



# **NORTHEAST DAIRY COMPACT COMMISSION: Issues and Activities**

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# Introduction and Mission:

The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the northeast, and to assure consumers of an adequate, local supply of pure and wholesome milk.

## How the Compact Price is Calculated

July 1998\*

Compact Over-Order Price	\$16.94
Federal Milk Market Order I, Zone 1, Class I	<u>\$14.12</u>
<b>Compact Over-Order Obligation per Cwt</b>	<b>\$ 2.82</b>

<b>Class I Pounds as Reported by Handlers:</b>	<b>248,178,437</b>
Multiplied by Compact Over-Order Obligation	<u>\$2.82/cwt</u>
	\$6,998,631.91

Less WIC Reserve @ 3%	209,958.96
Less Net Reserve for Cash	
Balance Adjustments	<u>30,310.77</u>
<b>Total Pool Value</b>	<b>\$6,758,362.18</b>

<b>Total Producer Pounds as Reported by Handlers:</b>	
	<b>567,929,595</b>

Total Pool Value Divided by Producer Pounds	\$1.19/cwt
Less Court Ordered Escrows	\$0.02
Less Reserve for CCC Obligation	<u>\$0.15</u>
<b>Reduced Over-Order Producer Price</b>	<b>\$1.02/cwt</b>

\*for milk produced in July, paid to producers in Aug.1998

# First Eighteen Months of Operation

July 1997 through December 1998

- Producer Income
- Returned \$44.8 million to region's dairy farmers so far.
- 1996 price for the year (Order 1, zone 21) averaged \$14.64.
- July 1997 through June 1998 price with the Compact (Order 1, zone 21) averaged \$14.11.
- First year, the price was 4.4% higher than price would have been without the Compact.
- Ave. farmer pay price increased 61¢ per cwt during first year

- Calendar Year 1998 price with the Compact (Order 1, zone 21) averaged \$15.14.
- For 1998, the price was 1.7% higher than the price would have been without the Compact.
- Ave. farmer pay price increased 25¢ per cwt during 1998
- Class I prices are now well above the Compact over-order price of \$16.94 per cwt. No Compact premiums have been paid out for September through December milk. January through March 1999 Class I prices also exceed the Compact over-order price.
- However, when prices again decline, the Compact acts as a safety net to protect the farm pay price. The Compact stabilizes the farm price when manufacturing prices decline.

# Administrative Assessment

- The Commission established an administrative fund to cover the costs of operation.
- Fluid milk processors pay the administrative assessment of 3.2¢ per hundred pounds of Class I milk each month.
- The administrative assessment account is distinct and separate from the producer-settlement fund used to accept and disburse the over-order obligation money.
- The Commission recently waived the administrative assessment fee for two months and will hold a public hearing on March 3, 1999 to consider a proposed rule change to provide the Commission with a more flexible mechanism to waive or reduce the assessment in the future if conditions warrant such a change.

# Relationship between Compact Commission and Market Administrator's Office

- 1 The Federal Order 1 Market Administrator's Office provides the Compact Commission with technical assistance, and the Commission is obligated to pay for that assistance
  - Market Administrator processes reports from handlers to verify the quantity of Class I milk sold and the total volume of milk purchased from producers each month within the Compact regulated area.
- 2 The Compact region and Federal Order 1 intersect, but the Compact Commission regulates all Class I milk sold within the six New England states. There are areas in New England not covered by the federal order, such as Maine and parts of VT, MA and NH.

- 3 The Compact regulatory mechanism and process are patterned after Federal Order 1 regulations, but the Compact Commission established various rules and mechanisms different from the federal order. For example:
  - WIC reimbursement at 3% of Class I sales
  - School food authority reimbursement for 98/99 school year
  - Qualification of milk from outside New England
  - Diversions and Transfers rule
- 4 To summarize the assistance from the Market Administrator's Office:
  - Calculating the monthly pool and documenting handler reports
  - Auditing handler reports for Compact purposes
  - Providing expert testimony to the Commission public hearings for rulemaking
  - Referendum mailings

# Commission Activities

## 1 Rulemaking in 1998

- School lunch exemption for 98/99 school year
- Diversions and transfers rule: Handler volume limits for diverted or transferred milk above which no Compact payments will be received: 8% fall months, 10% transition months and 13% spring months

## 2 Obligation to USDA Commodity Credit Corporation (CCC)

- If production rate increases in New England at a greater pace than the US average, and if CCC purchases excess dairy products, then Compact Commission shall compensate the CCC for the cost of the excess purchases attributable to the milk production increase in the Compact region.

- In federal FY 98, CCC billed the Commission \$1.762 million based on a 1.8% increase in milk production in New England compared to the base period (average of FY 96 and 97) and a 1.4% increase nationally over the base period production level.
- The Commission withheld more in an escrow account than needed to pay the CCC. The excess will be returned to those producers who can document that they did not increase milk production during the year compared to the prior year.
- Market Administrator's Office assisting the staff with verification of producer claims prior to returning funds to eligible farmers.

### 3 USDA Office of Inspector General (OIG)

- In response to a Congressional request in October 1998, OIG evaluated whether the Commission met its financial obligation to the CCC and whether the Compact was providing a financial benefit to milk producers in the Compact area.
- OIG determined that the Commission did meet its obligation to the CCC in a timely manner and that producers had received a \$46 million income enhancement as a result of the Compact.

# Litigation

- 1 Milk Industry Foundation v. Glickman challenged the constitutionality of the Secretary of Agriculture's authority to make a finding of compelling public interest regarding the implementation of the Compact. The court ruled in the Commission's favor by saying, "Congress has consented to the Compact and did not impermissibly delegate its power to do so to the Secretary." The plaintiff chose not to appeal.
- 2 New York State Dairy Foods v. Northeast Dairy Compact Commission was brought by 5 New York-based fluid milk processors challenging the Commission's authority to regulate milk that is produced and processed outside of the regulated area but sold in the Compact region. Three legal challenges were raised:
  - Commerce Clause: the court concluded milk pooling scheme was completely legal and not an unauthorized regulation of interstate commerce.
  - Administrative Assessment: the court concluded that the Commission has no regulatory oversight over manufactured milk. Therefore, the assessment on fluid milk handlers was rational, consented to by Congress and represents a cost of doing business in the market.

- Due Process: the court concluded that industry representation on governing or licensing bodies is an accepted practice throughout the nation, representatives reflect a deliberate judgement by the participating states, and in any event, the Commission represents diverse interests, including consumers, not solely those of New England producers and processors.
- The plaintiffs have appealed this decision and the case is scheduled for further court hearings during spring 1999.

# Affects of the Compact on Consumers

- In July 1997, milk prices rose 15¢ per gallon at retail upon imposition of Compact Over-order obligation
- Retail prices moderated some through spring 1998
- According to A.C. Nielsen Corporation, Supermarket Scanner Update for June 1998, the price for a gallon of milk nationwide averaged \$2.72. The New England price averaged \$2.75.
- Connecticut: June 1998 average retail price per gallon was 1¢ more than June 1997, the month before the Compact took effect
- Nielsen data for June 1998 shows US fluid milk sales were down by 1.8% from a year earlier, but New England sales were down only 0.7%
- This is evidence that consumer milk prices have stabilized with the Compact in place and consumer demand is stronger in

**COMPACT POOL VOLUME AND UTILIZATION RATE BY MONTH**

<u>Month</u>	<u>Class I Milk Volume</u>	<u>Total Pool Milk Volume</u>	<u>Utilization Rate</u>
Jul-97	245,001,960	531,000,726	46.14%
Aug	251,670,411	532,180,093	47.29%
Sept	256,358,041	503,917,650	50.87%
Oct	270,552,780	517,345,975	<b>52.30%</b>
Nov	249,814,033	498,023,775	50.16%
Dec	264,936,547	535,146,037	49.51%
Jan-98	267,187,950	544,161,724	49.10%
Feb	234,897,947	508,104,687	46.23%
Mar	262,944,181	561,242,392	46.85%
Apr	248,291,753	541,755,424	45.83%
May	252,572,087	<b>580,786,219</b>	43.49%
Jun	243,091,584	552,127,107	44.03%
Jul	248,178,437	567,929,595	43.70%
Aug	246,196,943	551,257,123	44.66%
Sept	251,893,182	529,486,670	47.57%
Oct	<b>271,577,387</b>	544,309,299	49.89%
Nov	248,153,426	527,299,972	47.06%
Dec	269,243,415	566,030,176	47.57%
<b>Ave 7/97-12/98</b>	<b>254,586,781</b>	<b>538,450,258</b>	<b>47.28%</b>

**COMPACT PRICE/BLEND PRICE/TOTAL PRODUCER PRICE - JUNE 1998**

	Compact Over-order Class I Price (\$)	Federal Class I Zone I Price (\$)	Compact Over-order Obligation Price (\$)	Federal Blend Zone 21 Price (\$)	Compact Producer Price (\$)	Combined Producer Price (\$)	Compact Price as a % of Total Producer Price (%)
Jul-97	16.94	13.94	3.00	11.97	1.28	13.25	9.7%
Aug-97	16.94	13.98	2.96	12.26	1.31	13.57	9.7%
Sep-97	16.94	14.10	2.84	12.54	1.36	13.90	9.8%
Oct-97	16.94	15.31	1.63	13.60	0.81	14.41	5.6%
Nov-97	16.94	16.03	0.91	14.10	0.44	14.54	3.0%
Dec-97	16.94	16.07	0.87	14.06	0.40	14.46	2.8%
Jan-98	16.94	16.20	0.74	14.02	0.34	14.36	2.4%
Feb-98	16.94	16.53	0.41	14.30	0.04	14.34	0.3%
Mar-98	16.94	16.49	0.45	14.10	0.16	14.26	1.1%
Apr-98	16.94	16.56	0.38	13.96	0.14	14.10	1.0%
May-98	16.94	16.05	0.89	13.38	0.33	13.71	2.4%
Jun-98	16.94	15.25	1.69	13.68	0.71	14.39	4.9%
	\$16.94	\$15.54	\$1.40	\$13.50	\$0.61	\$14.11	4.4%

**COMPACT PRICE/BLEND PRICE/TOTAL PRODUCER PRICE / JANUARY 1998 - DECEMBER 1998**

	Compact Over-order Class I Price (\$)	Federal Class I Zone I Price (\$)	Compact Over-order Obligation Price (\$)	Federal Blend Zone 21 Price (\$)	Compact Producer Price (\$)	Combined Producer Price (\$)	Compact Price as a % of Total Producer Price (%)
Jan-98	16.94	16.20	0.74	14.02	0.34	14.36	2.4%
Feb-98	16.94	16.53	0.41	14.30	0.04	14.34	0.3%
Mar-98	16.94	16.49	0.45	14.10	0.16	14.26	1.1%
Apr-98	16.94	16.56	0.38	13.96	0.14	14.10	1.0%
May-98	16.94	16.05	0.89	13.38	0.33	13.71	2.4%
Jun-98	16.94	15.25	1.69	13.68	0.71	14.39	4.9%
Jul-98	16.94	14.12	2.82	13.14	1.02	14.16	7.2%
Aug-98	16.94	16.34	0.60	15.00	0.24	15.24	1.6%
Sep-98	16.94	18.01	0.00	16.47	0.00	16.47	0.0%
Oct-98	16.94	18.23	0.00	16.76	0.00	16.76	0.0%
Nov-98	16.94	18.34	0.00	16.67	0.00	16.67	0.0%
Dec-98	16.94	19.28	0.00	17.18	0.00	17.18	0.0%
	\$16.94	\$16.78	\$0.67	\$14.89	\$0.25	\$15.14	1.7%

# Combined Federal & Compact Prices Paid to Farmers

July 1997- Dec 1998

