

Calendar No. 567

103D CONGRESS
2D SESSION

S. 2069

[Report No. 103-333]

A BILL

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

AUGUST 12 (legislative day, AUGUST 11), 1994

Reported with an amendment

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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

AUGUST 12 (legislative day, AUGUST 11), 1994

Reported by Mr. BIDEN, with an amendment

[Omit the part struck through and insert the part printed in italic]

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

1 Vermont, New Hampshire, Maine, Connecticut, Rhode Is-
2 land, and Massachusetts, which compact is substantially
3 as follows:

4 (a) *CONSENT OF CONGRESS.*—Congress hereby con-
5 sents to the Northeast Interstate Dairy Compact entered
6 into among the States of Vermont, New Hampshire, Maine,
7 Connecticut, Rhode Island, and Massachusetts, subject to
8 the following conditions:

9 (1) *LIMIT TO CLASS I MILK.*—The Northeast
10 Interstate Dairy Compact shall regulate only Class I
11 milk. The last sentence of compact section 2(9) and
12 compact section 10(5), except for subsections 10(5)(A)
13 and 10(5)(B), is enforceable only upon subsequent ap-
14 proval by both Houses of Congress.

15 (2) *ADDITIONAL STATES.*—Delaware, New Jer-
16 sey, New York, Pennsylvania, Maryland, and Vir-
17 ginia are the only additional States that may joint
18 the compact, individually or otherwise, provided upon
19 entry they are contiguous to participating States and
20 only upon subsequent approval by both Houses of
21 Congress.

22 (3) *OUT-OF-REGION PRODUCERS.*—When a com-
23 pact over-order price is in effect, the Commission
24 shall pay producers who pool their Class I milk with
25 partially regulated plants an over-order price equal to

1 *the over-order price received by producers who pool*
 2 *their Class I milk with a pool plant.*

3 (4) *REMOVING INCENTIVES FOR OVERPRODUC-*
 4 *TION.—The compact commission shall develop and*
 5 *implement a plan to ensure that the over-order price*
 6 *does not create an incentive for producers to generate*
 7 *additional supplies of milk.*

8 (b) *COMPACT.—The compact is substantially as fol-*
 9 *lows:*

10 **“ARTICLE I. STATEMENT OF**
 11 **PURPOSE, FINDINGS AND**
 12 **DECLARATION OF POLICY**

13 **“§ 1. STATEMENT OF PURPOSE, FINDINGS AND DECLARA-**
 14 **TION OF POLICY**

15 “The purpose of this compact is to recognize by con-
 16 stitutional prerequisite the interstate character of the
 17 northeast dairy industry and to form an interstate com-
 18 mission for the northeast region. The mission of the com-
 19 mission is to take such steps as are necessary to assure
 20 the continued viability of dairy farming in the northeast,
 21 and to assure consumers of an adequate, local supply of
 22 pure and wholesome milk.

23 “The participating states find and declare that the
 24 dairy industry is the paramount agricultural activity of the
 25 northeast. Dairy farms, and associated suppliers, market-

1 ers, processors and retailers, are an integral component
2 of the region's economy. Their ability to provide a stable,
3 local supply of pure, wholesome milk is a matter of great
4 importance to the health and welfare of the region.

5 “The participating states further find that dairy
6 farms are essential to the region's rural communities and
7 character. The farms preserve open spaces, sculpt the
8 landscape and provide the land base for a diversity of rec-
9 reational pursuits. In defining the rural character of our
10 communities and landscape, dairy farms also provide a
11 major draw for our tourist industries.

12 “By entering into this compact, the participating
13 states affirm that their ability to regulate the price which
14 northeast dairy farmers receive for their product is essen-
15 tial to the public interest. Assurance of a fair and equi-
16 table price for dairy farmers ensures their ability to pro-
17 vide milk to the market and the vitality of the northeast
18 dairy industry, with all the associated benefits.

19 “Recent, dramatic price fluctuations, with a pro-
20 nounced downward trend, threaten the viability and stabil-
21 ity of the northeast dairy region. Historically, individual
22 state regulatory action has been an effective emergency
23 remedy available to farmers confronting a distressed mar-
24 ket. The federal order system, implemented by the Agri-
25 cultural Marketing Agreement Act of 1937, establishes

1 only minimum prices for dairy products, without preempt-
2 ing the power of states to regulate milk prices above the
3 minimum levels so established. Based on this authority,
4 each state in the region has individually attempted to im-
5 plement at least one regulatory program in response to
6 the current dairy industry crisis.

7 “In today’s regional dairy marketplace, cooperative,
8 rather than individual state action may address more ef-
9 fectively the market disarray. Under our constitutional
10 system, properly authorized, states acting cooperatively
11 may exercise more power to regulate interstate commerce
12 than they may assert individually without such authority.
13 For this reason, the participating states invoke their au-
14 thority to act in common agreement, with the consent of
15 Congress, under the compact clause of the Constitution.

16 “In establishing their constitutional regulatory au-
17 thority over the region’s fluid milk market by this com-
18 pact, the participating states declare their purpose that
19 this compact neither displace the federal order system nor
20 encourage the merging of federal orders. Specific provi-
21 sions of the compact itself set forth this basic principle.

22 “Designed as a flexible mechanism able to adjust to
23 changes in a regulated marketplace, the compact also con-
24 tains a contingency provision should the federal order sys-
25 tem be discontinued. In that event, the interstate commis-

1 sion is authorized to regulate the marketplace in replace-
 2 ment of the order system. This contingent authority does
 3 not anticipate such a change, however, and should not be
 4 so construed. It is only provided should developments in
 5 the market other than establishment of this compact re-
 6 sult in discontinuance of the order system.

7 **“ARTICLE II. DEFINITIONS AND** 8 **RULES OF CONSTRUCTION**

9 **“§ 2. DEFINITIONS**

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

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

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

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

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

21 “(5) ‘Regulated area’ means any area within
 22 the region governed by and defined in regulations es-
 23 tablishing a compact over-order price or commission
 24 marketing order.

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

3 “(7) ‘Partially regulated plant’ means a milk
4 plant not located in a regulated area but having
5 Class I distribution within such area, or receipts
6 from producers located in such area. Commission
7 regulations may exempt plants having such distribu-
8 tion or receipts in amounts less than the limits de-
9 fined therein.

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

19 “(9) ‘Commission marketing order’ means regu-
20 lations adopted by the commission pursuant to sec-
21 tions nine and ten of this compact in place of a ter-
22 minated federal marketing order or state dairy regu-
23 lation. Such order may apply throughout the region
24 or in any part or parts thereof as defined in the reg-

1 ulations of the commission. Such order may estab-
2 lish minimum prices for any or all classes of milk.

3 “(10) ‘Milk’ means the lacteal secretion of cows
4 and includes all skim, butterfat, or other constitu-
5 ents obtained from separation or any other process.
6 The term is used in its broadest sense and may be
7 further defined by the commission for regulatory
8 purposes.

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

13 “(12) ‘State dairy regulation’ means any state
14 regulation of dairy prices, and associated assess-
15 ments, whether by statute, marketing order or other-
16 wise.

17 **“§ 3. RULES OF CONSTRUCTION**

18 “(a) This compact shall not be construed to displace
19 existing federal milk marketing orders or state dairy regu-
20 lation in the region but to supplement them. In the event
21 some or all federal orders in the region are discontinued,
22 the compact shall be construed to provide the commission
23 the option to replace them with one or more commission
24 marketing orders pursuant to this compact.

1 “(b) This compact shall be construed liberally in
2 order to achieve the purposes and intent enunciated in sec-
3 tion one. It is the intent of this compact to establish a
4 basic structure by which the commission may achieve
5 those purposes through the application, adaptation and
6 development of the regulatory techniques historically asso-
7 ciated with milk marketing and to afford the commission
8 broad flexibility to devise regulatory mechanisms to
9 achieve the purposes of this compact. In accordance with
10 this intent, the technical terms which are associated with
11 market order regulation and which have acquired com-
12 monly understood general meanings are not defined herein
13 but the commission may further define the terms used in
14 this compact and develop additional concepts and define
15 additional terms as it may find appropriate to achieve its
16 purposes.

17 **“ARTICLE III. COMMISSION**
18 **ESTABLISHED**

19 **“§ 4. COMMISSION ESTABLISHED**

20 “There is hereby created a commission to administer
21 the compact, composed of delegations from each state in
22 the region. A delegation shall include not less than three
23 nor more than five persons. Each delegation shall include
24 at least one dairy farmer who is engaged in the production
25 of milk at the time of appointment or reappointment, and

1 one consumer representative. Delegation members shall be
2 residents and voters of, and subject to such confirmation
3 process as is provided for in, the appointing state. Delegation
4 members shall serve no more than three consecutive
5 terms with no single term of more than four years, and
6 be subject to removal for cause. In all other respects, delegation
7 members shall serve in accordance with the laws
8 of the state represented. The compensation, if any, of the
9 members of a state delegation shall be determined and
10 paid by each state, but their expenses shall be paid by
11 the commission. Each state delegation shall be entitled to
12 one vote in the conduct of the commission's affairs.

13 **“§ 5. VOTING REQUIREMENTS**

14 “All actions taken by the commission, except for the
15 establishment or termination of an over-order price or
16 commission marketing order, and the adoption, amendment
17 or rescission of the commission's bylaws, shall be by
18 majority vote of the delegations present. Establishment or
19 termination of an over-order price or commission marketing
20 order shall require at least a two-thirds vote of the
21 delegations present. The establishment of a regulated area
22 which covers all or part of a participating state shall require
23 also the affirmative vote of that state's delegation.
24 A majority of the delegations from the participating states

1 shall constitute a quorum for the conduct of the commis-
2 sion's business.

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

4 “(a) The commission shall elect annually from among
5 the members of the participating state delegations a chair-
6 person, a vice-chairperson, and a treasurer. The commis-
7 sion shall appoint an executive director and fix his or her
8 duties and compensation. The executive director shall
9 serve at the pleasure of the commission, and, together with
10 the treasurer, shall be bonded in an amount determined
11 by the commission. The commission may establish through
12 its by-laws an executive committee composed of one mem-
13 ber elected by each delegation.

14 “(b) The commission shall adopt by-laws for the con-
15 duct of its business by a two-thirds vote, and shall have
16 the power by the same vote to amend and rescind these
17 by-laws. The commission shall publish its by-laws in con-
18 venient form with the appropriate agency or officer in each
19 of the participating states. The by-laws shall provide for
20 appropriate notice to the delegations of all commission
21 meetings and hearings and of the business to be trans-
22 acted at such meetings or hearings. Notice also shall be
23 given to other agencies or officers of participating states
24 as provided by the laws of those states.

1 “(c) The commission shall file an annual report with
2 the Secretary of Agriculture of the United States, and
3 with each of the participating states by submitting copies
4 to the governor, both houses of the legislature, and the
5 head of the state department having responsibilities for
6 agriculture.

7 “(d) In addition to the powers and duties elsewhere
8 prescribed in this compact, the commission shall have the
9 power—

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

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

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

17 “(4) to borrow money and to issue notes, to
18 provide for the rights of the holders thereof and to
19 pledge the revenue of the commission as security
20 therefor, subject to the provisions of section eighteen
21 of this compact;

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

1 “(6) to create and abolish such offices, employ-
2 ments, and positions as it deems necessary for the
3 purposes of the compact and provide for the re-
4 moval, term, tenure, compensation, fringe benefits,
5 pension, and retirement rights of its officers and em-
6 ployees. The commission may also retain personal
7 services on a contract basis.

8 **“§ 7. RULEMAKING POWER**

9 “In addition to the power to promulgate a compact
10 over-order price or commission marketing orders as pro-
11 vided by this compact, the commission is further empow-
12 ered to make and enforce such additional rules and regula-
13 tions as it deems necessary to implement any provisions
14 of this compact, or to effectuate in any other respect the
15 purposes of this compact.

16 **“ARTICLE IV. POWERS OF THE**
17 **COMMISSION**

18 **“§ 8. POWERS TO PROMOTE REGULATORY UNIFORMITY,**
19 **SIMPLICITY, AND INTERSTATE COOPERATION**

20 “The commission is hereby empowered to:

21 “(1) Investigate or provide for investigations or
22 research projects designed to review the existing
23 laws and regulations of the participating states, to
24 consider their administration and costs, to measure
25 their impact on the production and marketing of

1 milk and their effects on the shipment of milk and
2 milk products within the region.

3 “(2) Prepare and transmit to the participating
4 states model dairy laws and regulations dealing with
5 the inspection of farms and plants, sanitary codes,
6 labels for dairy products and their imitations, stand-
7 ards for dairy products, license standards, producer
8 security programs, and fair trade laws.

9 “(3) Study and recommend to the participating
10 states joint or cooperative programs for the adminis-
11 tration of the dairy laws and regulations and to pre-
12 pare estimates of cost savings and benefits of such
13 programs.

14 “(4) Encourage the harmonious relationships
15 between the various elements in the industry for the
16 solution of their material problems. Conduct sympo-
17 siums or conferences designed to improve industry
18 relations, or a better understanding of problems.

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

22 “(6) Review the existing marketing system for
23 milk and milk products and recommend changes in
24 the existing structure for assembly and distribution

1 of milk which may assist, improve, or promote more
2 efficient assembly and distribution of milk.

3 “(7) Investigate costs and charges for produc-
4 ing, hauling, handling, processing, distributing, sell-
5 ing and for all other services performed with respect
6 to milk.

7 “(8) Examine current economic forces affecting
8 producers, probable trends in production and con-
9 sumption, the level of dairy farm prices in relation
10 to costs, the financial conditions of dairy farmers,
11 and the need for an emergency order to relieve criti-
12 cal conditions on dairy farms.

13 **“§ 9. EQUITABLE FARM PRICES**

14 “(a) The powers granted in this section and section
15 ten shall apply only to the establishment of a compact
16 over-order price, so long as federal milk marketing orders
17 remain in effect in the region. In the event that any or
18 all such orders are terminated, this article shall authorize
19 the commission to establish one or more commission mar-
20 keting orders, as herein provided, in the region or parts
21 thereof as defined in the order.

22 “(b) A compact over-order price established pursuant
23 to this section shall apply only to Class I milk. Such over-
24 order price shall not exceed one dollar fifty cents per gal-
25 lon. Beginning in nineteen hundred ninety, and using that

1 year as a base, the foregoing one dollar fifty cents per
2 gallon maximum shall be adjusted annually by the rate
3 of change in the Consumer Price Index as reported by the
4 Bureau of Labor Statistics of the United States Depart-
5 ment of Labor. For purposes of the pooling and equali-
6 zation of an over-order price, the value of milk used in
7 other use classifications shall be calculated at the appro-
8 priate class price established pursuant to the applicable
9 federal order or state dairy regulation and the value of
10 unregulated milk shall be calculated in relation to the
11 nearest prevailing class price in accordance with and sub-
12 ject to such adjustments as the commission may prescribe
13 in regulations.

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

16 “(d) The commission is hereby empowered to estab-
17 lish the minimum price for milk to be paid by pool plants,
18 partially regulated plants and all other handlers receiving
19 milk from producers located in a regulated area. This
20 price shall be established either as a compact over-order
21 price or by one or more commission marketing orders.
22 Whenever such a price has been established by either type
23 of regulation, the legal obligation to pay such price shall
24 be determined solely by the terms and purpose of the regu-
25 lation without regard to the situs of the transfer of title,

1 possession or any other factors not related to the purposes
2 of the regulation and this compact. Producer-handlers as
3 defined in an applicable federal market order shall not be
4 subject to a compact over-order price. The commission
5 shall provide for similar treatment of producer-handlers
6 under commission marketing orders.

7 “(e) In determining the price, the commission shall
8 consider the balance between production and consumption
9 of milk and milk products in the regulated area, the costs
10 of production including, but not limited to the price of
11 feed, the cost of labor including the reasonable value of
12 the producer’s own labor and management, machinery ex-
13 pense, and interest expense, the prevailing price for milk
14 outside the regulated area, the purchasing power of the
15 public and the price necessary to yield a reasonable return
16 to the producer and distributor.

17 “(f) When establishing a compact over-order price,
18 the commission shall take such action as necessary and
19 feasible to ensure that the over-order price does not create
20 an incentive for producers to generate additional supplies
21 of milk.

22 “(g) The commission shall whenever possible enter
23 into agreements with state or federal agencies for ex-
24 change of information or services for the purpose of reduc-
25 ing regulatory burden and cost of administering the com-

1 pact. The commission may reimburse other agencies for
2 the reasonable cost of providing these services.

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

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

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

10 “(2) With respect to a commission marketing
11 order only, provisions establishing or providing a
12 method for establishing separate minimum prices for
13 each use classification prescribed by the commission,
14 or a single minimum price for milk purchased from
15 producers or associations of producers.

16 “(3) With respect to an over-order minimum
17 price, provisions establishing or providing a method
18 for establishing such minimum price for Class I
19 milk.

20 “(4) Provisions for establishing either an over-
21 order price or a commission marketing order may
22 make use of any reasonable method for establishing
23 such price or prices including flat pricing and for-
24 mula pricing. Provision may also be made for loca-
25 tion adjustments, zone differentials and for competi-

1 tive credits with respect to regulated handlers who
2 market outside the regulated area.

3 “(5) Provisions for the payment to all produc-
4 ers and associations of producers delivering milk to
5 all handlers of uniform prices for all milk so deliv-
6 ered, irrespective of the uses made of such milk by
7 the individual handler to whom it is delivered, or for
8 the payment of producers delivering milk to the
9 same handler of uniform prices for all milk delivered
10 by them.

11 “(A) With respect to regulations establish-
12 ing a compact over-order price, the commission
13 may establish one equalization pool within the
14 regulated area for the sole purpose of equalizing
15 returns to producers throughout the regulated
16 area.

17 “(B) With respect to any commission mar-
18 keting order, as defined in section two, subdivi-
19 sion nine, which replaces one or more termi-
20 nated federal orders or state dairy regulation,
21 the marketing area of now separate state or
22 federal orders shall not be merged without the
23 affirmative consent of each state, voting
24 through its delegation, which is partly or wholly
25 included within any such new marketing area.

1 “(6) Provisions requiring persons who bring
2 Class I milk into the regulated area to make com-
3 pensatory payments with respect to all such milk to
4 the extent necessary to equalize the cost of milk pur-
5 chased by handlers subject to a compact over-order
6 price or commission marketing order. No such provi-
7 sions shall discriminate against milk producers out-
8 side the regulated area. The provisions for compen-
9 satory payments may require payment of the dif-
10 ference between the Class I price required to be paid
11 for such milk in the state of production by a federal
12 milk marketing order or state dairy regulation and
13 the Class I price established by the compact over-
14 order price or commission marketing order.

15 “(7) Provisions specially governing the pricing
16 and pooling of milk handled by partially regulated
17 plants.

18 “(8) Provisions requiring that the account of
19 any person regulated under a compact over-order
20 price shall be adjusted for any payments made to or
21 received by such persons with respect to a producer
22 settlement fund of any federal or state milk market-
23 ing order or other state dairy regulation within the
24 regulated area.

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

5 “(10) Provisions for reimbursement to partici-
6 pants of the Women, Infants and Children Special
7 Supplemental Food Program of the United States
8 Child Nutrition Act of 1966.

9 “(11) Other provisions and requirements as the
10 commission may find are necessary or appropriate to
11 effectuate the purposes of this compact and to pro-
12 vide for the payment of fair and equitable minimum
13 prices to producers.

14 **“ARTICLE V. RULEMAKING**
15 **PROCEDURE**

16 **“§ 11. RULEMAKING PROCEDURE**

17 “Before promulgation of any regulations establishing
18 a compact over-order price or commission marketing
19 order, including any provision with respect to milk supply
20 under subsection 9(f), or amendment thereof, as provided
21 in Article IV, the commission shall conduct an informal
22 rulemaking proceeding to provide interested persons with
23 an opportunity to present data and views. Such rule-
24 making proceeding shall be governed by section four of
25 the Federal Administrative Procedure Act, as amended (5

1 U.S.C. § 553). In addition, the commission shall, to the
2 extent practicable, publish notice of rulemaking proceed-
3 ings in the official register of each participating state. Be-
4 fore the initial adoption of regulations establishing a com-
5 pact over-order price or a commission marketing order and
6 thereafter before any amendment with regard to prices or
7 assessments, the commission shall hold a public hearing.
8 The commission may commence a rulemaking proceeding
9 on its own initiative or may in its sole discretion act upon
10 the petition of any person including individual milk pro-
11 ducers, any organization of milk producers or handlers,
12 general farm organizations, consumer or public interest
13 groups, and local, state or federal officials.

14 **“§ 12. FINDINGS AND REFERENDUM**

15 “(a) In addition to the concise general statement of
16 basis and purpose required by section 4(b) of the Federal
17 Administrative Procedure Act, as amended (5 U.S.C.
18 § 553(c)), the commission shall make findings of fact with
19 respect to:

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

23 “(2) What level of prices will assure that pro-
24 ducers receive a price sufficient to cover their costs
25 of production and will elicit an adequate supply of

1 milk for the inhabitants of the regulated area and
2 for manufacturing purposes.

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

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

10 **“§ 13. PRODUCER REFERENDUM**

11 “(a) For the purpose of ascertaining whether the is-
12 suance or amendment of regulations establishing a com-
13 pact over-order price or a commission marketing order,
14 including any provision with respect to milk supply under
15 subsection 9(f), is approved by producers, the commission
16 shall conduct a referendum among producers. The referen-
17 dum shall be held in a timely manner, as determined by
18 regulation of the commission. The terms and conditions
19 of the proposed order or amendment shall be described
20 by the commission in the ballot used in the conduct of
21 the referendum, but the nature, content, or extent of such
22 description shall not be a basis for attacking the legality
23 of the order or any action relating thereto.

24 “(b) An order or amendment shall be deemed ap-
25 proved by producers if the commission determines that it

1 is approved by at least two-thirds of the voting producers
2 who, during a representative period determined by the
3 commission, have been engaged in the production of milk
4 the price of which would be regulated under the proposed
5 order or amendment.

6 “(c) For purposes of any referendum, the commission
7 shall consider the approval or disapproval by any coopera-
8 tive association of producers, qualified under the provi-
9 sions of the Act of Congress of February 18, 1922, as
10 amended, known as the Capper-Volstead Act, bona fide
11 engaged in marketing milk, or in rendering services for
12 or advancing the interests of producers of such commod-
13 ity, as the approval or disapproval of the producers who
14 are members or stockholders in, or under contract with,
15 such cooperative association of producers, except as pro-
16 vided in subdivision (1) hereof and subject to the provi-
17 sions of subdivisions (2) through (5) hereof.

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

22 “(2) Any cooperative which is qualified to block
23 vote shall, before submitting its approval or dis-
24 approval in any referendum, give prior written notice
25 to each of its members as to whether and how it in-

1 tends to cast its vote. The notice shall be given in
2 a timely manner as established, and in the form pre-
3 scribed, by the commission.

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

7 “(4) A producer who is a member of a coopera-
8 tive which has provided notice of its intent to ap-
9 prove or not to approve a proposed order, and who
10 obtains a ballot and with such ballot expresses his
11 approval or disapproval of the proposed order, shall
12 notify the commission as to the name of the coopera-
13 tive of which he or she is a member, and the com-
14 mission shall remove such producer’s name from the
15 list certified by such cooperative with its corporate
16 vote.

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

1 **“§ 14. TERMINATION OF OVER-ORDER PRICE OR MARKET-**
2 **ING ORDER**

3 “(a) The commission shall terminate any regulations
4 establishing an over-order price or commission marketing
5 order issued under this article whenever it finds that such
6 order or price obstructs or does not tend to effectuate the
7 declared policy of this compact.

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

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

1 **“ARTICLE VI. ENFORCEMENT**

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

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

12 “(b) Information furnished to or acquired by the
13 commission officers, employees, or its agents pursuant to
14 this section shall be confidential and not subject to disclo-
15 sure except to the extent that the commission deems dis-
16 closure to be necessary in any administrative or judicial
17 proceeding involving the administration or enforcement of
18 this compact, an over-order price, a compact marketing
19 order, or other regulations of the commission. The com-
20 mission may promulgate regulations further defining the
21 confidentiality of information pursuant to this section.
22 Nothing in this section shall be deemed to prohibit (i) the
23 issuance of general statements based upon the reports of
24 a number of handlers, which do not identify the informa-
25 tion furnished by any person, or (ii) the publication by

1 direction of the commission of the name of any person vio-
2 lating any regulation of the commission, together with a
3 statement of the particular provisions violated by such
4 person.

5 “(c) No officer, employee, or agent of the commission
6 shall intentionally disclose information, by inference or
7 otherwise, which is made confidential pursuant to this sec-
8 tion. Any person violating the provisions of this section
9 shall upon conviction be subject to a fine of not more than
10 \$1,000 or to imprisonment for not more than one year,
11 or to both, and shall be removed from office. The commis-
12 sion shall refer any allegation of a violation of this section
13 to the appropriate state enforcement authority or United
14 States Attorney.

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

16 “(a) The commission is hereby authorized and em-
17 powered by its members and its properly designated offi-
18 cers to administer oaths and issue subpoenas throughout
19 all signatory states to compel the attendance of witnesses
20 and the giving of testimony and the production of other
21 evidence.

22 “(b) Any handler subject to an order may file a writ-
23 ten petition with the commission stating that any such
24 order or any provision of any such order or any obligation
25 imposed in connection therewith is not in accordance with

1 law and praying for a modification thereof or to be ex-
2 empted therefrom. He shall thereupon be given an oppor-
3 tunity for a hearing upon such petition, in accordance with
4 regulations made by the commission. After such hearing,
5 the commission shall make a ruling upon the prayer of
6 such petition which shall be final, if in accordance with
7 law.

8 “(c) The district courts of the United States in any
9 district in which such handler is an inhabitant, or has his
10 principal place of business, are hereby vested with jurisdic-
11 tion in equity to review such ruling, provided a bill in eq-
12 uity for that purpose is filed within thirty days from the
13 date of the entry of such ruling. Service of process in such
14 proceedings may be had upon the commission by deliver-
15 ing to it a copy of the bill of complaint. If the court deter-
16 mines that such ruling is not in accordance with law, it
17 shall remand such proceedings to the commission with di-
18 rections either (1) to make such ruling as the court shall
19 determine to be in accordance with law, or (2) to take
20 such further proceedings as, in its opinion, the law re-
21 quires. The pendency of proceedings instituted pursuant
22 to this subdivision shall not impede, hinder, or delay the
23 commission from obtaining relief pursuant to section sev-
24 enteen. Any proceedings brought pursuant to section sev-
25 enteen (except where brought by way of counterclaim in

1 proceedings instituted pursuant to this section) shall abate
2 whenever a final decree has been rendered in proceedings
3 between the same parties, and covering the same subject
4 matter, instituted pursuant to this section.

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

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

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

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

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

24 “(1) Commencing an action for legal or equi-
25 table relief brought in the name of the commission

1 in any state or federal court of competent jurisdic-
2 tion; or

3 “(2) With the agreement of the appropriate
4 state agency of a participating state, by referral to
5 the state agency for enforcement by judicial or ad-
6 ministrative remedy.

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

12 **“ARTICLE VII. FINANCE**

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

14 “(a) To provide for its start-up costs, the commission
15 may borrow money pursuant to its general power under
16 section six, subdivision (d), paragraph four. In order to
17 finance the costs of administration and enforcement of
18 this compact, including payback of start-up costs, the
19 commission is hereby empowered to collect an assessment
20 from each handler who purchases milk from producers
21 within the region. If imposed, this assessment shall be col-
22 lected on a monthly basis for up to one year from the date
23 the commission convenes, in an amount not to exceed one-
24 tenth of one percent of the applicable federal market order
25 blend price per hundredweight of milk purchased from

1 producers during the period of the assessment. The initial
2 assessment may apply to the projected purchases of han-
3 dlers for the two-month period following the date the com-
4 mission convenes. In addition, if regulations establishing
5 an over-order price or a compact marketing order are
6 adopted, they may include an assessment for the specific
7 purpose of their administration. These regulations shall
8 provide for establishment of a reserve for the commission's
9 ongoing operating expenses.

10 “(b) The commission shall not pledge the credit of
11 any participating state or of the United States. Notes is-
12 sued by the commission and all other financial obligations
13 incurred by it, shall be its sole responsibility and no par-
14 ticipating state or the United States shall be liable there-
15 for.

16 **“§ 19. AUDIT AND ACCOUNTS**

17 “(a) The commission shall keep accurate accounts of
18 all receipts and disbursements, which shall be subject to
19 the audit and accounting procedures established under its
20 rules. In addition, all receipts and disbursements of funds
21 handled by the commission shall be audited yearly by a
22 qualified public accountant and the report of the audit
23 shall be included in and become part of the annual report
24 of the commission.

1 “(b) The accounts of the commission shall be open
2 at any reasonable time for inspection by duly constituted
3 officers of the participating states and by any persons au-
4 thorized by the commission.

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

9 **“ARTICLE VIII. ENTRY INTO**
10 **FORCE; ADDITIONAL MEM-**
11 **BERS AND WITHDRAWAL**

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

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

22 **“§ 21. WITHDRAWAL FROM COMPACT**

23 “Any participating state may withdraw from this
24 compact by enacting a statute repealing the same, but no
25 such withdrawal shall take effect until one year after no-

1 tice in writing of the withdrawal is given to the commis-
2 sion and the governors of all other participating states.
3 No withdrawal shall affect any liability already incurred
4 by or chargeable to a party state prior to the time of such
5 withdrawal.

6 **“§ 22. SEVERABILITY**

7 “If any part or provision of this compact is adjudged
8 invalid by any court, such judgment shall be confined in
9 its operation to the part or provision directly involved in
10 the controversy in which such judgment shall have been
11 rendered and shall not affect or impair the validity of the
12 remainder of this compact.

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

15 **SEC. 2. RESERVATION OF RIGHTS.**

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

18 (b) COMPENSATION REQUIREMENT.—When an over-
19 order price is in effect, the Commission established in this
20 compact shall compensate the Commodity Credit Corpora-
21 tion before the end of the fiscal year for the cost of any
22 increased Commodity Credit Corporation dairy purchases
23 which result from projected increased fluid milk produc-
24 tion for that fiscal year within the Compact region in ex-
25 cess of the national average rate of increase.

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