

NATIONAL POTATO COUNCIL UPDATE

by
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S. 862/H. R. 2160 - The Potato Research and Promotion Act Amendments of 1981

H. R. 2160 was introduced by Congressman Leon Panetta (D-CA) on February 25, 1981 and currently has 13 cosponsors. After a five month wait for the Office of Management and Budget (OMB) to approve the requested changes, the NPC pressed for action by House Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition held a hearing (at which NPC representatives presented testimony) and reported the bill favorably to the full House Agriculture Committee. However, with the prolonged fight in the House/Senate Conference Committee on the Farm bill. Action on H. R. 2160 was postponed until next session.

In the Senate, S. 862 was introduced by William Armstrong (R-CO) on April 22, 1981 and currently has three cosponsors. Full Senate Agriculture Committee consideration and markup of the bill was anticipated by mid-December, with passage expected before the end of the current legislative session, but due to the drawn out farm bill negotiations, action on the measure has been put off until the second session. As with the House bill, there is no opposition to the bill, but rather a tremendous backlog of legislation due to the President's economic and tax programs.

Motor Carrier Act of 1980/Staggers Rail Act of 1980

The National Potato Council has been heavily involved in the formulation and implementation of various sections of these transportation deregulation acts which effect the fresh produce industry. Among our efforts in the past year are:

1) Contract of Haul

In December, 1980, as mandated by the Motor Carrier Act, a joint USDA/ICC Task Group released plans for implementation of a mandatory written contract of haul for fresh produce. The NPC filed statements opposing such a contract, and NPC members appeared to testify in opposition at several hearings held across the country. The overwhelming response of a majority of the comments received by the Task Group were in opposition to any mandatory contract of haul. Since these hearings, various internal "options papers" have been circulated within the ICC, but as of late November, the Task Group has issued no formal report to the Congress.

On May 22, Executive Director Dan Hall presented testimony for the Council at a House Transportation and Public Works Committee Oversight Hearing on the Motor Carrier Act. On June 16, Joe Jackewicz again presented the Council's testimony in opposition to a mandatory contract of haul at a hearing by the Surface Transportation Subcommittee of the House Transportation and Public Works Committee in Washington. On June 18, the Council presented testimony before the Senate Commerce Committee, Subcommittee on Surface Transportation which was also holding Oversight hearings on the Motor Carrier Act of 1980.

It is too early to tell when the ICC/USDA Task Group will issue its final recommendations on the contract of haul issue. The Motor Carrier Act does not specify a date by which the report must be issued. However, we understand that the ICC is currently refining an internal options paper which may be ready for release as early as the beginning of next year.

This Presentation is part of the Proceedings of the 1982 Potato Conference & Trade Fair.

2) Exparte 410/Lumping

In response to an ICC request for comments regarding current loading and unloading practices within the motor carrier industry dated June 11, 1981, the National Potato Council submitted a statement on August 12, 1981 calling for the responsibility for loading to be left with the shipper and for unloading with the receiver. By statute, the ICC must make a report to Congress with its recommendations by January 31, 1982.

3) Staggers Rail Act of 1980 - Carmack Amendment/Cargo Liability

In simple terms, the Carmack Amendment (in effect under the ICC Rail Act before the Stagger of 1980 created regulatory reform) places the railroads with full responsibility for cargo in their possession and makes them liable for any damages in transit unless they can prove otherwise. The Staggers Rail Act of 1980 gave the railroads more rate freedom but said they must offer full liability coverage under the Carmack Amendment liability on deregulated commodities, but they had the right to negotiate with the shippers for limited liability. As mandated by the Staggers Act, the ICC instituted Exparte proceeding No. 403 to determine whether to retain or abolish the Carmack Amendment. In October, 1981 the ICC released its report to Congress recommending retention of the Carmack liability section and further, recommending broadening of the venue proceedings. This broadening of the venue would allow shippers to file suits against rail carriers in courts within their home states which under past regulations was not permissible.

Perishable Agricultural Commodities Act (PACA)

Of major ongoing importance to the Council this year has been the implementation of changes necessary to streamline and modernize sections of the Act. In April, the Council prepared a list of some twenty changes which should be made in the Act to more fairly represent the regulated shippers and sellers of fresh produce. At the Washington Steering Committee meeting in June, members of both the Governemental Affairs Committee and the Legislative Committee met first with officials from the United Fresh Fruit and Vegetable Association to apprise them of our position on the Council's recommended changes. General agreement was reached on many of the items, however, United differed with the Council on two major points:

1. The establishment of an industry advisory council; and
2. Proposed fee increase levels for PACA licensees.

The Council opposes the formation of any type of industry advisory committee, while United supports one, and the council's recommended fee increases were considerably below those suggested by United.

After the Council's meeting with United, Steering Committee members met with officials from both PACA and the Inspection Service. The two days of discussions culminated in a meeting with Deputy Assistant Secretary for Marketing and Transportation John Ford, who assured the Council that a major step was currently underway within USDA to consolidate and streamline inspection service and PACA procedures.

On July 31, 1981, Senators Jesse Helms (R-NC) and Steve Symms (R-ID) introduced legislation to provide funds for PACA through the increase of license fees. These new levels were far in excess of those recommended by the Council. In the ensuing weeks, we met numerous times with Senate Agriculture Committee staff and PACA officials in an effort to agree upon more reasonable funding levels. As a result of our efforts, Senators Helms and Symms reintroduced S. 1557 as an amendment to the Senate Farm bill with the NPC suggested lower funding levels. The levels now contained in the Farm bill will provide PACA with the necessary funds to operate at full strength for the next five years. At the end of this period, both Congress and the fruit and vegetable industry will be able to reassess the strengths and recommend changes to correct any perceived deficiencies in the Act. In addition to the funding

level increase, Senator Helms, Chairman of the Agriculture Committee, agreed to a Council request that oversight hearings on PACA be held in early 1982.

In November, we contacted Jack Gardner, Chief of PACA, to begin work on implementing three changes which the Council felt were most urgently needed. These changes are:

- 1) Providing the seller of produce a priority claim in bankruptcy proceedings;
- 2) Upgrading enforcement of the existing slow-pay provisions of the Act; and,
- 3) Making certain that no industry advisory committee be appointed.

In meetings with PACA officials during November, we learned that at the present time, USDA has no plans for instituting an advisory committee. Further, as a result of reorganization and consolidation, we have been assured that by early this year, the "slow-pay" provisions of the Act will be more strictly enforced.

Highway Use Tax - H. R. 1426/1427

On January 28, 1981, Representative James Oberstar (D-MN) introduced these two highway use tax exemption bills in the House of Representatives. H. R. 1426 deals with exempting farm trucks engaged in hauling unprocessed products from point of production to the marketplace. The only requirement for exemption is that at least 80% of the vehicle useage must be farm related. H. R. 1427 deals with exempting heavy farm trucks from the highway use tax if the following two provisions are followed:

- 1) Gross sales not exceeding \$950,000 per year; and,
- 2) At least 50% of gross income must be derived from the farming business.

Both of these measures have been referred to the House Ways and Means Committee where no immediate action is anticipated.

Commodity Futures Trading Commission (CFTC)

With the change in administrations, three vacancies have appeared on the CFTC. Phillip Johnson, a commodities broker from Chicago was nominated earlier this year to replace James Stone as chairman. Recently, Susan Phillips was appointed to fill another of the vacancies. The final place on the Commission is expected to be filled by Kalo Heineman, a cattleman from Senator Bob Dole's state of Kansas. As you may be aware, Senator Dole is chairman of the Finance Committee which must approve each nominee for appointment to the Commission.

On May 7, 1981, the Commission published a notice that it had received a request from the New York Mercantile Exchange to provide a position limits program in the round white potato futures contract. The NYME proposed to stipulate diverse position limits for the contract months of February, March, April and November. In addition, the proposal would eliminate price limits during the last six trading days of the spot month. The end result would be to provide traders with an increased opportunity to liquidate positions in conformity with the speculative limits specified within the contract. The comment period closed on July 6, and to date, no proposed rules have been forthcoming.

Truck Weight and Length Legislation

On June 19, 1981, Senator Howard Cannon (D-NV) proposed S. 1402 which would provide a maximum length of 50 feet for a single or 65 feet for a twin trailer used on any highway which received federal funds. In addition, this legislation would provide for the standardized use of a 102 inch width for tractor trailers on all federal highways. The Senate Commerce

Committee held a hearing on September 24, and further action is expected on the bill in 1982.

On the maximum weight issue, both the House and Senate Highway appropriation bills have been amended to provide for a uniform 80,000 pound gross weight for tractor trailers operating on all highways receiving federal funding. This legislation is necessary because three states, Arkansas, Illinois and Missouri still have maximum weight limits under the 80,000 pound level. Due to the Congressional confusion regarding the continuing appropriation, we expect no action to take place on the weight issue until next session.

Farm Labor Contractor Registration Act (FLCRA)

To date, three bills have been introduced to amend the Farm Labor Contractor Registration Act. S. 922 introduced by Senator David Boren (D-OK) is a carefully modified version of last years legislation. The three major changes include:

- 1) Eliminating the confusing distinction between "full time or regular" employees and making a clear differentiation between a bonafide employee and independent contractor;
- 2) Allowing the Secretary of Labor to require a cooperative to register and comply fully with FLCRA if it is formed solely to evade the purpose of the Act;
- 3) Insuring the protection of day haul workers who were intended to be brought under the Act by the 1974 amendments. This language includes day haul workers in the definition of migrant worker.

H. R. 3636, introduced by Congressman Leon Panetta (D-CA) is identical to S. 922.

H. R. 3627, introduced by Congressman Charles Pashayan (R-CA) is similar to the Panetta/Boren measure but offers greater protection to Agricultural employers. This bill contains all of the Panetta/Boren language, but goes another step by defining the terms "labor organization," "Transport," and replaces the terms "Packer, ginner, etc." with "person" to provide coverage to all agricultural employers.

The Department of Labor has circulated a draft version of their bill which was expected late this past summer.

After circulating the draft memo around Washington for comments, the Labor Department decided that their proposal would create more confusion than the present system and it has since been dropped. However, we expect hearings on the Boren/Panetta/Pashayan bills sometime early in the next session.

Red Door/Green Door

This issue surfaced in March when language was proposed in the House Ways and Means Committee's Customs, Immigration and USTR authorization bill to include funds for a six month trial test of "Red Door/Green Door" to speed up incoming international passenger inspections. After alerting Committee members to the disastrous effects that this test could have upon the agricultural sector, the language was dropped. It was replaced with a mandate to USDA, Customs and Immigration to develop an unspecified type of passenger inspection which could speed up the inspection without exposing U. S. agriculture to the invasion of additional plant and animal pests.

On June 10, 1981, the Animal Plant Health Inspection Service (APHIS), U. S. Customs Service and the U. S. Immigration and Naturalization Service released an announcement naming Miami International Airport and Los Angeles International Airport as the two test sites for their modified passenger facilitation inspection program. This procedure, known as the Agricultural Profile Screening and Inspection System (APSYS) is designed to speed up the inspection

of arriving international passengers, while at the same time, carefully screening all individuals who fit into a "profile" compiled from previous violators. The test is currently being run in both Miami and Los Angeles, and we expect some preliminary data by early next year. When the test is completed, we may find that we have a much stronger case against implementing such a program on a nationwide level.

Canadian Imports

While the subject of Canadian imports of both seed and table stock potatoes is primarily of concern to the Maine growers, the National Potato Council has become involved in the issue to a certain extent. While the Council has not taken a formal position on what action or actions are warranted by the United States, we are currently exploring such diverse options as filing a formal complaint with GATT, filing an antidumping or countervailing duty petition, and finally, looking into the possibility of retaliatory U.S. production and/or export subsidies to American growers.

Presently, there are two legislative items pending in the Senate, both of which the National Potato Council supports. S. 11 is a bill to prohibit the Secretary of the Treasury from processing potatoes for entry into the United States until certain measures are taken. Senate resolution 177 is a "sense of the Senate" resolution requesting negotiations to limit the importation of potatoes from Canada.

160 Acre Limitation

Senator James McClure of the Senate Committee on Environment and Public Works introduced S. 1867 on Wednesday, November 8, 1981. Basically, the bill is very positive from the viewpoint of farm operators. In summary it provides the following three options:

- 1) Continuation of present 160 acre ownership per person and unlimited leasing, all at subsidized water rates;
- 2) Total farm size of 3200 acres with ownership no more than 1600 acres, all at subsidized water rates; and,
- 3) Unlimited farm size with water rates at full cost for every acre over 1600.

On December 8 and 9, 1981 the House Interior Committee held hearings on the Lujan bill, and on December 10, the Senate Energy and Natural Resources Committee held a hearing on the McClure bill. The House Committee was expected to mark up the Lujan bill during the week of December 14, but due to the legislative crunch of the final days before recess, it has been postponed until next session.

However, key members of the House Interior Committee did meet on Monday afternoon, December 14, and agreed upon various principles which were to be included in any reclamation legislation. The Committee staff was instructed to incorporate these changes dealing with increased ownership limits, unlimited leasing, and removal of the residency requirements into legislative language to be presented to the Subcommittee immediately after Congress returns in January. We believe that with these changes, the forthcoming legislation will be very beneficial to Western agriculture.

Governmental Relations Committee

Several items of vital importance to the potato industry are dealt with by the Council's Governmental Relations Committee. As in the past, this committee will continue to work with various USDA and other federal governmental agencies on those issues of importance to potato growers. Primary among the committee's tasks will be securing perishable agriculture commodity act trade custom improvements for growers. In addition, the Council will work with industry groups in preparing for oversight hearings of PACA which should be held in early 1982.

The Council will continue its meetings and work with the Statistical Reporting Service of USDA. Of primary importance in these meetings will be the matter of obtaining a more accurate published price for potatoes. The Council will continue to work for a method called "Farmgate Pricing" which is a price with all marketing functions removed. During 1981, a working committee with the Federal Potato Inspection Service and the National Potato Council was established. During 1982 the task for this joint working committee will be pursued by the National Potato Council. The Council is basically trying to improve the coordination between shipping point and receiving point USDA potato inspections. In the fall of 1981, a report was published by USDA concerning the status and future of federal/state marketing orders. The Council anticipates the necessity of working with the USDA in preserving the federal/state "quality" potato marketing orders. This matter too, will be of importance in the 1982 Council program. As previously mentioned, the Council will work with USDA's food safety and inspection service. Our purpose will be to pursue our perceived need for coordination between the PACA and the inspection service. Specifically, the NPC would like to see the inspection service develop procedures with the receivers whereby they can positively identify potatoes after they have been unloaded. The Council would also like to see an adequate level of staffing for the inspection service. This need to have produce positively identified is necessary to correct the situation whereby some receivers extract price concessions or reject shipments at the expense of the shipper. This corrective action would be aimed at some re-packers and some receivers who at times have over ordered - a problem particularly evident during periods of price decline.

Canadian/U. S. Potato Trade

Of major importance to the nations potato industry will be a resolution to the trade imbalance which now exists between Canada and the United States potato trade. In 1981 for the first time in history the flow of potatoes from Canada into the United States far surpassed the amount of potatoes shipped from the U. S. to Canada. In 1982, the Council plans to meet with the Canadian Horticultural Council to, on a grower to grower basis, try and resolve the trade imbalance matter. In addition, several pieces of legislation have been introduced in the U. S. House and Senate which deal with this problem. This issue will require the closest of coordination between the Council, United Fresh Fruit and Vegetable Association, the American Frozen Food Institute and other trade groups if a satisfactory resolution is to be achieved. In addition, the Council's executive director will bring this issue to the attention of The Agriculture Technical Advisory Committee. We believe the American potato industry can compete favorably with any nation's industry, provided no artificial incentives are provided by governments toward their domestic industry. The Council will continue to work with the newly established Foreign Agriculture Service/National Potato Council task force.

New Program Development

Many new programs are envisioned under this heading. As of this writing, several programs are envisioned, including:

1. Movement of the "mini fryers" into the field for further testing. This mini fryer is used to check shipment versus reception loads of chipping potatoes and is a joint project of the Potato Chip/Snack Food Association and the National Potato Council.
2. Development of the National Potato Research and Education Foundation, Inc. Preliminary work toward the formation of this foundation was done in 1981. The actual implementation of this plan for a foundation will take place during fiscal 1982. The purpose of the foundation will be to increase the demand for potato and potato products in the world's developing countries. Groups within the potato industry, including growers, handler, shippers, brokers, processors, commission agents, associations and other foundations would all have voting memberships in this proposed foundation. As envisioned, any individual, firm, corporation, commission or association engaged in the production, marketing, processing, distribution, research or education of potatoes or potato products would

be eligible for membership in the foundation. One suggested goal for the foundation initially would be in working with such groups as CARE, the Catholic Relief Agencies and others in establishing a track record for potatoes and potato products in the world's developing nations. Once this track record is developed, then we believe potatoes and potato products would be purchased by these developing nations or possibly donated to them through the P. L. 480 Food for Peace Program. The foundation then, in addition to developing additional markets for potatoes and potato products would also be serving the humanitarian goal of feeding the world's hungry people.

3. Working with the Potato Chip/Snack Food Association, the Council will plan to further develop, modify and improve the model chip contract for use in that industry.
4. Including potatoes under the Federal Crop Insurance Program will be a major project of the Council during 1982. A special NPC committee has been appointed to work with FCIC's Wayne Fletcher in the development of this potato crop insurance program.
5. The Council in 1982 will continue to work toward the goal of making potato storages and ventilation systems eligible for the Commodity Credit Corporation Loan Program.
6. During 1982, the Council will pursue with the Foreign Agricultural Service the possibility of utilizing FAS credit assistance to get new countries to use potatoes and potato products. In fulfillment of a policy goal, the Council will continue to work toward getting additional agricultural energy research completed. Toward that end, at the Council's 1981 Annual Meeting, a special joint committee session between the Potato Association of America leadership and the National Potato Council leadership was held.
7. During 1982, the Council expects to publish and distribute its new model seed potato contract. This contract should have an important impact on the potato industry through more clearly establishing the contractual obligations between seed potato producers and buyers.

Industry Associations Meetings and Communications

In 1982, the Council will continue a vigorous program of improved communications with the various segments of the potato industry, including trade groups, research organizations, colleges and governmental entities. Elsewhere in this report, we have mentioned the excellent cooperation we have received from the Potato Chip/Snack Food Association, United Fresh Fruit & Vegetable Association, the American Frozen Food Institute, the American Farm Bureau Federation and others. In addition, in 1982 we will be meeting with the Potato Association of America leadership. We are continuing our dialogue and hope to meet jointly with the National Onion Association board; the National Potato Council has maintained close liason with that organization. We will continue our efforts to resolve our differences with the Canadians through meeting again in 1982 with the Canadian Horticulture Council.