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Regulatory Updates: Maine Milk Commission

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News and Commentary

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The retail tax on milk that funds the Maine Dairy Stabilization Fund has survived challenge in federal court. When milk prices are low, this tax is imposed at the retail level and the proceeds are used to stabilize farmer incomes. The federal district court rejected a Cumberland Farms challenge that argued that the tax violated the interstate commerce clause of the U. S. Constitution.

The Maine Dairy Stabilization Fund is an interesting attempt to avoid the distortionary effects of traditional regulation. Instead of attempting to raise farm prices by regulations that would affect only Maine wholesalers, the Maine Dairy Stabilization Fund imposes a uniform retail tax that affects all wholesalers (including integrated, interstate firms like Cumberland Farms) equally. The strategy of “tax rather than regulate” to create a level playing field may be applicable in other regulatory settings. For example, Maine’s current requirements that utilities subsidize low-income consumers could be changed into a tax on all electricity sales (including power wheeled from other states).

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