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S. 2069

To grant consent of Congress to the Northeast Interstate Dairy Compact.

IN THE SENATE OF THE UNITED STATES

MAY 4 (legislative day, MAY 2), 1994

Mr. LEAHY (for himself, Mr. MITCHELL, Mr. KENNEDY, Mr. COHEN, Mr. JEFFORDS, Mr. DODD, Mr. SMITH, Mr. PELL, Mr. GREGG, Mr. CHAFEE, Mr. KERRY, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To grant consent of Congress to the Northeast Interstate Dairy Compact.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CONGRESSIONAL CONSENT.**

4 The Congress hereby consents to the Northeast Inter-
5 state Dairy Compact entered into among the States of
6 Vermont, New Hampshire, Maine, Connecticut, Rhode Is-
7 land, and Massachusetts, which compact is substantially
8 as follows:

1 **“ARTICLE I. STATEMENT OF**
2 **PURPOSE, FINDINGS AND**
3 **DECLARATION OF POLICY**

4 **“§1. STATEMENT OF PURPOSE, FINDINGS AND DECLARA-**
5 **TION OF POLICY**

6 “The purpose of this compact is to recognize by con-
7 stitutional prerequisite the interstate character of the
8 northeast dairy industry and to form an interstate com-
9 mission for the northeast region. The mission of the com-
10 mission is to take such steps as are necessary to assure
11 the continued viability of dairy farming in the northeast,
12 and to assure consumers of an adequate, local supply of
13 pure and wholesome milk.

14 “The participating states find and declare that the
15 dairy industry is the paramount agricultural activity of the
16 northeast. Dairy farms, and associated suppliers, market-
17 ers, processors and retailers, are an integral component
18 of the region’s economy. Their ability to provide a stable,
19 local supply of pure, wholesome milk is a matter of great
20 importance to the health and welfare of the region.

21 “The participating states further find that dairy
22 farms are essential to the region’s rural communities and
23 character. The farms preserve open spaces, sculpt the
24 landscape and provide the land base for a diversity of rec-
25 reational pursuits. In defining the rural character of our

1 communities and landscape, dairy farms also provide a
2 major draw for our tourist industries.

3 “By entering into this compact, the participating
4 states affirm that their ability to regulate the price which
5 northeast dairy farmers receive for their product is essen-
6 tial to the public interest. Assurance of a fair and equi-
7 table price for dairy farmers ensures their ability to pro-
8 vide milk to the market and the vitality of the northeast
9 dairy industry, with all the associated benefits.

10 “Recent, dramatic price fluctuations, with a pro-
11 nounced downward trend, threaten the viability and stabil-
12 ity of the northeast dairy region. Historically, individual
13 state regulatory action has been an effective emergency
14 remedy available to farmers confronting a distressed mar-
15 ket. The federal order system, implemented by the Agri-
16 cultural Marketing Agreement Act of 1937, establishes
17 only minimum prices for dairy products, without preempt-
18 ing the power of states to regulate milk prices above the
19 minimum levels so established. Based on this authority,
20 each state in the region has individually attempted to im-
21 plement at least one regulatory program in response to
22 the current dairy industry crisis.

23 “In today’s regional dairy marketplace, cooperative,
24 rather than individual state action may address more ef-
25 fectively the market disarray. Under our constitutional

1 system, properly authorized, states acting cooperatively
2 may exercise more power to regulate interstate commerce
3 than they may assert individually without such authority.
4 For this reason, the participating states invoke their au-
5 thority to act in common agreement, with the consent of
6 Congress, under the compact clause of the Constitution.

7 “In establishing their constitutional regulatory au-
8 thority over the region’s fluid milk market by this com-
9 pact, the participating states declare their purpose that
10 this compact neither displace the federal order system nor
11 encourage the merging of federal orders. Specific provi-
12 sions of the compact itself set forth this basic principle.

13 “Designed as a flexible mechanism able to adjust to
14 changes in a regulated marketplace, the compact also con-
15 tains a contingency provision should the federal order sys-
16 tem be discontinued. In that event, the interstate commis-
17 sion is authorized to regulate the marketplace in replace-
18 ment of the order system. This contingent authority does
19 not anticipate such a change, however, and should not be
20 so construed. It is only provided should developments in
21 the market other than establishment of this compact re-
22 sult in discontinuance of the order system.

1 **“ARTICLE II. DEFINITIONS AND**
2 **RULES OF CONSTRUCTION**

3 **“§ 2. DEFINITIONS**

4 “For the purposes of this compact, and of any supple-
5 mental or concurring legislation enacted pursuant thereto,
6 except as may be otherwise required by the context:

7 “(1) ‘Commission’ means the commission estab-
8 lished by this compact.

9 “(2) ‘Compact’ means this interstate compact.

10 “(3) ‘Region’ means the territorial limits of the
11 states which are or become parties to this compact.

12 “(4) ‘Participating state’ means a state which
13 has become a party to this compact by the enact-
14 ment of concurring legislation.

15 “(5) ‘Regulated area’ means any area within
16 the region governed by and defined in regulations es-
17 tablishing a compact over-order price or commission
18 marketing order.

19 “(6) ‘Pool plant’ means any milk plant located
20 in a regulated area.

21 “(7) ‘Partially regulated plant’ means a milk
22 plant not located in a regulated area but having
23 Class I distribution within such area, or receipts
24 from producers located in such area. Commission
25 regulations may exempt plants having such distribu-

1 tion or receipts in amounts less than the limits de-
2 fined therein.

3 “(8) ‘Compact over-order price’ means a mini-
4 mum price required to be paid to producers for
5 Class I milk established by the commission in regu-
6 lations adopted pursuant to sections nine and ten of
7 this compact, which is above the price established in
8 federal marketing orders or by state farm price reg-
9 ulation in the regulated area. Such price may apply
10 throughout the region or in any part or parts there-
11 of as defined in the regulations of the commission.

12 “(9) ‘Commission marketing order’ means regu-
13 lations adopted by the commission pursuant to sec-
14 tions nine and ten of this compact in place of a ter-
15 minated federal marketing order or state dairy regu-
16 lation. Such order may apply throughout the region
17 or in any part or parts thereof as defined in the reg-
18 ulations of the commission. Such order may estab-
19 lish minimum prices for any or all classes of milk.

20 “(10) ‘Milk’ means the lacteal secretion of cows
21 and includes all skim, butterfat, or other constitu-
22 ents obtained from separation or any other process.
23 The term is used in its broadest sense and may be
24 further defined by the commission for regulatory
25 purposes.

1 “(11) ‘Class I milk’ means milk disposed of in
2 fluid form or as a fluid milk product, subject to fur-
3 ther definition in accordance with the principles ex-
4 pressed in subdivision (b) of section three.

5 “(12) ‘State dairy regulation’ means any state
6 regulation of dairy prices, and associated assess-
7 ments, whether by statute, marketing order or other-
8 wise.

9 **“§ 3. RULES OF CONSTRUCTION**

10 “(a) This compact shall not be construed to displace
11 existing federal milk marketing orders or state dairy regu-
12 lation in the region but to supplement them. In the event
13 some or all federal orders in the region are discontinued,
14 the compact shall be construed to provide the commission
15 the option to replace them with one or more commission
16 marketing orders pursuant to this compact.

17 “(b) This compact shall be construed liberally in
18 order to achieve the purposes and intent enunciated in sec-
19 tion one. It is the intent of this compact to establish a
20 basic structure by which the commission may achieve
21 those purposes through the application, adaptation and
22 development of the regulatory techniques historically asso-
23 ciated with milk marketing and to afford the commission
24 broad flexibility to devise regulatory mechanisms to
25 achieve the purposes of this compact. In accordance with

1 this intent, the technical terms which are associated with
2 market order regulation and which have acquired com-
3 monly understood general meanings are not defined herein
4 but the commission may further define the terms used in
5 this compact and develop additional concepts and define
6 additional terms as it may find appropriate to achieve its
7 purposes.

8 **“ARTICLE III. COMMISSION**
9 **ESTABLISHED**

10 **“§ 4. COMMISSION ESTABLISHED**

11 “There is hereby created a commission to administer
12 the compact, composed of delegations from each state in
13 the region. A delegation shall include not less than three
14 nor more than five persons. Each delegation shall include
15 at least one dairy farmer who is engaged in the production
16 of milk at the time of appointment or reappointment, and
17 one consumer representative. Delegation members shall be
18 residents and voters of, and subject to such confirmation
19 process as is provided for in, the appointing state. Delega-
20 tion members shall serve no more than three consecutive
21 terms with no single term of more than four years, and
22 be subject to removal for cause. In all other respects, dele-
23 gation members shall serve in accordance with the laws
24 of the state represented. The compensation, if any, of the
25 members of a state delegation shall be determined and

1 paid by each state, but their expenses shall be paid by
2 the commission. Each state delegation shall be entitled to
3 one vote in the conduct of the commission's affairs.

4 **“§ 5. VOTING REQUIREMENTS**

5 “All actions taken by the commission, except for the
6 establishment or termination of an over-order price or
7 commission marketing order, and the adoption, amend-
8 ment or rescission of the commission's bylaws, shall be by
9 majority vote of the delegations present. Establishment or
10 termination of an over-order price or commission market-
11 ing order shall require at least a two-thirds vote of the
12 delegations present. The establishment of a regulated area
13 which covers all or part of a participating state shall re-
14 quire also the affirmative vote of that state's delegation.
15 A majority of the delegations from the participating states
16 shall constitute a quorum for the conduct of the commis-
17 sion's business.

18 **“§ 6. ADMINISTRATION AND MANAGEMENT**

19 “(a) The commission shall elect annually from among
20 the members of the participating state delegations a chair-
21 person, a vice-chairperson, and a treasurer. The commis-
22 sion shall appoint an executive director and fix his or her
23 duties and compensation. The executive director shall
24 serve at the pleasure of the commission, and, together with
25 the treasurer, shall be bonded in an amount determined

1 by the commission. The commission may establish through
2 its by-laws an executive committee composed of one mem-
3 ber elected by each delegation.

4 “(b) The commission shall adopt by-laws for the con-
5 duct of its business by a two-thirds vote, and shall have
6 the power by the same vote to amend and rescind these
7 by-laws. The commission shall publish its by-laws in con-
8 venient form with the appropriate agency or officer in each
9 of the participating states. The by-laws shall provide for
10 appropriate notice to the delegations of all commission
11 meetings and hearings and of the business to be trans-
12 acted at such meetings or hearings. Notice also shall be
13 given to other agencies or officers of participating states
14 as provided by the laws of those states.

15 “(c) The commission shall file an annual report with
16 the Secretary of Agriculture of the United States, and
17 with each of the participating states by submitting copies
18 to the governor, both houses of the legislature, and the
19 head of the state department having responsibilities for
20 agriculture.

21 “(d) In addition to the powers and duties elsewhere
22 prescribed in this compact, the commission shall have the
23 power:

24 “(1) to sue and be sued in any state or federal
25 court;

1 “(2) to have a seal and alter the same at pleas-
2 ure;

3 “(3) to acquire, hold, and dispose of real and
4 personal property by gift, purchase, lease, license, or
5 other similar manner, for its corporate purposes;

6 “(4) to borrow money and to issue notes, to
7 provide for the rights of the holders thereof and to
8 pledge the revenue of the commission as security
9 therefor, subject to the provisions of section eighteen
10 of this compact;

11 “(5) to appoint such officers, agents, and em-
12 ployees as it may deem necessary, prescribe their
13 powers, duties, and qualifications; and

14 “(6) to create and abolish such offices, employ-
15 ments, and positions as it deems necessary for the
16 purposes of the compact and provide for the re-
17 moval, term, tenure, compensation, fringe benefits,
18 pension, and retirement rights of its officers and em-
19 ployees. The commission may also retain personal
20 services on a contract basis.

21 **“§ 7. RULEMAKING POWER**

22 “In addition to the power to promulgate a compact
23 over-order price or commission marketing orders as pro-
24 vided by this compact, the commission is further empow-
25 ered to make and enforce such additional rules and regula-

1 tions as it deems necessary to implement any provisions
2 of this compact, or to effectuate in any other respect the
3 purposes of this compact.

4 **“ARTICLE IV. POWERS OF THE**
5 **COMMISSION**

6 **“§ 8. POWERS TO PROMOTE REGULATORY UNIFORMITY,**
7 **SIMPLICITY, AND INTERSTATE COOPERATION**

8 “The commission is hereby empowered to:

9 “(1) Investigate or provide for investigations or
10 research projects designed to review the existing
11 laws and regulations of the participating states, to
12 consider their administration and costs, to measure
13 their impact on the production and marketing of
14 milk and their effects on the shipment of milk and
15 milk products within the region.

16 “(2) Prepare and transmit to the participating
17 states model dairy laws and regulations dealing with
18 the inspection of farms and plants, sanitary codes,
19 labels for dairy products and their imitations, stand-
20 ards for dairy products, license standards, producer
21 security programs, and fair trade laws.

22 “(3) Study and recommend to the participating
23 states joint or cooperative programs for the adminis-
24 tration of the dairy laws and regulations and to pre-

1 pare estimates of cost savings and benefits of such
2 programs.

3 “(4) Encourage the harmonious relationships
4 between the various elements in the industry for the
5 solution of their material problems. Conduct sympo-
6 siums or conferences designed to improve industry
7 relations, or a better understanding of problems.

8 “(5) Prepare and release periodic reports on ac-
9 tivities and results of the commission’s efforts to the
10 participating states.

11 “(6) Review the existing marketing system for
12 milk and milk products and recommend changes in
13 the existing structure for assembly and distribution
14 of milk which may assist, improve, or promote more
15 efficient assembly and distribution of milk.

16 “(7) Investigate costs and charges for produc-
17 ing, hauling, handling, processing, distributing, sell-
18 ing and for all other services performed with respect
19 to milk.

20 “(8) Examine current economic forces affecting
21 producers, probable trends in production and con-
22 sumption, the level of dairy farm prices in relation
23 to costs, the financial conditions of dairy farmers,
24 and the need for an emergency order to relieve criti-
25 cal conditions on dairy farms.

1 **“§ 9. EQUITABLE FARM PRICES**

2 “(a) The powers granted in this section and section
3 ten shall apply only to the establishment of a compact
4 over-order price, so long as federal milk marketing orders
5 remain in effect in the region. In the event that any or
6 all such orders are terminated, this article shall authorize
7 the commission to establish one or more commission mar-
8 keting orders, as herein provided, in the region or parts
9 thereof as defined in the order.

10 “(b) A compact over-order price established pursuant
11 to this section shall apply only to Class I milk. Such over-
12 order price shall not exceed one dollar fifty cents per gal-
13 lon. Beginning in nineteen hundred ninety, and using that
14 year as a base, the foregoing one dollar fifty cents per
15 gallon maximum shall be adjusted annually by the rate
16 of change in the Consumer Price Index as reported by the
17 Bureau of Labor Statistics of the United States Depart-
18 ment of Labor. For purposes of the pooling and equali-
19 zation of an over-order price, the value of milk used in
20 other use classifications shall be calculated at the appro-
21 priate class price established pursuant to the applicable
22 federal order or state dairy regulation and the value of
23 unregulated milk shall be calculated in relation to the
24 nearest prevailing class price in accordance with and sub-
25 ject to such adjustments as the commission may prescribe
26 in regulations.

1 “(c) A commission marketing order shall apply to all
2 classes and uses of milk.

3 “(d) The commission is hereby empowered to estab-
4 lish the minimum price for milk to be paid by pool plants,
5 partially regulated plants and all other handlers receiving
6 milk from producers located in a regulated area. This
7 price shall be established either as a compact over-order
8 price or by one or more commission marketing orders.
9 Whenever such a price has been established by either type
10 of regulation, the legal obligation to pay such price shall
11 be determined solely by the terms and purpose of the regu-
12 lation without regard to the situs of the transfer of title,
13 possession or any other factors not related to the purposes
14 of the regulation and this compact. Producer-handlers as
15 defined in an applicable federal market order shall not be
16 subject to a compact over-order price. The commission
17 shall provide for similar treatment of producer-handlers
18 under commission marketing orders.

19 “(e) In determining the price, the commission shall
20 consider the balance between production and consumption
21 of milk and milk products in the regulated area, the costs
22 of production including, but not limited to the price of
23 feed, the cost of labor including the reasonable value of
24 the producer’s own labor and management, machinery ex-
25 pense, and interest expense, the prevailing price for milk

1 outside the regulated area, the purchasing power of the
2 public and the price necessary to yield a reasonable return
3 to the producer and distributor.

4 “(f) When establishing a compact over-order price,
5 the commission shall take such action as necessary and
6 feasible to ensure that the over-order price does not create
7 an incentive for producers to generate additional supplies
8 of milk.

9 “(g) The commission shall whenever possible enter
10 into agreements with state or federal agencies for ex-
11 change of information or services for the purpose of reduc-
12 ing regulatory burden and cost of administering the com-
13 pact. The commission may reimburse other agencies for
14 the reasonable cost of providing these services.

15 **“§ 10. OPTIONAL PROVISIONS FOR PRICING ORDER**

16 “Regulations establishing a compact over-order price
17 or a commission marketing order may contain, but shall
18 not be limited to, any of the following:

19 “(1) Provisions classifying milk in accordance
20 with the form in which or purpose for which it is
21 used, or creating a flat pricing program.

22 “(2) With respect to a commission marketing
23 order only, provisions establishing or providing a
24 method for establishing separate minimum prices for
25 each use classification prescribed by the commission,

1 or a single minimum price for milk purchased from
2 producers or associations of producers.

3 “(3) With respect to an over-order minimum
4 price, provisions establishing or providing a method
5 for establishing such minimum price for Class I
6 milk.

7 “(4) Provisions for establishing either an over-
8 order price or a commission marketing order may
9 make use of any reasonable method for establishing
10 such price or prices including flat pricing and for-
11 mula pricing. Provision may also be made for loca-
12 tion adjustments, zone differentials and for competi-
13 tive credits with respect to regulated handlers who
14 market outside the regulated area.

15 “(5) Provisions for the payment to all produc-
16 ers and associations of producers delivering milk to
17 all handlers of uniform prices for all milk so deliv-
18 ered, irrespective of the uses made of such milk by
19 the individual handler to whom it is delivered, or for
20 the payment of producers delivering milk to the
21 same handler of uniform prices for all milk delivered
22 by them.

23 “(A) With respect to regulations establish-
24 ing a compact over-order price, the commission
25 may establish one equalization pool within the

1 regulated area for the sole purpose of equalizing
2 returns to producers throughout the regulated
3 area.

4 “(B) With respect to any commission mar-
5 keting order, as defined in section two, subdivi-
6 sion nine, which replaces one or more termi-
7 nated federal orders or state dairy regulation,
8 the marketing area of now separate state or
9 federal orders shall not be merged without the
10 affirmative consent of each state, voting
11 through its delegation, which is partly or wholly
12 included within any such new marketing area.

13 “(6) Provisions requiring persons who bring
14 Class I milk into the regulated area to make com-
15 pensatory payments with respect to all such milk to
16 the extent necessary to equalize the cost of milk pur-
17 chased by handlers subject to a compact over-order
18 price or commission marketing order. No such provi-
19 sions shall discriminate against milk producers out-
20 side the regulated area. The provisions for compen-
21 satory payments may require payment of the dif-
22 ference between the Class I price required to be paid
23 for such milk in the state of production by a federal
24 milk marketing order or state dairy regulation and

1 the Class I price established by the compact over-
2 order price or commission marketing order.

3 “(7) Provisions specially governing the pricing
4 and pooling of milk handled by partially regulated
5 plants.

6 “(8) Provisions requiring that the account of
7 any person regulated under a compact over-order
8 price shall be adjusted for any payments made to or
9 received by such persons with respect to a producer
10 settlement fund of any federal or state milk market-
11 ing order or other state dairy regulation within the
12 regulated area.

13 “(9) Provisions requiring the payment by han-
14 dlers of an assessment to cover the costs of the ad-
15 ministration and enforcement of such order pursu-
16 ant to Article VII, Section 18(a).

17 “(10) Provisions for reimbursement to partici-
18 pants of the Women, Infants and Children Special
19 Supplemental Food Program of the United States
20 Child Nutrition Act of 1966.

21 “(11) Other provisions and requirements as the
22 commission may find are necessary or appropriate to
23 effectuate the purposes of this compact and to pro-
24 vide for the payment of fair and equitable minimum
25 prices to producers.

1 **“ARTICLE V. RULEMAKING**
2 **PROCEDURE**

3 **“§ 11. RULEMAKING PROCEDURE**

4 “Before promulgation of any regulations establishing
5 a compact over-order price or commission marketing
6 order, including any provision with respect to milk supply
7 under subsection 9(f), or amendment thereof, as provided
8 in Article IV, the commission shall conduct an informal
9 rulemaking proceeding to provide interested persons with
10 an opportunity to present data and views. Such rule-
11 making proceeding shall be governed by section four of
12 the Federal Administrative Procedure Act, as amended (5
13 U.S.C. § 553). In addition, the commission shall, to the
14 extent practicable, publish notice of rulemaking proceed-
15 ings in the official register of each participating state. Be-
16 fore the initial adoption of regulations establishing a com-
17 pact over-order price or a commission marketing order and
18 thereafter before any amendment with regard to prices or
19 assessments, the commission shall hold a public hearing.
20 The commission may commence a rulemaking proceeding
21 on its own initiative or may in its sole discretion act upon
22 the petition of any person including individual milk pro-
23 ducers, any organization of milk producers or handlers,
24 general farm organizations, consumer or public interest
25 groups, and local, state or federal officials.

1 **“§ 12. FINDINGS AND REFERENDUM**

2 “(a) In addition to the concise general statement of
3 basis and purpose required by section 4(b) of the Federal
4 Administrative Procedure Act, as amended (5 U.S.C.
5 § 553(c)), the commission shall make findings of fact with
6 respect to:

7 “(1) Whether the public interest will be served
8 by the establishment of minimum milk prices to
9 dairy farmers under Article IV.

10 “(2) What level of prices will assure that pro-
11 ducers receive a price sufficient to cover their costs
12 of production and will elicit an adequate supply of
13 milk for the inhabitants of the regulated area and
14 for manufacturing purposes.

15 “(3) Whether the major provisions of the order,
16 other than those fixing minimum milk prices, are in
17 the public interest and are reasonably designed to
18 achieve the purposes of the order.

19 “(4) Whether the terms of the proposed re-
20 gional order or amendment are approved by produc-
21 ers as provided in section thirteen.

22 **“§ 13. PRODUCER REFERENDUM**

23 “(a) For the purpose of ascertaining whether the is-
24 suance or amendment of regulations establishing a com-
25 pact over-order price or a commission marketing order,
26 including any provision with respect to milk supply under

1 subsection 9(f), is approved by producers, the commission
2 shall conduct a referendum among producers. The referen-
3 dum shall be held in a timely manner, as determined by
4 regulation of the commission. The terms and conditions
5 of the proposed order or amendment shall be described
6 by the commission in the ballot used in the conduct of
7 the referendum, but the nature, content, or extent of such
8 description shall not be a basis for attacking the legality
9 of the order or any action relating thereto.

10 “(b) An order or amendment shall be deemed ap-
11 proved by producers if the commission determines that it
12 is approved by at least two-thirds of the voting producers
13 who, during a representative period determined by the
14 commission, have been engaged in the production of milk
15 the price of which would be regulated under the proposed
16 order or amendment.

17 “(c) For purposes of any referendum, the commission
18 shall consider the approval or disapproval by any coopera-
19 tive association of producers, qualified under the provi-
20 sions of the Act of Congress of February 18, 1922, as
21 amended, known as the Capper-Volstead Act, bona fide
22 engaged in marketing milk, or in rendering services for
23 or advancing the interests of producers of such commod-
24 ity, as the approval or disapproval of the producers who
25 are members or stockholders in, or under contract with,

1 such cooperative association of producers, except as pro-
2 vided in subdivision (1) hereof and subject to the provi-
3 sions of subdivisions (2) through (5) hereof.

4 “(1) No cooperative which has been formed to
5 act as a common marketing agency for both coopera-
6 tives and individual producers shall be qualified to
7 block vote for either.

8 “(2) Any cooperative which is qualified to block
9 vote shall, before submitting its approval or dis-
10 approval in any referendum, give prior written notice
11 to each of its members as to whether and how it in-
12 tends to cast its vote. The notice shall be given in
13 a timely manner as established, and in the form pre-
14 scribed, by the commission.

15 “(3) Any producer may obtain a ballot from the
16 commission in order to register approval or dis-
17 approval of the proposed order.

18 “(4) A producer who is a member of a coopera-
19 tive which has provided notice of its intent to ap-
20 prove or not to approve a proposed order, and who
21 obtains a ballot and with such ballot expresses his
22 approval or disapproval of the proposed order, shall
23 notify the commission as to the name of the coopera-
24 tive of which he or she is a member, and the com-
25 mission shall remove such producer’s name from the

1 list certified by such cooperative with its corporate
2 vote.

3 “(5) In order to insure that all milk producers
4 are informed regarding a proposed order, the com-
5 mission shall notify all milk producers that an order
6 is being considered and that each producer may reg-
7 ister his approval or disapproval with the commis-
8 sion either directly or through his or her cooperative.

9 **§ 14. TERMINATION OF OVER-ORDER PRICE OR MARKET-**
10 **ING ORDER**

11 “(a) The commission shall terminate any regulations
12 establishing an over-order price or commission marketing
13 order issued under this article whenever it finds that such
14 order or price obstructs or does not tend to effectuate the
15 declared policy of this compact.

16 “(b) The commission shall terminate any regulations
17 establishing an over-order price or a commission market-
18 ing order issued under this article whenever it finds that
19 such termination is favored by a majority of the producers
20 who, during a representative period determined by the
21 commission, have been engaged in the production of milk
22 the price of which is regulated by such order; but such
23 termination shall be effective only if announced on or be-
24 fore such date as may be specified in such marketing
25 agreement or order.

1 “(c) The termination or suspension of any order or
2 provision thereof, shall not be considered an order within
3 the meaning of this article and shall require no hearing,
4 but shall comply with the requirements for informal rule-
5 making prescribed by section four of the Federal Adminis-
6 trative Procedure Act, as amended (5 U.S.C. § 553).

7 **“ARTICLE VI. ENFORCEMENT**

8 **“§ 15. RECORDS, REPORTS, ACCESS TO PREMISES**

9 “(a) The commission may by rule and regulation pre-
10 scribe record keeping and reporting requirements for all
11 regulated persons. For purposes of the administration and
12 enforcement of this compact, the commission is authorized
13 to examine the books and records of any regulated person
14 relating to his or her milk business and for that purpose,
15 the commission’s properly designated officers, employees,
16 or agents shall have full access during normal business
17 hours to the premises and records of all regulated persons.

18 “(b) Information furnished to or acquired by the
19 commission officers, employees, or its agents pursuant to
20 this section shall be confidential and not subject to disclo-
21 sure except to the extent that the commission deems dis-
22 closure to be necessary in any administrative or judicial
23 proceeding involving the administration or enforcement of
24 this compact, an over-order price, a compact marketing
25 order, or other regulations of the commission. The com-

1 mission may promulgate regulations further defining the
2 confidentiality of information pursuant to this section.
3 Nothing in this section shall be deemed to prohibit (i) the
4 issuance of general statements based upon the reports of
5 a number of handlers, which do not identify the informa-
6 tion furnished by any person, or (ii) the publication by
7 direction of the commission of the name of any person vio-
8 lating any regulation of the commission, together with a
9 statement of the particular provisions violated by such
10 person.

11 “(c) No officer, employee, or agent of the commission
12 shall intentionally disclose information, by inference or
13 otherwise, which is made confidential pursuant to this sec-
14 tion. Any person violating the provisions of this section
15 shall upon conviction be subject to a fine of not more than
16 \$1,000 or to imprisonment for not more than one year,
17 or to both, and shall be removed from office. The commis-
18 sion shall refer any allegation of a violation of this section
19 to the appropriate state enforcement authority or United
20 States Attorney.

21 **“§ 16. SUBPOENA, HEARINGS AND JUDICIAL REVIEW**

22 “(a) The commission is hereby authorized and em-
23 powered by its members and its properly designated offi-
24 cers to administer oaths and issue subpoenas throughout
25 all signatory states to compel the attendance of witnesses

1 and the giving of testimony and the production of other
2 evidence.

3 “(b) Any handler subject to an order may file a writ-
4 ten petition with the commission stating that any such
5 order or any provision of any such order or any obligation
6 imposed in connection therewith is not in accordance with
7 law and praying for a modification thereof or to be ex-
8 empted there from. He shall thereupon be given an oppor-
9 tunity for a hearing upon such petition, in accordance with
10 regulations made by the commission. After such hearing,
11 the commission shall make a ruling upon the prayer of
12 such petition which shall be final, if in accordance with
13 law.

14 “(c) The district courts of the United States in any
15 district in which such handler is an inhabitant, or has his
16 principal place of business, are hereby vested with jurisdic-
17 tion in equity to review such ruling, provided a bill in eq-
18 uity for that purpose is filed within thirty days from the
19 date of the entry of such ruling. Service of process in such
20 proceedings may be had upon the commission by deliver-
21 ing to it a copy of the bill of complaint. If the court deter-
22 mines that such ruling is not in accordance with law, it
23 shall remand such proceedings to the commission with di-
24 rections either (1) to make such ruling as the court shall
25 determine to be in accordance with law, or (2) to take

1 such further proceedings as, in its opinion, the law re-
2 quires. The pendency of proceedings instituted pursuant
3 to this subdivision shall not impede, hinder, or delay the
4 commission from obtaining relief pursuant to section sev-
5 enteen. Any proceedings brought pursuant to section sev-
6 enteen (except where brought by way of counterclaim in
7 proceedings instituted pursuant to this section) shall abate
8 whenever a final decree has been rendered in proceedings
9 between the same parties, and covering the same subject
10 matter, instituted pursuant to this section.

11 **“§ 17. ENFORCEMENT WITH RESPECT TO HANDLERS**

12 “(a) Any violation by a handler of the provisions of
13 regulations establishing an over-order price or a commis-
14 sion marketing order, or other regulations adopted pursu-
15 ant to this compact shall:

16 “(1) Constitute a violation of the laws of each
17 of the signatory states. Such violation shall render
18 the violator subject to a civil penalty in an amount
19 as may be prescribed by the laws of each of the par-
20 ticipating states, recoverable in any state or federal
21 court of competent jurisdiction. Each day such viola-
22 tion continues shall constitute a separate violation.

23 “(2) Constitute grounds for the revocation of li-
24 cense or permit to engage in the milk business under
25 the applicable laws of the participating states.

1 “(b) With respect to handlers, the commission shall
2 enforce the provisions of this compact, regulations estab-
3 lishing an over-order price, a commission marketing order
4 or other regulations adopted hereunder by:

5 “(1) Commencing an action for legal or equi-
6 table relief brought in the name of the commission
7 in any state or federal court of competent jurisdic-
8 tion; or

9 “(2) With the agreement of the appropriate
10 state agency of a participating state, by referral to
11 the state agency for enforcement by judicial or ad-
12 ministrative remedy.

13 “(c) With respect to handlers, the commission may
14 bring an action for injunction to enforce the provisions
15 of this compact or the order or regulations adopted there-
16 under without being compelled to allege or prove that an
17 adequate remedy of law does not exist.

18 **“ARTICLE VII. FINANCE**

19 **“§ 18. FINANCE OF START-UP AND REGULAR COSTS**

20 “(a) To provide for its start-up costs, the commission
21 may borrow money pursuant to its general power under
22 section six, subdivision (d), paragraph four. In order to
23 finance the costs of administration and enforcement of
24 this compact, including payback of start-up costs, the
25 commission is hereby empowered to collect an assessment

1 from each handler who purchases milk from producers
2 within the region. If imposed, this assessment shall be col-
3 lected on a monthly basis for up to one year from the date
4 the commission convenes, in an amount not to exceed one-
5 tenth of one percent of the applicable federal market order
6 blend price per hundredweight of milk purchased from
7 producers during the period of the assessment. The initial
8 assessment may apply to the projected purchases of han-
9 dlers for the two-month period following the date the com-
10 mission convenes. In addition, if regulations establishing
11 an over-order price or a compact marketing order are
12 adopted, they may include an assessment for the specific
13 purpose of their administration. These regulations shall
14 provide for establishment of a reserve for the commission's
15 ongoing operating expenses.

16 “(b) The commission shall not pledge the credit of
17 any participating state or of the United States. Notes is-
18 sued by the commission and all other financial obligations
19 incurred by it, shall be its sole responsibility and no par-
20 ticipating state or the United States shall be liable there-
21 for.

22 **“§ 19. AUDIT AND ACCOUNTS**

23 “(a) The commission shall keep accurate accounts of
24 all receipts and disbursements, which shall be subject to
25 the audit and accounting procedures established under its

1 rules. In addition, all receipts and disbursements of funds
2 handled by the commission shall be audited yearly by a
3 qualified public accountant and the report of the audit
4 shall be included in and become part of the annual report
5 of the commission.

6 “(b) The accounts of the commission shall be open
7 at any reasonable time for inspection by duly constituted
8 officers of the participating states and by any persons au-
9 thorized by the commission.

10 “(c) Nothing contained in this article shall be con-
11 strued to prevent commission compliance with laws relat-
12 ing to audit or inspection of accounts by or on behalf of
13 any participating state or of the United States.

14 **“ARTICLE VIII. ENTRY INTO**
15 **FORCE; ADDITIONAL MEM-**
16 **BERS AND WITHDRAWAL**

17 **“§ 20. ENTRY INTO FORCE; ADDITIONAL MEMBERS**

18 “The compact shall enter into force effective when
19 enacted into law by any three states of the group of states
20 composed of Connecticut, Delaware, Maine, Maryland,
21 Massachusetts, New Hampshire, New Jersey, New York,
22 Pennsylvania, Rhode Island, Vermont, and Virginia, and
23 when the consent of Congress has been obtained. This
24 compact shall also be open to states which are contiguous

1 to any of the named states and open to states which are
2 contiguous to participating states.

3 **“§ 21. WITHDRAWAL FROM COMPACT**

4 “Any participating state may withdraw from this
5 compact by enacting a statute repealing the same, but no
6 such withdrawal shall take effect until one year after no-
7 tice in writing of the withdrawal is given to the commis-
8 sion and the governors of all other participating states.
9 No withdrawal shall affect any liability already incurred
10 by or chargeable to a party state prior to the time of such
11 withdrawal.

12 **“§ 22. SEVERABILITY**

13 “If any part or provision of this compact is adjudged
14 invalid by any court, such judgment shall be confined in
15 its operation to the part or provision directly involved in
16 the controversy in which such judgment shall have been
17 rendered and shall not affect or impair the validity of the
18 remainder of this compact.

19 “Congress reserves the right to amend or rescind this
20 interstate compact at any time.”.

21 **SEC. 2. RESERVATION OF RIGHTS.**

22 (a) IN GENERAL.—The right to alter, amend, or re-
23 peal this Act is expressly reserved.

24 (b) COMPENSATION REQUIREMENT.—When an over-
25 order price is in effect, the Commission established in this

1 compact shall compensate the Commodity Credit Corpora-
2 tion before the end of the fiscal year for the cost of any
3 increased Commodity Credit Corporation dairy purchases
4 which result from projected increased fluid milk produc-
5 tion for that fiscal year within the Compact region in ex-
6 cess of the national average rate of increase.

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