as a voting member). Generally the Governor appoints the Compact Commission members. In most states the Compact law also includes the appointment of a handler and a government representative to the delegation. Agri-Mark supported this concept since handler and government input is crucial to making this effort successful. Each state will have one vote in the Compact Commission. The 3 to 5 member delegation from each state will determine how their state will vote on each issue and on setting a price.

Once the Secretary has approved the Compact and each state has chosen its delegation, the Commission must establish the rules and regulations by which it must operate. Most of these rules and regulations are spelled out in detail in the Compact legislation; however, many are not. As primary examples, the Commission must appoint an executive director, establish a Class I price along with the means to collect funds and audit compliance, and finally determine how the revenue will be distributed among dairy farmers. This last point will no doubt be the most controversial.

State Participation

All dairy farms physically located in the six New England states will share in the Compact pool, unless their state chooses not to participate. Individual states can opt out. Some New York producers (and perhaps others outside of New England) will also share in the Compact over-order price to the extent they serve the New England Market.

New York State can only join the Compact by obtaining both state and Congressional approval. Other Northeast states could then follow using the same procedure, but only after New York is approved, since additional states must share a common border with a Compact state in order to participate. Although Agri-Mark will pursue New York state inclusion, it is unlikely that this would happen within the limited life span of the current Compact.

Hearing/ Referendum

The Commissioner must conduct an informal rule-making proceeding to provide interested persons with an opportunity to present data and views before establishing any regulations. A public hearing must also be held prior to the adoption of such regulation. Finally, a producer referendum must be held to seek approval of the issuance or amendment of all regulations. Cooperatives can block vote in that referendum.

Class I Price

price for milk used in fluid milk products

Once the rules and regulations have been established, the New England Class I price must be set. The Commission is limited to setting a Class I price only; it cannot set prices for other classes of milk. This Class I price needs to be established by the fifth of the proceeding month, so Class I handlers can coordinate it with the Federal Order Class I price. It's hard to tell what the price level would be at this point; a possible benchmark might be a $16.50 price at Boston since that level has worked well under the Maine vendor tax. Given the April 1996 Class I price, that would establish a $.69 Class I premium and return about $.35 per cwt. to dairy farmers. Given Class I prices at their 1995 low (July), it would have established a $2.14 Class I premium and returned more than $1.00 per cwt. to dairy farmers. Once again, what the actual price will be is up to the Compact Commission. The Compact does set a maximum Class I price level of $17.40 adjusted by the Consumer Price Index.

Presently, minimum is $16.94

Administration

At the end of each pricing month, the money must be collected according to the information filed by Class I handlers. In the Farm Bill, the New England Market Administrator (MA) is directed to assist the Compact efforts. The use of his reports will make life easier for handlers and the Compact Commission. The MA could probably bill the handler for the Compact premium, but he will probably be reluctant to handle the money involved. The Compact Commission staff can perform that function. It is also likely that the Commission can piggy-
... This would provide great accuracy at a very low

The Commission may impose an administrative assessment on handlers who purchase milk from producers within the region. That assessment may not exceed one-tenth of one percent of the Federal Order blend price (about 1.2 to 1.4 cents per cwt.).

Regulated Handlers

While the Farm Bill provisions were very positive regarding the role of the MA, they were conversely as negative regarding the use of compensatory payments under the Compact. Compensatory payments are allowed under the Federal Orders and involve the option of Class I payments into the pool by unregulated handlers who sell Class I packaged milk into the marketing area as an alternative to buying regulated pool milk. This payment assures unregulated handlers that they will not have a competitive disadvantage relative to those regulated handlers. Such payments are no longer allowed under the Compact. However, under the Compact, anyone who sells Class I packaged milk into the six New England states or buys milk from producers located in those states must be either a fully regulated or partially regulated handler according to the law establishing the Compact Commission. This provision will effectively regulate everyone selling milk in the area and keep a level competitive playing field. While it would be easier to have compensatory payments for handlers with small volumes of outside milk, it can still be done using the partially regulated plant concept.

Competitive Credits

The Compact Commission has a provision which would allow competitive credits with respect to regulated handlers who market outside the regulated area. In addition, producer-handlers, as defined under the Federal Order, are not subject to a compact over-order price since they are not subject to the Federal Order Class I price.

Payment Dates

Payment dates by handlers and to producers under the Compact should follow Federal Order dates to every extent possible although there may be an additional week or so lag each month as the additional step of sending information from the MA office to the Compact staff takes place. Under the Federal Orders, handlers make payments to the pool by about the middle of the following month and producers are paid by the 20th of the following month. Although there may be delays initially, I would expect handlers to pay the Compact pool by the 20th of the following month (or sooner) and producers should be paid by the end of that month.

Time Table

The current time table for enacting the Compact is not firm, however, even if everything falls into place perfectly, farmers will probably not receive a payment until late August or early September at the earliest. An optimum time table is shown below.

Month		Action
1996	April	USDA Secretary approves Compact; States name delegation members
	May	Compact Commission meets, establishes rules and regulations and holds a producer referendum
	June	Sets a July Class I price by June 5th.
	July	Compact price in effect
	August	Handlers pay July Compact price by 20th of month. Producers get

Any delay on the part of the Secretary or the Compact Commission could push the first payment into the fall months. A legal challenge could do likewise. However, if the Compact is sued by an out-of-area handler, we would urge the Court to escrow the amount of money involved and not stop the Compact provisions.

Lawsuit

A lawsuit against the Compact is highly likely. Keep in mind that Federal Orders were regularly challenged in court during their first years in existence. However, the Compact was written to survive a court challenge and that is the reason why we sought congressional approval.

CCC

The Farm Bill also includes a provision that the Compact Commission must compensate the Commodity Credit Corporation (CCC) if that agency is buying surplus product that is generated from increases in milk production in the Compact region which is in excess of the projected national average rate of increase. This is almost a non-issue since the CCC is not expected to buy much, if any, product in the next three years unless U.S. milk production as a whole increases significantly.

As I said at the beginning of the Compact project several years ago, each step in the process will become increasingly more difficult. First, we had to get all producers to agree on basic Compact provisions, then we had to pass it in all six New England states, and then on to Congress. Now we must get the Secretary to approve it, get beyond any legal challenges and then make it work. The last item will probably be the most challenging task of all.

:mc

06/11/98 THU 15:26 FAX 202 720 6264 USDA FFAS

Strike Title 15 3 Year Counties

FAX COVER SHEET

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Date: 6/11/98

TO: Tom Freedman
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PAGES: 9
(including cover)

FROM:

- ☐ AUGUST SCHUMACHER
- ☒ DALLAS R. SMITH
- ☐ JIM SCHROEDER
- ☐ TERESA GRUBER
- ☐ JOHN WINSKI
- ☐ BUTCH MAY
- ☐ KATHY BLYTHE
- ☐ JACKIE BURRELLO
- ☐ VICKIE PAIGE

Job for

COMMENTS:
Attachments
6 pages - Dairy
2 pages - Options/State Program

At the end of the matter proposed to be inserted, insert the following:

Sec. ___01. FINDINGS AND PURPOSES.

(a) FINDINGS. The Congress finds the following:

(1) There are 124,000 family farms producing tobacco across the United States, and four large tobacco manufacturers controlling 98 percent of the domestic cigarette market;

(2) Tobacco manufacturers have an enormous potential bargaining advantage over individual tobacco farm families in the current marketplace;

(3) The current federal tobacco program, which limits supply and sets a minimum purchase price for domestic tobacco, gives tobacco farm families important bargaining leverage which they would otherwise not have in the current marketplace;

(4) Since 1982, tobacco farm families have paid an assessment on every pound of tobacco sold, to cover all costs associated with the tobacco loan program, which has operated at no net cost to federal taxpayers;

(5) Notwithstanding the existence of a No Net Cost tobacco program, a widespread and inaccurate perception exists that there is a tobacco "subsidy" within the federal budget which benefits tobacco farm families;

(6) So long as this inaccurate perception exists, the federal tobacco program is subject to potential elimination or modification through legislation;

(7) In order to assure that tobacco farm families remain in a fair bargaining position in the current marketplace, it is worthwhile to consider alternatives in the event that the federal tobacco program is eliminated; and

(8) Enhanced authority for States to enter into interstate compacts to administer their own tobacco supply control programs could be structured to achieve the objectives of limiting supply, assuring a fair price for tobacco growers, and providing a fair bargaining position for tobacco farm families in the current marketplace.

(b) PURPOSES. The purposes of this title are--

(1) to enhance the authority of States to enter into interstate compacts to provide for the control and regulation of tobacco production;

(2) to transfer the operation of the federal tobacco quota, price support, inspection and grading programs, as currently operated by the Department of Agriculture, to the States; and

(3) to provide for the long-term viability of family tobacco farms by creating a State program mechanism which gives family farmers the bargaining power to survive in the current marketplace~~; and~~.

Sec.___02. Interstate compacts to control tobacco production.

Section 1 of the Tobacco Control Act (7 U.S.C. 515) is amended to read as follows:

"Sec. 1. Interstate compacts to control production.

"(a) In General.--The Congress of the United States of America consents that any of the States in which tobacco is produced during the 1998 marketing year may negotiate a compact or compacts for regulating and controlling the production of, or commerce in, any one or more kinds of tobacco therein."

"(b) Scope of Interstate Compacts.--Any compact negotiated under the authority provided by this Act may create appropriate regulatory entities in order to--

(1) establish a national or regional marketing level for one or more types of tobacco;

(2) issue quotas or permits to individual producers setting forth annual tobacco production rights for such individuals;

(3) establish tobacco floor prices for one or more types of tobacco grown within such States;

(4) enter into loan agreements with producer-owned cooperative marketing associations to make tobacco floor prices available to producers of a type of tobacco;

(5) support and control the production of tobacco on a national or regional basis in a manner consistent with the authority historically provided to the Commodity Credit Corporation;

(6) provide for an orderly auction system for the marketing of tobacco;

(7) provide for the inspection and grading of tobacco;

(8) prohibit the production of one or more types of tobacco within the borders of such States except in accordance with regulations issued by the appropriate regulatory entity created by such compact; and

(9) administer and enforce all authority established under such interstate compact on a national or regional basis.

"(c) **Independent State action.**--Any State in which tobacco is produced during the 1998 marketing year may independently take any of the actions authorized under subsection (b) with regard to tobacco produced or marketed within its own borders.

working women. But 75 cents on the dollar is only three-quarters of the way there. Americans cannot be satisfied until we are all the way there.

The CEA study shows that the gender gap is narrowing; but also that discrimination persists -- despite women's gains in education and experience. Even accounting for the difficulty of balancing family and work, there are still many women whose work is not being fully valued by employers. Today I am also releasing a Labor Department review that paints a historical picture of women's employment, showing obstacles overcome and challenges that remain.

Equal pay is not a political issue. It is not even a gender issue. It is, at heart, a national issue, a family issue, and a matter of principle -- a question of what kind of country we want America to be today and in the 21st century, when our daughters will grow up and enter the workplace.

That is why our administration is working hard for the economic empowerment of women, as the Vice President explained. And that is why, today, I am expressing my strong support for the equal pay measure introduced by Senator Daschle and Congresswoman DeLauro. This legislation would strengthen enforcement of the Equal Pay Act, toughen penalties, and boost compensation -- because wage discrimination based on gender is as wrong as wage discrimination based on race. This bill is tough, it is fair, and Congress should pass it today.

Americans have always believed that anyone who works hard should be able to provide for themselves and their family. More women than ever now have that chance. But 75 cents on the dollar is not enough -- for women, for families, or for America. As our nation moves forward into the 21st century, we must make sure that our age of opportunity will not be remembered for opportunities lost. If we meet this challenge, if we value the contributions of all America's workers, then we will be a more productive, prosperous and proud nation in the 21st century.

Message Sent To:

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