
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 365 Session of
1999

INTRODUCED BY MADIGAN, SLOCUM, HELFRICK, KUKOVICH, COSTA,
ROBBINS, MOWERY, EARLL, KASUNIC, MUSTO, GERLACH, BOSCOLA,
PUNT, WHITE, MELLOW, SCHWARTZ, STOUT, THOMPSON, WOZNIAK,
HART, BELAN, JUBELIRER, BRIGHTBILL, LEMMOND, LAVALLE, HOLL,
CONTI, DENT AND CORMAN, FEBRUARY 11, 1999

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 11, 1999

AN ACT

1 Providing for the Northeast Interstate Dairy Compact and for its
2 implementation.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Northeast
7 Interstate Dairy Compact Law.

8 Section 2. Conditions imposed by Congress.

9 (a) General rule.--The compact which is set forth and
10 adopted under section 3 shall be subject to the conditions
11 imposed by Congress in section 147 of Title 1 of the Federal
12 Agriculture Improvement and Reform Act of 1996 (Public Law 104-
13 127, 110 Stat. 888), as described in this section.

14 (b) Finding of compelling public interest.--Based upon a
15 finding by the United States Secretary of Agriculture of a

1 compelling public interest in the compact region, the Secretary
2 of Agriculture grants the states that have ratified the
3 Northeast Interstate Dairy Compact the authority to implement
4 the Northeast Interstate Dairy Compact.

5 (c) Limitation on manufacturing price.--The Northeast
6 Interstate Dairy Compact Commissioner shall not regulate Class
7 II, Class III or Class III-A milk used for manufacturing
8 purposes or any other milk, other than Class I (fluid) milk, as
9 defined by a Federal milk marketing order issued under section
10 8c of the Agricultural Adjustment Act (50 Stat. 246 7 U.S.C.
11 608c).

12 (d) Duration.--Consent for the Northeast Interstate Dairy
13 Compact shall terminate concurrently, with the implementation by
14 the United States Secretary of Agriculture of the dairy pricing
15 and Federal milk marketing order consolidation and reforms.

16 (e) Additional states.--Delaware, New Jersey, New York,
17 Pennsylvania, Maryland and Virginia are the only additional
18 states that may join the Northeast Interstate Dairy Compact,
19 individually or otherwise, if upon entry the state is contiguous
20 to a participating state and if the Congress consents to the
21 entry of the state into the compact.

22 (f) Compensation of Commodity Credit Corporation.--Before
23 the end of each fiscal year that a compact price regulation is
24 in effect, the commission shall compensate the Commodity Credit
25 Corporation for the cost of any purchases of milk and milk
26 products by the corporation that result from the projected rate
27 of increase in milk production for the fiscal year within the
28 compact region in excess of the projected national average rate
29 of the increase in milk production, as determined by the
30 Secretary of Agriculture. At the request of the commission, the

1 administrator of the applicable Federal milk marketing order
2 issued under section 8c of the Agricultural Adjustment Act shall
3 provide technical assistance to the commission and be
4 compensated for the assistance.

5 (g) Further conditions.--The Northeast Interstate Dairy
6 Compact Commission shall not prohibit or in any way limit the
7 marketing in the compact region of any milk or milk product
8 produced in any other production area in the United States. The
9 commission shall respect and abide by the ongoing procedures
10 between Federal milk marketing orders with respect to the
11 sharing of proceeds from sales within the compact region of bulk
12 milk, packaged milk or producer milk originating from outside of
13 the compact region. The commission shall not use compensatory
14 payments under subdivision 6 of section 10 of this compact as a
15 barrier to the entry of milk into the compact region or for any
16 other purpose. Establishment of a compact over-order price in
17 itself shall not be considered a compensatory payment or a
18 limitation or prohibition on the marketing of milk.

19 Section 3. Northeast Interstate Dairy Compact.

20 The Northeast Interstate Dairy Compact as set forth in this
21 section is hereby adopted and entered into with all jurisdiction
22 joining therein. The compact is as follows:

23 NORTHEAST INTERSTATE DAIRY COMPACT

24 Article I. Statement of Purpose, Findings and

25 Declaration of Policy

26 Section 1. Statement of purpose, findings and

27 declaration of policy.

28 Article II. Definitions and Rules of Construction

29 Section 2. Definitions.

30 Section 3. Rules of construction.

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2 Section 4. Commission established.
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19 Section 16. Subpoena, hearings and judicial review.
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21 Article VII. Finance
22 Section 18. Finance of start-up and regular costs.
23 Section 19. Audit and accounts.
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25 and Withdrawal
26 Section 20. Entry into force, additional members.
27 Section 21. Withdrawal from compact.
28 Section 22. Severability.
29 Section 23. Reservation of rights.

30 ARTICLE I

1 STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

2 Section 1. Statement of purpose, findings and declaration of
3 policy.

4 (1) The purpose of this compact is to recognize by
5 constitutional prerequisite the interstate character of the
6 Northeast Dairy Industry and to form an interstate commission
7 for the northeast region. The mission of the commission is to
8 assist the participating states to modify existing laws and
9 regulations which add to the cost of moving milk among the
10 states or which impede the free flow of milk in the Northeast,
11 to encourage a more efficient assembly and distribution system
12 for the benefit of producers and consumers, to encourage more
13 participation by dairy farmers in cooperative organizations, to
14 take such steps as are necessary to assure the continued
15 viability of dairy farming in the northeast and to assure
16 consumers of an adequate supply of pure and wholesome Class I
17 milk.

18 (2) The participating states find and declare that the
19 industry is the paramount agricultural activity of the northeast
20 in a region comprising the New England States and the Middle
21 Atlantic States and is a business affecting the public health
22 and welfare of the inhabitants of the northeast; that the
23 production and marketing of milk of the dairy farms of states of
24 the northeast region is of vast economic importance to the
25 region; that compliance with reasonable and consistent
26 requirements for the production and marketing of a safe and high
27 quality milk supply is a matter of great importance both to the
28 welfare of dairy farmers of the northeast and the health and
29 welfare of the consumers of milk and dairy products; that the
30 production conditions in the northeast, including the climate,

1 topography and soils are about the same but marketing conditions
2 are unique as compared to the remainder of the United States and
3 that all the milk in the northeast is produced for fluid markets
4 under conditions highly favorable to a pronounced seasonality of
5 production. The natural marketing area, under modern day
6 conditions of production and marketing, lies within the
7 boundaries of many different northeastern states with widely
8 different laws and regulations which govern the economic climate
9 and sanitary conditions under which milk and dairy products are
10 marketed. Regulatory barriers have contributed significantly to
11 the cost of assembly, processing and distribution of milk with
12 an economic loss to farmers and added costs to consumers. The
13 marketing system for milk and dairy products in the northeast
14 has been and still is fragmented. Assembly, administration,
15 operating and sales costs are excessively high. In some areas
16 costs to consumers may be excessively high. Cooperative
17 membership in this region is much below membership levels in
18 most other regions across the country. A common marketing area
19 in the northeast is necessary if there is to be a prosperous
20 dairy industry and it is in the best interests of consumers. The
21 historical development of the dairy industry from a local
22 business to a regional enterprise has led to a lack of
23 uniformity of laws and regulations involving inspection of farms
24 and plants, sanitary codes, labeling on dairy products and their
25 imitations, standards for dairy products, licensing of milk
26 dealers, economic controls, fair trade laws and the terms of
27 Federal and State milk marketing orders. The lack of uniformity
28 of laws and regulations has interfered with the efficient flow
29 of milk and milk products, reduced the efficiency of
30 distribution, raised the price of milk and dairy products to

1 consumers, weakened the bargaining power of cooperatives and
2 threatened an adequate supply of pure and wholesome milk for
3 consumers.

4 (3) The Federal milk marketing orders promulgated under the
5 Agricultural Marketing Agreement Act of 1937 establish only
6 minimum prices to farmers. The Agricultural Marketing Agreement
7 Act of 1937 does not preempt the power of the states to
8 establish prices above the level established under Federal
9 marketing orders.

10 (4) The need to balance the Federal budget has required
11 drastic reduction in the Federal support price for milk. The
12 production of milk in the northeast has decreased significantly
13 in response to lower prices and to the Federal Dairy Termination
14 Program, but milk production has nevertheless continued to
15 increase in other regions of the country. As a result, there
16 remains a surplus of milk nationally which continues to trigger
17 reduction in the Federal Price Support Program.

18 (5) As a result of declining farm prices, a seasonal
19 shortage of milk has developed in the northeast. Dairy farmers
20 in the region face a critical economic crisis if the price
21 received for milk is not increased. Ultimately, this
22 agricultural crisis will have a depressing effect upon the
23 general economy of the northeast and result in a serious
24 shortage of pure and wholesome fluid milk for consumers
25 throughout the northeast. If current efforts by dairy farmers to
26 obtain a higher price for fluid milk do not succeed, emergency
27 conditions will require the existence of a readily available
28 mechanism to establish higher Class I prices throughout the
29 region.

30 (6) This compact is entered in order to enable the signatory

1 states to act together to achieve uniformity of laws and
2 regulations governing the production and marketing of milk in
3 the northeast, to develop consistent policies and procedures, to
4 eliminate unnecessary duplication of licensing, producer
5 security, reports, audits and inspection, and to establish,
6 after examinations and investigations, what prices, terms and
7 conditions relative to milk in the localities and markets within
8 the northeast will be most beneficial to the public interest and
9 will best promote prosperity in the dairy industry.

10 (7) The failure of dairy farmers to receive a reasonable
11 return for their labor and investment will seriously impair
12 their ability to produce, under proper sanitary conditions, a
13 supply of pure and wholesome milk which is adequate for the
14 needs of the inhabitants of the participating states, as well as
15 negatively impact the general economy of both participating
16 states and the associated local government subdivisions. The
17 regulation of the dairy industry as herein provided is essential
18 for the public interest and such oversight shall be deemed to be
19 an exercise of the police power of the participating states for
20 the protection of the public safety, welfare, prosperity, health
21 and living conditions of the people thereof.

22 ARTICLE II

23 DEFINITIONS AND RULES OF CONSTRUCTION

24 Section 2. Definitions.

25 For the purposes of this compact and of any supplemental or
26 concurring legislation enacted pursuant thereto, except as may
27 be otherwise required by the context:

28 "Class I milk." Milk disposed of in fluid form or as a fluid
29 milk product, subject to further definition in accordance with
30 the principles expressed in subdivision 2 of section 3 of this

1 compact.

2 "Commission." The commission established by this compact.

3 "Commission marketing order." Regulations adopted by the
4 commission pursuant to sections 9 and 10 of this compact in
5 place of a terminated Federal marketing order or State dairy
6 regulation. Such order may apply throughout the region or in any
7 part or parts thereof as defined in the regulations of the
8 commission. Such order may establish minimum prices for any or
9 all classes of milk.

10 "Compact." This interstate compact.

11 "Compact over-order price." A minimum price required to be
12 paid to producers for Class I milk established by the commission
13 in regulations adopted pursuant to sections 9 and 10 of this
14 compact, which is above the price established in Federal
15 marketing orders or by State farm price regulation in the
16 regulated area. Such price may apply throughout the region or in
17 any part or parts thereof as defined in the regulations of the
18 commission.

19 "Milk." The lacteal secretion of cows and includes all skim,
20 butterfat or other constituents obtained from separation or any
21 other process. The term is used in its broadest sense and may be
22 further defined by the commission for regulatory purposes.

23 "Partially regulated plant." A milk plant not located in a
24 regulated area but having Class I distribution within such area
25 or receipts from producers located in such area. Commission
26 regulations may exempt plants having such distribution or
27 receipts in amounts less than the limits defined therein.

28 "Participating state." A state which has become a party to
29 this compact by the enactment of concurring legislation.

30 "Pool plant." Any milk plant located in a regulated area.

1 "Region." The territorial limits of the states which are or
2 become parties to this compact.

3 "Regulated area." Any area within the region governed by and
4 defined in regulation establishing a compact over-order price or
5 commission marketing order.

6 "State dairy regulation." Any state regulation of dairy
7 prices and associated assessments, whether by statute, marketing
8 order or otherwise.

9 Section 3. Rules of construction.

10 (1) This compact shall not be construed to displace existing
11 Federal milk marketing orders nor State dairy regulation in the
12 region but to supplement them. In the event some or all Federal
13 orders in the region are discontinued, the compact shall be
14 construed to provide the commission the option to replace them
15 with one or more commission marketing orders pursuant to this
16 compact.

17 (2) This compact shall be construed liberally in order to
18 achieve the purposes and intent enunciated in section 1 of this
19 compact. It is the intent of this compact to establish a basic
20 structure by which the commission may achieve those purposes
21 through the application, adaptation and development of the
22 regulatory techniques historically associated with milk
23 marketing and to afford the commission broad flexibility to
24 devise regulatory mechanisms to achieve the purposes of this
25 compact. In accordance with this intent, the technical terms
26 which are associated with market order regulation and which have
27 acquired commonly understood general meanings are not defined
28 herein, but the commission may further define the terms used in
29 this compact and develop additional concepts and define
30 additional terms as it may find appropriate to achieve its

1 purposes.

2 ARTICLE III

3 COMMISSION ESTABLISHED

4 Section 4. Commission established.

5 There is hereby created a commission to administer the
6 compact, composed of delegations from each state in the region.
7 A delegation shall include not less than three nor more than
8 five persons. Each delegation shall include at least one dairy
9 farmer who is engaged in the production of milk at the time of
10 appointment or reappointment and one consumer representative.
11 Delegation members shall be residents and voters of, and subject
12 to such confirmation process as is provided for in, the
13 appointing state. Delegation members shall serve no more than
14 three consecutive terms with no single term of more than four
15 years and be subject to removal for cause. In all other
16 respects, delegation members shall serve in accordance with the
17 laws of the state represented. The compensation, if any, of the
18 members of a state delegation shall be determined and paid by
19 each state, but their expenses shall be paid by the commission.
20 Each state delegation shall be entitled to one vote in the
21 conduct of the commission's affairs.

22 Section 5. Voting requirements.

23 All actions taken by the commission, except for the
24 establishment or termination of an over-order price or
25 commission marketing order, and the adoption, amendment or
26 rescission of the commission's by-laws, shall be by majority
27 vote of the delegations present. Establishment or termination of
28 an over-order price or commission marketing order shall require
29 at least a two-thirds vote of the delegations present. The
30 establishment of a regulated area which covers all or part of a

1 participating state shall require also the affirmative vote of
2 that state's delegation. A majority of the delegations from the
3 participating states shall constitute a quorum for the conduct
4 of the commission's business.

5 Section 6. Administration and management.

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

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

25 (3) The commission shall file an annual report with the
26 Secretary of Agriculture of the United States, and with each of
27 the participating states by submitting copies to the Governor,
28 both Houses of the Legislature, and the head of the State
29 Department having responsibilities for agriculture.

30 (4) In addition to the powers and duties elsewhere

1 prescribed in this compact, the commission shall have the power:

2 (a) to sue and be sued in any state or Federal court;

3 (b) to have a seal and alter the same at pleasure;

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

7 (d) to borrow money and to issue notes, to provide for
8 the rights of the holders thereof and to pledge the revenue
9 of the commission as security therefor, subject to the
10 provisions of section 18 of this compact;

11 (e) to appoint such officers, agents and employees as it
12 may deem necessary, prescribe their powers, duties and
13 qualifications; and

14 (f) create and abolish such offices, employments and
15 positions as it deems necessary for the purposes of the
16 compact and provide for the removal, term, tenure,
17 compensation, fringe benefits, pension and retirement rights
18 of its officers and employees. The commission may also retain
19 personal services on a compact basis.

20 Section 7. Rulemaking power.

21 In addition to the power to promulgate a compact over-order
22 price or commission marketing orders as provided by this
23 compact, the commission is further empowered to make and enforce
24 such additional rules and regulations as it deems necessary to
25 implement any provisions of this compact or to effectuate in any
26 other respect the purposes of this compact.

27 ARTICLE IV

28 POWERS OF THE COMMISSION

29 Section 8. Powers to promote regulatory uniformity, simplicity
30 and interstate cooperation.

1 The commission is hereby empowered to:

2 (1) Investigate or provide for investigations or research
3 projects designed to review the existing laws and regulations of
4 the participating states, to consider their administration and
5 costs and to measure their impact on the production and
6 marketing of milk and their effects on the shipment of milk and
7 milk products within the region.

8 (2) Prepare and transmit to the participating states model
9 dairy laws and regulations dealing with the inspection of farms
10 and plants, sanitary codes, labels for dairy products and their
11 imitations, standards for dairy products, license standards,
12 producer security programs and fair trade laws.

13 (3) Study and recommend to the participating states joint or
14 cooperative programs for the administration of the dairy laws
15 and regulations and to prepare estimates of cost savings and
16 benefits of such programs.

17 (4) Encourage the harmonious relationships between the
18 various elements in the industry for the solution of their
19 material problems and conduct symposiums or conferences designed
20 to improve industry relations or a better understanding or
21 problems.

22 (5) Prepare and release periodic reports on activities and
23 results of the commission's efforts to the participating states.

24 (6) Review the existing marketing system for milk and milk
25 products and recommend changes in the existing structure for
26 assembly and distribution of milk which may assist, improve or
27 promote more efficient assembly and distribution of milk.

28 (7) Investigate costs and charges for producing, hauling,
29 handling, processing, distributing, selling and for all other
30 services performed with respect to milk.

(8) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers and the need for an emergency order to relieve critical conditions on dairy farms.

Section 9. Equitable farm prices.

(1) The powers granted in this section and section ten of this compact, shall apply only to the establishment of a compact over-order price, so long as Federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(2) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such over-order price shall not exceed \$1.50 per gallon. Beginning in 1990, and using that year as a base, the foregoing \$1.50 per gallon maximum shall be adjusted annually by the rate of change in the consumer price index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable Federal order or State dairy regulation, and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(3) A commission marketing order shall apply to all classes and uses of milk.

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

16 (5) In determining the price, the commission shall consider
17 the balance between production and consumption of milk and milk
18 products in the regulated area, the costs of production,
19 including, but not limited to, the price of feed, the cost of
20 labor, including the reasonable value of the producer's own
21 labor and management, machinery expense and interest expense,
22 the prevailing price for milk outside the regulated area, the
23 purchasing power of the public and the price necessary to yield
24 a reasonable return to the producer and distributor.

25 (6) When establishing a compact over-order price, the
26 commission shall take such action as necessary and feasible to
27 ensure that the over-order price does not create an incentive
28 for producers to generate additional supplies of milk.

29 (7) The commission shall whenever possible enter into
30 agreements with Federal or State agencies for exchange of

1 information or services for the purpose of reducing regulatory
2 burden and cost of administering the compact. The commission may
3 reimburse other agencies for the reasonable cost of providing
4 these services.

5 Section 10. Optional provisions for pricing order.

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

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

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

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

20 (4) Provisions for establishing either an over-order price
21 or a commission marketing order may make use of any reasonable
22 method for establishing such price or prices, including flat
23 pricing and formula pricing. Provision may also be made for
24 location adjustments, for zone differentials and for competitive
25 credits with respect to regulated handlers who market outside
26 the regulated area.

27 (5) Provisions for the payment to all producers and
28 associations of producers delivering milk to all handlers of
29 uniform prices for all milk so delivered, irrespective of the
30 uses made of such milk by the individual handler to whom it is

1 delivered, or for the payment of producers delivering milk to
2 the same handler of uniform prices for all milk delivered by
3 them.

4 (a) With respect to regulations establishing a compact
5 over-order price, the commission may establish one
6 equalization pool within the regulated area for the sole
7 purpose of equalizing returns to producers throughout the
8 regulated area.

9 (b) With respect to any commission marketing order, as
10 defined in subdivision 9 section 2 of this compact, which
11 replaces one or more terminated Federal orders or State dairy
12 regulation, the marketing area of now separate Federal or
13 State orders shall not be merged without the affirmative
14 consent of each state, voting through its delegation, which
15 is partly or wholly included within any such new marketing
16 area.

17 (6) Provisions requiring persons who bring Class I milk into
18 the regulated area to make compensatory payments with respect to
19 all such milk to the extent necessary to equalize the cost of
20 milk purchased by handlers subject to a compact over-order price
21 or commission marketing order. No such provisions shall
22 discriminate against milk producers outside the regulated area.
23 The provisions for compensatory payments may require payment of
24 the difference between the Class I price required to be paid for
25 such milk in the state of production by a federal milk marketing
26 order or State dairy regulation and the Class I price
27 established by the compact over-order price or commission
28 marketing order.

29 (7) Provisions specially governing the pricing and pooling
30 of milk handled by partially regulated plants.

1 publish notice of rulemaking proceedings in the official
2 register of each affected state. Before the initial adoption of
3 regulations establishing a compact over-order price or a
4 commission marketing order and thereafter before any amendment
5 with regard to prices or assessments, the commission shall hold
6 a public hearing. The commission may commence a rulemaking
7 proceeding on its own initiative or may in its sole discretion
8 act upon the petition of any person, including individual milk
9 producers, any organizations, consumer or public interest groups
10 and Federal, State or local officials.

11 Section 12. Findings and referendum.

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

16 (1) Whether the public interest will be served by the
17 establishment of minimum milk prices to dairy farmers under
18 Article IV of this compact.

19 (2) What level of prices will assure that producers receive
20 a price sufficient to cover their costs of production and will
21 elicit an adequate supply of milk for the inhabitants of the
22 regulated area and for manufacturing purposes.

23 (3) Whether the major provisions of the order, other than
24 those fixing minimum milk prices, are in the public interest and
25 are reasonably designed to achieve the purpose of the order.

26 (4) Whether the terms of the proposed regional order or
27 amendment are approved by producers as provided in section 13 of
28 this compact.

29 Section 13. Producer referendum.

30 (1) For the purpose of ascertaining whether the issuance or

1 amendment of regulations establishing a compact over-order price
2 or a commission marketing order, including any provision with
3 respect to milk supply pursuant to subdivision 6 of section 9 of
4 this compact, is approved by producers, the commission shall
5 conduct a referendum among producers. The referendum shall be
6 held in a timely manner, as determined by regulation of the
7 commission. The terms and conditions of the proposed order or
8 amendment shall be described by the commission in the ballot
9 used in the conduct of the referendum, but the nature, content
10 or extent of such description shall not be a basis for attacking
11 the legality of the order or any action relating thereto.

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

18 (3) For purposes of any referendum, the commission shall
19 consider the approval or disapproval by any cooperative
20 association of producers, qualified under the provisions of the
21 Act of Congress of February 18, 1922, as amended, known as the
22 Capper-Volstead Act, bona fide engaged in marketing milk, or in
23 rendering services for or advancing the interests of producers
24 of such commodity as the approval or disapproval of the
25 producers who are members or stockholders in or under contract
26 with such cooperative association of producers, except as
27 provided in paragraph (a) of this subdivision and subject to the
28 provisions of paragraphs (b) through (e) of this subdivision.

29 (a) No cooperative which has been formed to act as a
30 common marketing agency for both cooperatives and individual

1 producers shall be qualified to block vote for either.

2 (b) Any cooperative which is qualified to block vote
3 shall, before submitting its approval or disapproval in any
4 referendum, give prior written notice to each of its members
5 as to whether and how it intends to cast its vote. The notice
6 shall be given in a timely manner as established and in the
7 form prescribed by the commission.

8 (c) Any producer may obtain a ballot from the commission
9 in order to register approval or disapproval of the proposed
10 order.

11 (d) A producer who is a member of a cooperative which
12 has provided notice of its intent to approve or not to
13 approve a proposed order, and who obtains a ballot and with
14 such ballot expresses his or her approval or disapproval of
15 the proposed order, shall notify the commission as to the
16 name of the cooperative of which he or she is a member, and
17 the commission shall remove such producer's name from the
18 list certified by such cooperative with its corporate vote.

19 (e) In order to insure that all milk producers are
20 informed regarding a proposed order, the commission shall
21 notify all milk producers that an order is being considered
22 and that each producer may register his or her approval or
23 disapproval with the commission either directly or through
24 his or her cooperative.

25 Section 14. Termination of over-order price or marketing order.

26 (1) The commission shall terminate any regulations
27 establishing an over-order price or commission marketing order
28 issued under this article whenever it finds that such order or
29 price obstructs or does not tend to effectuate the declared
30 policy of this compact.

(2) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(3) The termination or suspension of any order or provision thereof shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

ARTICLE VI

ENFORCEMENT

Section 15. Records, reports and access to premises.

(1) The commission may by rule and regulation prescribe recordkeeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business, and, for that purpose, the commission's properly designated officers, employees or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(2) Information furnished to or acquired by the commission officers, employees or its agents pursuant to this section shall be confidential and not subject to disclosure except to the

1 extent that the commission deems disclosure to be necessary in
2 any administrative or judicial proceeding involving the
3 administration or enforcement of this compact, an over-order
4 price, a compact marketing order or other regulation of the
5 commission. The commission may promulgate regulations further
6 defining the confidentiality of information pursuant to this
7 section. Nothing in this section shall be deemed to prohibit:

8 (a) The issuance of general statements based upon the
9 reports of a number of handlers, which do not identify the
10 information furnished by any person.

11 (b) The publication by direction of the commission of
12 the name of any person violating any regulation of the
13 commission, together with a statement of the particular
14 provisions violated by such person.

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

24 Section 16. Subpoena, hearings and judicial review.

25 (1) The commission is hereby authorized and empowered by its
26 members and its properly designated officers to administer oaths
27 and issue subpoenas throughout all signatory states to compel
28 the attendance of witnesses and the giving of testimony and the
29 production of other evidence.

30 (2) Any handler subject to an order may file a written

1 petition with the commission stating that any such order or any
2 provision of any such order or any obligation imposed in
3 connection therewith is not in accordance with law and praying
4 for a modification thereof or to be exempted therefrom. He or
5 she shall thereupon be given an opportunity for a hearing upon
6 such petition, in accordance with regulations made by the
7 commission. After such hearing, the commission shall make a
8 ruling upon the prayer of such petition which shall be final, if
9 in accordance with law.

10 (3) The district courts of the United States in any district
11 in which such handler is an inhabitant, or has his or her
12 principal place of business, are hereby vested with jurisdiction
13 in equity to review such ruling, provided a bill in equity for
14 that purpose is filed within 30 days from the date of the entry
15 of such ruling. Service of process in such proceedings may be
16 had upon the commission by delivering to it a copy of the bill
17 of complaint. If the court determines that such ruling is not in
18 accordance with law, it shall remand such proceedings to the
19 commission with directions either:

20 (a) To make such ruling as the court shall determine to
21 be in accordance with law.

22 (b) To take such further proceedings as, in its opinion,
23 the law requires. The pendency of proceedings instituted
24 pursuant to this subdivision shall not impede, hinder or
25 delay the commission from obtaining relief pursuant to
26 section 17 of this compact. Any proceedings brought pursuant
27 to section 17 of this compact (except where brought by way of
28 counterclaim in proceedings instituted pursuant to this
29 section) shall abate whenever a final decree has been
30 rendered in proceedings between the same parties, and

1 covering the same subject matter, instituted pursuant to this
2 section.

3 Section 17. Enforcement with respect to handlers.

4 (1) Any violation by a handler of the provisions of
5 regulations establishing an over-order price or a commission
6 marketing order or other regulations adopted pursuant to this
7 compact shall:

8 (a) Constitute a violation of the laws of each of the
9 signatory states. Such violation shall render the violator
10 subject to a civil penalty in an amount as may be prescribed
11 by the laws of each of the participating states, recoverable
12 in any Federal or state court of competent jurisdiction. Each
13 day such violation continues shall constitute a separate
14 violation.

15 (b) Constitute grounds for the revocation of license or
16 permit to engage in the milk business under the applicable
17 laws of the participating states.

18 (2) With respect to handlers, the commission shall enforce
19 the provisions of this compact, regulations establishing an
20 over-order price, a commission marketing order or other
21 regulations adopted hereunder by:

22 (a) commencing an action for legal or equitable relief
23 brought in the name of the commission in any Federal or State
24 court of competent jurisdiction; or

25 (b) with the agreement of the appropriate state agency
26 of a participating state, by referral to the state agency for
27 enforcement by judicial or administrative remedy.

28 (3) With respect to handlers, the commission may bring an
29 action for injunction to enforce the provisions of this compact
30 or the order or regulation adopted thereunder without being

1 compelled to allege or prove that an adequate remedy of law does
2 not exist.

3 ARTICLE VII

4 FINANCE

5 Section 18. Finance of start-up and regular costs.

6 (1) To provide for its start-up costs, the commission may
7 borrow money pursuant to its general power under paragraph (d)
8 of subdivision 4 of section 6 of this compact. In order to
9 finance the costs of administration and enforcement of this
10 compact, including payback of start-up costs, the commission is
11 hereby empowered to collect an assessment from each handler who
12 purchases milk from producers within the region. If imposed,
13 this assessment shall be collected on a monthly basis for up to
14 one year from the date the commission convenes, in an amount not
15 to exceed one-tenth of 1% of the applicable Federal market order
16 blend price per hundred weight of milk purchased from producers
17 during the period of the assessment. The initial assessment may
18 apply to the projected purchase of handlers for the two-month
19 period following the date the commission convenes. In addition,
20 if regulations establishing an over-order price or a compact
21 marketing order are adopted, they may include an assessment for
22 the specific purpose of their administration. These regulations
23 shall provide for establishment of a reserve for the
24 commission's ongoing operating expenses.

25 (2) The commission shall not pledge the credit of any
26 participating state or of the United States. Notes issued by the
27 commission and all other financial obligations incurred by it
28 shall be its sole responsibility and no participating state or
29 the United States shall be liable therefor.

30 Section 19. Audit and accounts.

1 (1) The commission shall keep accurate accounts of all
2 receipts and disbursements, which shall be subject to the audit
3 and accounting procedures established under its rules. In
4 addition, all receipts and disbursements of funds handled by the
5 commission shall be audited yearly by a qualified public
6 accountant and the report of the audit shall be included in and
7 become part of the annual report of the commission.

8 (2) The accounts of the commission shall be open at any
9 reasonable time for inspection by duly constituted officers of
10 the participating states and by any persons authorized by the
11 commission.

12 (3) Nothing contained in this article shall be construed to
13 prevent commission compliance with laws relating to audit or
14 inspection of accounts by or on behalf of any participating
15 state or of the United States.

16 ARTICLE VIII

17 ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

18 Section 20. Entry into force; additional members.

19 This compact shall enter into force when enacted into law by
20 any three states of the group of states composed of Connecticut,
21 Delaware, Maine, Maryland, Massachusetts, New Hampshire, New
22 Jersey, New York, Pennsylvania, Rhode Island, Vermont and
23 Virginia, and when the consent of Congress has been obtained.

24 This compact shall also be open to states which are contiguous
25 to any of the named states and open to states which are
26 contiguous to participating states.

27 Section 21. Withdrawal from compact.

28 Any participating state may withdraw from this compact by
29 enacting a statute repealing the same, but no such withdrawal
30 shall take effect until one year after notice in writing of the

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

5 Section 22. Severability.

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

13 Section 23. Reservation of rights.

14 (1) In general.--The right to alter, amend or repeal this
15 compact is expressly reserved by Congress.

16 (2) Compensation requirement.--When an over-order price is
17 in effect, the commission established in this compact shall
18 compensate the Commodity Credit Corporation before the end of
19 the fiscal year for the cost of any increased commodity credit
20 corporation dairy purchases that result from projected increased
21 fluid milk production for that fiscal year within the compact
22 region in excess of the national average rate of increase.

23 Section 4. Pennsylvania Delegation.

24 (a) Appointment.--The Pennsylvania Delegation to the
25 Northeast Interstate Compact Commission shall consist of
26 ~~the members of the Milk Marketing Board of this Commonwealth.~~ <—

27 ~~(b) Terms. Members shall serve for a term contiguous with~~
28 ~~their term on the Milk Marketing Board.~~ FIVE PERSONS: THE CHAIR <—
29 OF THE MILK MARKETING BOARD APPOINTED BY THE GOVERNOR; THE
30 CHAIRMAN AND THE MINORITY CHAIRMAN OF THE AGRICULTURE AND RURAL

1 AFFAIRS COMMITTEE OF THE SENATE, OR THEIR DESIGNEES; AND THE
2 CHAIRMAN AND THE MINORITY CHAIRMAN OF THE AGRICULTURE AND RURAL
3 AFFAIRS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR
4 DESIGNEES.

5 (B) TERMS.--MEMBERS SHALL SERVE FOR A TERM CONCURRENT WITH
6 THEIR TERM OF OFFICE.

7 (c) Compensation.--The members of the delegation shall
8 receive compensation for their services of \$300 per diem.

9 (d) Cooperation with commission.--All departments and
10 agencies of the Commonwealth shall, when called upon, provide
11 the members with cooperation, information and staff support.

12 (E) IMPACT MINIMIZATION.--THE MEMBERS OF THE DELEGATION <—
13 SHALL TAKE ALL REASONABLE STEPS NECESSARY TO MINIMIZE THE
14 ECONOMIC AND ADMINISTRATIVE BURDENS IMPOSED BY THE COMPACT ON
15 ALL OF THE FOLLOWING:

16 (1) SCHOOLS.

17 (2) PARTICIPANTS IN THE FEDERAL SUPPLEMENTAL FOOD
18 PROGRAM FOR WOMEN, INFANTS AND CHILDREN.

19 Section 5. Compact order violations.

20 Any violation of the regulations adopted by the Northeast
21 Interstate Dairy Compact establishing an over-order price, a
22 commission marketing order, or any other regulation shall
23 constitute a violation of this act. Any such violation shall be
24 subject to a civil penalty of \$5,000 per occurrence.

25 SECTION 6. EXPIRATION. <—

26 THIS ACT SHALL EXPIRE ON JUNE 30, 2002, OR THREE YEARS FROM
27 THE EFFECTIVE DATE OF THIS ACT, WHICHEVER IS LATER.

28 Section 6 7. Effective date. <—

29 This act shall take effect immediately.