

HOUSE BILL 237

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M4

1998 Regular Session  
8r0286  
CF 8r1719

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By: **Western Maryland Delegation**

Introduced and read first time: January 26, 1998

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Northeast Interstate Dairy Compact**

3 FOR the purpose of entering the State of Maryland into the Northeast Interstate  
4 Dairy Compact; stating the purposes of the Compact; establishing the Northeast  
5 Interstate Dairy Compact Commission for certain purposes; providing for the  
6 powers of the commission; establishing rulemaking procedures for the  
7 commission; providing for certain over-order pricing mechanisms; providing for  
8 certain referendums; providing for the enforcement of the compact; providing for  
9 the financing of the commission and the establishment of certain fees; providing  
10 for the effective status of the compact and the addition and withdrawal of  
11 compact members under certain circumstances; providing for the appointment,  
12 terms, and removal of members of the Maryland delegation to the commission;  
13 providing for the obtaining and use of certain information by certain persons;  
14 allowing the Secretary of Agriculture to adopt certain regulations; providing  
15 certain civil and criminal penalties for certain violations of this Act; defining  
16 certain terms; providing for a certain contingency; and generally relating to the  
17 Northeast Interstate Dairy Compact.

18 BY adding to

19 Article - Agriculture

20 Section 2-801 through 2-805, inclusive, to be under the new subtitle "Subtitle 8.

21 Northeast Interstate Dairy Compact"

22 Annotated Code of Maryland

23 (1985 Replacement Volume and 1997 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That the Laws of Maryland read as follows:

1

**Article - Agriculture**

2

## SUBTITLE 8. NORTHEAST INTERSTATE DAIRY COMPACT.

3 2-801.

4 THE STATE OF MARYLAND HEREBY ENTERS INTO THE NORTHEAST INTERSTATE  
5 DAIRY COMPACT AS SET FORTH IN THIS SECTION. THE COMPACT SHALL TAKE  
6 EFFECT IN ACCORDANCE WITH ARTICLE VIII, § 20 OF THE COMPACT, SUBJECT TO  
7 CONDITIONS IMPOSED BY THE CONSENT OF THE U. S. CONGRESS. THE TEXT OF THE  
8 COMPACT IS AS FOLLOWS:

9

## ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY.

10 SEC. 1. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY.

11 THE PURPOSE OF THIS COMPACT IS TO RECOGNIZE BY CONSTITUTIONAL  
12 PREREQUISITE THE INTERSTATE CHARACTER OF THE NORTHEAST DAIRY INDUSTRY  
13 AND TO FORM AN INTERSTATE COMMISSION FOR THE NORTHEAST REGION. THE  
14 MISSION OF THE COMMISSION IS TO TAKE SUCH STEPS AS ARE NECESSARY TO  
15 ASSURE THE CONTINUED VIABILITY OF DAIRY FARMING IN THE NORTHEAST, AND TO  
16 ASSURE CONSUMERS OF AN ADEQUATE, LOCAL SUPPLY OF PURE AND WHOLESOME  
17 MILK.

18 THE PARTICIPATING STATES FIND AND DECLARE THAT THE DAIRY INDUSTRY IS  
19 THE PARAMOUNT AGRICULTURAL ACTIVITY OF THE NORTHEAST. DAIRY FARMS, AND  
20 ASSOCIATED SUPPLIERS, MARKETERS, PROCESSORS AND RETAILERS, ARE AN  
21 INTEGRAL COMPONENT OF THE REGION'S ECONOMY. THEIR ABILITY TO PROVIDE A  
22 STABLE, LOCAL SUPPLY OF PURE, WHOLESOME MILK IS A MATTER OF GREAT  
23 IMPORTANCE TO THE HEALTH AND WELFARE OF THE REGION.

24 THE PARTICIPATING STATES FURTHER FIND THAT DAIRY FARMS ARE  
25 ESSENTIAL TO THE REGION'S RURAL COMMUNITIES AND CHARACTER. THE FARMS  
26 PRESERVE OPEN SPACES, SCULPT THE LANDSCAPE AND PROVIDE THE LAND BASE  
27 FOR A DIVERSITY OF RECREATIONAL PURSUITS. IN DEFINING THE RURAL  
28 CHARACTER OF OUR COMMUNITIES AND LANDSCAPE, DAIRY FARMS ALSO PROVIDE A  
29 MAJOR DRAW FOR OUR TOURIST INDUSTRIES.

30 BY ENTERING INTO THIS COMPACT, THE PARTICIPATING STATES AFFIRM THAT  
31 THEIR ABILITY TO REGULATE THE PRICE WHICH NORTHEAST DAIRY FARMERS  
32 RECEIVE FOR THEIR PRODUCT IS ESSENTIAL TO THE PUBLIC INTEREST. ASSURANCE  
33 OF A FAIR AND EQUITABLE PRICE FOR DAIRY FARMERS ENSURES THEIR ABILITY TO  
34 PROVIDE MILK TO THE MARKET AND THE VITALITY OF THE NORTHEAST DAIRY  
35 INDUSTRY, WITH ALL THE ASSOCIATED BENEFITS.

36 RECENT DRAMATIC PRICE FLUCTUATIONS, WITH A PRONOUNCED DOWNWARD  
37 TREND, THREATEN THE VIABILITY AND STABILITY OF THE NORTHEAST DAIRY  
38 REGION. HISTORICALLY, INDIVIDUAL STATE REGULATORY ACTION HAS BEEN AN  
39 EFFECTIVE EMERGENCY REMEDY AVAILABLE TO FARMERS CONFRONTING A

1 DISTRESSED MARKET. THE FEDERAL ORDER SYSTEM, IMPLEMENTED BY THE  
2 AGRICULTURAL MARKETING AGREEMENT ACT OF 1937, ESTABLISHES ONLY  
3 MINIMUM PRICES FOR DAIRY PRODUCTS, WITHOUT PREEMPTING THE POWER OF  
4 STATES TO REGULATE MILK PRICES ABOVE THE MINIMUM LEVELS SO ESTABLISHED.  
5 BASED ON THIS AUTHORITY, EACH STATE IN THE REGION HAS INDIVIDUALLY  
6 ATTEMPTED TO IMPLEMENT AT LEAST ONE REGULATORY PROGRAM IN RESPONSE TO  
7 THE CURRENT DAIRY INDUSTRY CRISIS.

8 IN TODAY'S REGIONAL DAIRY MARKETPLACE, COOPERATIVE RATHER THAN  
9 INDIVIDUAL STATE ACTION MAY ADDRESS MORE EFFECTIVELY THE MARKET  
10 DISARRAY. UNDER OUR CONSTITUTIONAL SYSTEM, PROPERLY AUTHORIZED, STATES  
11 ACTING COOPERATIVELY MAY EXERCISE MORE POWER TO REGULATE INTERSTATE  
12 COMMERCE THAN THEY MAY ASSERT INDIVIDUALLY WITHOUT SUCH AUTHORITY.  
13 FOR THIS REASON, THE PARTICIPATING STATES INVOKE THEIR AUTHORITY TO ACT  
14 IN COMMON AGREEMENT, WITH THE CONSENT OF CONGRESS, UNDER THE COMPACT  
15 CLAUSE OF THE CONSTITUTION.

16 IN ESTABLISHING THEIR CONSTITUTIONAL REGULATORY AUTHORITY OVER  
17 THE REGION'S FLUID MILK MARKET BY THIS COMPACT, THE PARTICIPATING STATES  
18 DECLARE THEIR PURPOSE THAT THIS COMPACT NEITHER DISPLACE THE FEDERAL  
19 ORDER SYSTEM NOR ENCOURAGE THE MERGING OF FEDERAL ORDERS. SPECIFIC  
20 PROVISIONS OF THE COMPACT ITSELF SET FORTH THIS BASIC PRINCIPLE.

21 DESIGNED AS A FLEXIBLE MECHANISM ABLE TO ADJUST TO CHANGES IN A  
22 REGULATED MARKETPLACE, THE COMPACT ALSO CONTAINS A CONTINGENCY  
23 PROVISION SHOULD THE FEDERAL ORDER SYSTEM BE DISCONTINUED. IN THAT  
24 EVENT, THE INTERSTATE COMMISSION IS AUTHORIZED TO REGULATE THE  
25 MARKETPLACE IN REPLACEMENT OF THE ORDER SYSTEM. THIS CONTINGENT  
26 AUTHORITY DOES NOT ANTICIPATE SUCH A CHANGE, HOWEVER, AND SHOULD NOT  
27 BE SO CONSTRUED. IT IS ONLY PROVIDED SHOULD DEVELOPMENTS IN THE MARKET  
28 OTHER THAN ESTABLISHMENT OF THIS COMPACT RESULT IN DISCONTINUANCE OF  
29 THE ORDER SYSTEM.

30 ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION.

31 SEC. 2. DEFINITIONS.

32 FOR THE PURPOSES OF THIS COMPACT, AND OF ANY SUPPLEMENTAL OR  
33 CONCURRING LEGISLATION ENACTED PURSUANT THERETO, EXCEPT AS MAY BE  
34 OTHERWISE REQUIRED BY THE CONTEXT:

35 (1) "COMMISSION" MEANS THE COMMISSION ESTABLISHED BY THIS  
36 COMPACT.

37 (2) "COMPACT" MEANS THIS INTERSTATE COMPACT.

38 (3) "REGION" MEANS THE TERRITORIAL LIMITS OF THE STATES WHICH  
39 ARE OR BECOME PARTIES TO THIS COMPACT.

1 (4) "PARTICIPATING STATE" MEANS A STATE WHICH HAS BECOME A  
2 PARTY TO THIS COMPACT BY THE ENACTMENT OF CONCURRING LEGISLATION.

3 (5) "REGULATED AREA" MEANS ANY AREA WITHIN THE REGION  
4 GOVERNED BY AND DEFINED IN REGULATIONS ESTABLISHING A COMPACT  
5 OVER-ORDER PRICE OR COMMISSION MARKETING ORDER.

6 (6) "POOL PLANT" MEANS ANY MILK PLANT LOCATED IN A REGULATED  
7 AREA.

8 (7) "PARTIALLY REGULATED PLANT" MEANS A MILK PLANT NOT  
9 LOCATED IN A REGULATED AREA BUT HAVING CLASS I DISTRIBUTION WITHIN SUCH  
10 AREA, OR RECEIPTS FROM PRODUCERS LOCATED IN SUCH AREA. COMMISSION  
11 REGULATIONS MAY EXEMPT PLANTS HAVING SUCH DISTRIBUTION OR RECEIPTS IN  
12 AMOUNTS LESS THAN THE LIMITS DEFINED THEREIN.

13 (8) "COMPACT OVER-ORDER PRICE" MEANS A MINIMUM PRICE  
14 REQUIRED TO BE PAID TO PRODUCERS FOR CLASS I MILK ESTABLISHED BY THE  
15 COMMISSION IN REGULATIONS ADOPTED PURSUANT TO §§ 9 AND 10 OF THIS  
16 COMPACT, WHICH IS ABOVE THE PRICE ESTABLISHED IN FEDERAL MARKETING  
17 ORDERS OR BY STATE FARM PRICE REGULATION IN THE REGULATED AREA. SUCH  
18 PRICE MAY APPLY THROUGHOUT THE REGION OR IN ANY PART OR PARTS THEREOF  
19 AS DEFINED IN THE REGULATIONS OF THE COMMISSION.

20 (9) "COMMISSION MARKETING ORDER" MEANS REGULATIONS ADOPTED  
21 BY THE COMMISSION PURSUANT TO §§ 9 AND 10 OF THIS COMPACT IN PLACE OF A  
22 TERMINATED FEDERAL MARKETING ORDER OR STATE DAIRY REGULATION. SUCH  
23 ORDER MAY APPLY THROUGHOUT THE REGION OR IN ANY PART OR PARTS THEREOF  
24 AS DEFINED IN THE REGULATIONS OF THE COMMISSION. SUCH ORDER MAY  
25 ESTABLISH MINIMUM PRICES FOR ANY OR ALL CLASSES OF MILK.

26 (10) "MILK" MEANS THE LACTEAL SECRETION OF COWS AND INCLUDES  
27 ALL SKIM, BUTTERFAT, OR OTHER CONSTITUENTS OBTAINED FROM SEPARATION OR  
28 ANY OTHER PROCESS. THE TERM IS USED IN ITS BROADEST SENSE AND MAY BE  
29 FURTHER DEFINED BY THE COMMISSION FOR REGULATORY PURPOSES.

30 (11) "CLASS I MILK" MEANS MILK DISPOSED OF IN FLUID FORM OR AS A  
31 FLUID MILK PRODUCT, SUBJECT TO FURTHER DEFINITION IN ACCORDANCE WITH  
32 THE PRINCIPLES EXPRESSED IN § 3(B).

33 (12) "STATE DAIRY REGULATION" MEANS ANY STATE REGULATION OF  
34 DAIRY PRICES, AND ASSOCIATED ASSESSMENTS, WHETHER BY STATUTE,  
35 MARKETING ORDER OR OTHERWISE.

36 SEC. 3. RULES OF CONSTRUCTION.

37 (A) THIS COMPACT SHALL NOT BE CONSTRUED TO DISPLACE EXISTING  
38 FEDERAL MILK MARKETING ORDERS OR STATE DAIRY REGULATION IN THE REGION  
39 BUT TO SUPPLEMENT THEM. IN THE EVENT SOME OR ALL FEDERAL ORDERS IN THE  
40 REGION ARE DISCONTINUED, THE COMPACT SHALL BE CONSTRUED TO PROVIDE THE

1 COMMISSION THE OPTION TO REPLACE THEM WITH ONE OR MORE COMMISSION  
2 MARKETING ORDERS PURSUANT TO THIS COMPACT.

3 (B) THIS COMPACT SHALL BE CONSTRUED LIBERALLY IN ORDER TO ACHIEVE  
4 THE PURPOSES AND INTENT ENUNCIATED IN § 1. IT IS THE INTENT OF THIS COMPACT  
5 TO ESTABLISH A BASIC STRUCTURE BY WHICH THE COMMISSION MAY ACHIEVE  
6 THOSE PURPOSES THROUGH THE APPLICATION, ADAPTATION AND DEVELOPMENT  
7 OF THE REGULATORY TECHNIQUES HISTORICALLY ASSOCIATED WITH MILK  
8 MARKETING AND TO AFFORD THE COMMISSION BROAD FLEXIBILITY TO DEVISE  
9 REGULATORY MECHANISMS TO ACHIEVE THE PURPOSES OF THIS COMPACT. IN  
10 ACCORDANCE WITH THIS INTENT, THE TECHNICAL TERMS WHICH ARE ASSOCIATED  
11 WITH MARKET ORDER REGULATION AND WHICH HAVE ACQUIRED COMMONLY  
12 UNDERSTOOD GENERAL MEANINGS ARE NOT DEFINED HEREIN BUT THE  
13 COMMISSION MAY FURTHER DEFINE THE TERMS USED IN THIS COMPACT AND  
14 DEVELOP ADDITIONAL CONCEPTS AND DEFINE ADDITIONAL TERMS AS IT MAY FIND  
15 APPROPRIATE TO ACHIEVE ITS PURPOSES.

16 ARTICLE III. COMMISSION ESTABLISHED.

17 SEC. 4. COMMISSION ESTABLISHED.

18 THERE IS HEREBY CREATED A COMMISSION TO ADMINISTER THE COMPACT,  
19 COMPOSED OF DELEGATIONS FROM EACH STATE IN THE REGION. A DELEGATION  
20 SHALL INCLUDE NOT LESS THAN THREE NOR MORE THAN FIVE PERSONS. EACH  
21 DELEGATION SHALL INCLUDE AT LEAST ONE DAIRY FARMER WHO IS ENGAGED IN  
22 THE PRODUCTION OF MILK AT THE TIME OF APPOINTMENT OR REAPPOINTMENT,  
23 AND ONE CONSUMER REPRESENTATIVE. DELEGATION MEMBERS SHALL BE  
24 RESIDENTS AND VOTERS OF, AND SUBJECT TO SUCH CONFIRMATION PROCESS AS IS  
25 PROVIDED FOR IN, THE APPOINTING STATE. DELEGATION MEMBERS SHALL SERVE  
26 NO MORE THAN THREE CONSECUTIVE TERMS WITH NO SINGLE TERM OF MORE THAN  
27 FOUR YEARS, AND BE SUBJECT TO REMOVAL FOR CAUSE. IN ALL OTHER RESPECTS,  
28 DELEGATION MEMBERS SHALL SERVE IN ACCORDANCE WITH THE LAWS OF THE  
29 STATE REPRESENTED. THE COMPENSATION, IF ANY, OF THE MEMBERS OF A STATE  
30 DELEGATION SHALL BE DETERMINED AND PAID BY EACH STATE, BUT THEIR  
31 EXPENSES SHALL BE PAID BY THE COMMISSION. EACH STATE DELEGATION SHALL  
32 BE ENTITLED TO ONE VOTE IN THE CONDUCT OF THE COMMISSION'S AFFAIRS.

33 SEC. 5. VOTING REQUIREMENTS.

34 ALL ACTIONS TAKEN BY THE COMMISSION, EXCEPT FOR THE ESTABLISHMENT  
35 OR TERMINATION OF AN OVER-ORDER PRICE OR COMMISSION MARKETING ORDER,  
36 AND THE ADOPTION, AMENDMENT OR RESCISSION OF THE COMMISSION'S BYLAWS,  
37 SHALL BE BY MAJORITY VOTE OF THE DELEGATIONS PRESENT. ESTABLISHMENT OR  
38 TERMINATION OF AN OVER-ORDER PRICE OR COMMISSION MARKETING ORDER  
39 SHALL REQUIRE AT LEAST A TWO-THIRDS VOTE OF THE DELEGATIONS PRESENT.  
40 THE ESTABLISHMENT OF A REGULATED AREA WHICH COVERS ALL OR PART OF A  
41 PARTICIPATING STATE SHALL REQUIRE ALSO THE AFFIRMATIVE VOTE OF THAT  
42 STATE'S DELEGATION. A MAJORITY OF THE DELEGATIONS FROM THE PARTICIPATING

1 STATES SHALL CONSTITUTE A QUORUM FOR THE CONDUCT OF THE COMMISSION'S  
2 BUSINESS.

3 SEC. 6. ADMINISTRATION AND MANAGEMENT.

4 (A) THE COMMISSION SHALL ELECT ANNUALLY FROM AMONG THE MEMBERS  
5 OF THE PARTICIPATING STATE DELEGATIONS A CHAIRPERSON, A  
6 VICE-CHAIRPERSON, AND A TREASURER. THE COMMISSION SHALL APPOINT AN  
7 EXECUTIVE DIRECTOR AND FIX THE DUTIES AND COMPENSATION OF THE  
8 EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL SERVE AT THE PLEASURE  
9 OF THE COMMISSION, AND, TOGETHER WITH THE TREASURER, SHALL BE BONDED IN  
10 AN AMOUNT DETERMINED BY THE COMMISSION. THE COMMISSION MAY ESTABLISH  
11 THROUGH ITS BY-LAWS AN EXECUTIVE COMMITTEE COMPOSED OF ONE MEMBER  
12 ELECTED BY EACH DELEGATION.

13 (B) THE COMMISSION SHALL ADOPT BY-LAWS FOR THE CONDUCT OF ITS  
14 BUSINESS BY A TWO-THIRDS VOTE, AND SHALL HAVE THE POWER BY THE SAME  
15 VOTE TO AMEND AND RESCIND THESE BY-LAWS. THE COMMISSION SHALL PUBLISH  
16 ITS BY-LAWS IN CONVENIENT FORM WITH THE APPROPRIATE AGENCY OR OFFICER  
17 IN EACH OF THE PARTICIPATING STATES. THE BY-LAWS SHALL PROVIDE FOR  
18 APPROPRIATE NOTICE TO THE DELEGATIONS OF ALL COMMISSION MEETINGS AND  
19 HEARINGS AND OF THE BUSINESS TO BE TRANSACTED AT SUCH MEETINGS OR  
20 HEARINGS. NOTICE ALSO SHALL BE GIVEN TO OTHER AGENCIES OR OFFICERS OF  
21 PARTICIPATING STATES AS PROVIDED BY THE LAWS OF THOSE STATES.

22 (C) THE COMMISSION SHALL FILE AN ANNUAL REPORT WITH THE SECRETARY  
23 OF AGRICULTURE OF THE UNITED STATES, AND WITH EACH OF THE PARTICIPATING  
24 STATES BY SUBMITTING COPIES TO THE GOVERNOR, BOTH HOUSES OF THE  
25 LEGISLATURE, AND THE HEAD OF THE STATE DEPARTMENT HAVING  
26 RESPONSIBILITIES FOR AGRICULTURE.

27 (D) IN ADDITION TO THE POWERS AND DUTIES ELSEWHERE PRESCRIBED IN  
28 THIS COMPACT, THE COMMISSION SHALL HAVE THE POWER:

29 (1) TO SUE AND BE SUED IN ANY STATE OR FEDERAL COURT;

30 (2) TO HAVE A SEAL AND ALTER THE SAME AT PLEASURE;

31 (3) TO ACQUIRE, HOLD, AND DISPOSE OF REAL AND PERSONAL  
32 PROPERTY BY GIFT, PURCHASE, LEASE, LICENSE, OR OTHER SIMILAR MANNER, FOR  
33 ITS CORPORATE PURPOSES;

34 (4) TO BORROW MONEY AND TO ISSUE NOTES, TO PROVIDE FOR THE  
35 RIGHTS OF THE HOLDERS THEREOF AND TO PLEDGE THE REVENUE OF THE  
36 COMMISSION AS SECURITY THEREFOR, SUBJECT TO THE PROVISIONS OF § 18 OF THIS  
37 COMPACT;

38 (5) TO APPOINT SUCH OFFICERS, AGENTS, AND EMPLOYEES AS IT MAY  
39 DEEM NECESSARY, PRESCRIBE THEIR POWERS, DUTIES, AND QUALIFICATIONS; AND

1 (6) TO CREATE AND ABOLISH SUCH OFFICES, EMPLOYMENTS, AND  
2 POSITIONS AS IT DEEMS NECESSARY FOR THE PURPOSES OF THE COMPACT AND  
3 PROVIDE FOR THE REMOVAL, TERM, TENURE, COMPENSATION, FRINGE BENEFITS,  
4 PENSION, AND RETIREMENT RIGHTS OF ITS OFFICERS AND EMPLOYEES. THE  
5 COMMISSION MAY ALSO RETAIN PERSONAL SERVICES ON A CONTRACT BASIS.

6 SEC. 7. RULEMAKING POWER.

7 IN ADDITION TO THE POWER TO PROMULGATE A COMPACT OVER-ORDER PRICE  
8 OR COMMISSION MARKETING ORDERS AS PROVIDED BY THIS COMPACT, THE  
9 COMMISSION IS FURTHER EMPOWERED TO MAKE AND ENFORCE SUCH ADDITIONAL  
10 RULES AND REGULATIONS AS IT DEEMS NECESSARY TO IMPLEMENT ANY  
11 PROVISIONS OF THIS COMPACT, OR TO EFFECTUATE IN ANY OTHER RESPECT THE  
12 PURPOSES OF THIS COMPACT.

13 ARTICLE IV. POWERS OF THE COMMISSION.

14 SEC. 8. POWERS TO PROMOTE REGULATORY UNIFORMITY, SIMPLICITY, AND  
15 INTERSTATE COOPERATION.

16 THE COMMISSION IS HEREBY EMPOWERED TO:

17 (1) INVESTIGATE OR PROVIDE FOR INVESTIGATIONS OR RESEARCH  
18 PROJECTS DESIGNED TO REVIEW THE EXISTING LAWS AND REGULATIONS OF THE  
19 PARTICIPATING STATES, TO CONSIDER THEIR ADMINISTRATION AND COSTS, TO  
20 MEASURE THEIR IMPACT ON THE PRODUCTION AND MARKETING OF MILK AND  
21 THEIR EFFECTS ON THE SHIPMENT OF MILK AND MILK PRODUCTS WITHIN THE  
22 REGION.

23 (2) PREPARE AND TRANSMIT TO THE PARTICIPATING STATES MODEL  
24 DAIRY LAWS AND REGULATIONS DEALING WITH THE INSPECTION OF FARMS AND  
25 PLANTS, SANITARY CODES, LABELS FOR DAIRY PRODUCTS AND THEIR IMITATIONS,  
26 STANDARDS FOR DAIRY PRODUCTS, LICENSE STANDARDS, PRODUCER SECURITY  
27 PROGRAMS, AND FAIR TRADE LAWS.

28 (3) STUDY AND RECOMMEND TO THE PARTICIPATING STATES JOINT OR  
29 COOPERATIVE PROGRAMS FOR THE ADMINISTRATION OF THE DAIRY LAWS AND  
30 REGULATIONS AND TO PREPARE ESTIMATES OF COST SAVINGS AND BENEFITS OF  
31 SUCH PROGRAMS.

32 (4) ENCOURAGE THE HARMONIOUS RELATIONSHIPS BETWEEN THE  
33 VARIOUS ELEMENTS IN THE INDUSTRY FOR THE SOLUTION OF THEIR MATERIAL  
34 PROBLEMS. CONDUCT SYMPOSIUMS OR CONFERENCES DESIGNED TO IMPROVE  
35 INDUSTRY RELATIONS, OR A BETTER UNDERSTANDING OF PROBLEMS.

36 (5) PREPARE AND RELEASE PERIODIC REPORTS ON ACTIVITIES AND  
37 RESULTS OF THE COMMISSION'S EFFORTS TO THE PARTICIPATING STATES.

38 (6) REVIEW THE EXISTING MARKETING SYSTEM FOR MILK AND MILK  
39 PRODUCTS AND RECOMMEND CHANGES IN THE EXISTING STRUCTURE FOR

1 ASSEMBLY AND DISTRIBUTION OF MILK WHICH MAY ASSIST, IMPROVE, OR PROMOTE  
2 MORE EFFICIENT ASSEMBLY AND DISTRIBUTION OF MILK.

3 (7) INVESTIGATE COSTS AND CHARGES FOR PRODUCING, HAULING,  
4 HANDLING, PROCESSING, DISTRIBUTING, SELLING AND FOR ALL OTHER SERVICES  
5 PERFORMED WITH RESPECT TO MILK.

6 (8) EXAMINE CURRENT ECONOMIC FORCES AFFECTING PRODUCERS,  
7 PROBABLE TRENDS IN PRODUCTION AND CONSUMPTION, THE LEVEL OF DAIRY FARM  
8 PRICES IN RELATION TO COSTS, THE FINANCIAL CONDITIONS OF DAIRY FARMERS,  
9 AND THE NEED FOR AN EMERGENCY ORDER TO RELIEVE CRITICAL CONDITIONS ON  
10 DAIRY FARMS.

11 SEC. 9. EQUITABLE FARM PRICES.

12 (A) THE POWERS GRANTED IN THIS SECTION AND § 10 SHALL APPLY ONLY TO  
13 THE ESTABLISHMENT OF A COMPACT OVER-ORDER PRICE, SO LONG AS FEDERAL  
14 MILK MARKETING ORDERS REMAIN IN EFFECT IN THE REGION. IN THE EVENT THAT  
15 ANY OR ALL SUCH ORDERS ARE TERMINATED, THIS ARTICLE SHALL AUTHORIZE THE  
16 COMMISSION TO ESTABLISH ONE OR MORE COMMISSION MARKETING ORDERS, AS  
17 HEREIN PROVIDED, IN THE REGION OR PARTS THEREOF AS DEFINED IN THE ORDER.

18 (B) A COMPACT OVER-ORDER PRICE ESTABLISHED PURSUANT TO THIS  
19 SECTION SHALL APPLY ONLY TO CLASS I MILK. SUCH OVER-ORDER PRICE SHALL  
20 NOT EXCEED \$1.50 PER GALLON. BEGINNING IN 1990, AND USING THAT YEAR AS A  
21 BASE, THE FOREGOING \$1.50 PER GALLON MAXIMUM SHALL BE ADJUSTED  
22 ANNUALLY BY THE RATE OF CHANGE IN THE CONSUMER PRICE INDEX AS REPORTED  
23 BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF  
24 LABOR. FOR PURPOSES OF THE POOLING AND EQUALIZATION OF AN OVER-ORDER  
25 PRICE, THE VALUE OF MILK USED IN OTHER USE CLASSIFICATIONS SHALL BE  
26 CALCULATED AT THE APPROPRIATE CLASS PRICE ESTABLISHED PURSUANT TO THE  
27 APPLICABLE FEDERAL ORDER OR STATE DAIRY REGULATION AND THE VALUE OF  
28 UNREGULATED MILK SHALL BE CALCULATED IN RELATION TO THE NEAREST  
29 PREVAILING CLASS PRICE IN ACCORDANCE WITH AND SUBJECT TO SUCH  
30 ADJUSTMENTS AS THE COMMISSION MAY PRESCRIBE IN REGULATIONS.

31 (C) A COMMISSION MARKETING ORDER SHALL APPLY TO ALL CLASSES AND  
32 USES OF MILK.

33 (D) THE COMMISSION IS HEREBY EMPOWERED TO ESTABLISH THE MINIMUM  
34 PRICE FOR MILK TO BE PAID BY POOL PLANTS, PARTIALLY REGULATED PLANTS AND  
35 ALL OTHER HANDLERS RECEIVING MILK FROM PRODUCERS LOCATED IN A  
36 REGULATED AREA. THIS PRICE SHALL BE ESTABLISHED EITHER AS A COMPACT  
37 OVER-ORDER PRICE OR BY ONE OR MORE COMMISSION MARKETING ORDERS.  
38 WHENEVER SUCH A PRICE HAS BEEN ESTABLISHED BY EITHER TYPE OF  
39 REGULATION, THE LEGAL OBLIGATION TO PAY SUCH PRICE SHALL BE DETERMINED  
40 SOLELY BY THE TERMS AND PURPOSE OF THE REGULATION WITHOUT REGARD TO  
41 THE SITUS OF THE TRANSFER OF TITLE, POSSESSION OR ANY OTHER FACTORS NOT  
42 RELATED TO THE PURPOSES OF THE REGULATION AND THIS COMPACT.



1 PRODUCER-HANDLERS AS DEFINED IN AN APPLICABLE FEDERAL MARKET ORDER  
2 SHALL NOT BE SUBJECT TO A COMPACT OVER-ORDER PRICE. THE COMMISSION  
3 SHALL PROVIDE FOR SIMILAR TREATMENT OF PRODUCER-HANDLERS UNDER  
4 COMMISSION MARKETING ORDERS.

5 (E) IN DETERMINING THE PRICE, THE COMMISSION SHALL CONSIDER THE  
6 BALANCE BETWEEN PRODUCTION AND CONSUMPTION OF MILK AND MILK  
7 PRODUCTS IN THE REGULATED AREA, THE COSTS OF PRODUCTION INCLUDING, BUT  
8 NOT LIMITED TO THE PRICE OF FEED, THE COST OF LABOR INCLUDING THE  
9 REASONABLE VALUE OF THE PRODUCER'S OWN LABOR AND MANAGEMENT,  
10 MACHINERY EXPENSE, AND INTEREST EXPENSE, THE PREVAILING PRICE FOR MILK  
11 OUTSIDE THE REGULATED AREA, THE PURCHASING POWER OF THE PUBLIC AND THE  
12 PRICE NECESSARY TO YIELD A REASONABLE RETURN TO THE PRODUCER AND  
13 DISTRIBUTOR.

14 (F) WHEN ESTABLISHING A COMPACT OVER-ORDER PRICE, THE COMMISSION  
15 SHALL TAKE SUCH ACTION AS NECESSARY AND FEASIBLE TO ENSURE THAT THE  
16 OVER-ORDER PRICE DOES NOT CREATE AN INCENTIVE FOR PRODUCERS TO  
17 GENERATE ADDITIONAL SUPPLIES OF MILK.

18 (G) THE COMMISSION SHALL WHENEVER POSSIBLE ENTER INTO  
19 AGREEMENTS WITH STATE OR FEDERAL AGENCIES FOR EXCHANGE OF  
20 INFORMATION OR SERVICES FOR THE PURPOSE OF REDUCING REGULATORY  
21 BURDEN AND COST OF ADMINISTERING THE COMPACT. THE COMMISSION MAY  
22 REIMBURSE OTHER AGENCIES FOR THE REASONABLE COST OF PROVIDING THESE  
23 SERVICES.

24 SEC. 10. OPTIONAL PROVISIONS FOR PRICING ORDER.

25 REGULATIONS ESTABLISHING A COMPACT OVER-ORDER PRICE OR A  
26 COMMISSION MARKETING ORDER MAY CONTAIN, BUT SHALL NOT BE LIMITED TO,  
27 ANY OF THE FOLLOWING:

28 (1) PROVISIONS CLASSIFYING MILK IN ACCORDANCE WITH THE FORM  
29 IN WHICH OR PURPOSE FOR WHICH IT IS USED, OR CREATING A FLAT PRICING  
30 PROGRAM.

31 (2) WITH RESPECT TO A COMMISSION MARKETING ORDER ONLY,  
32 PROVISIONS ESTABLISHING OR PROVIDING A METHOD FOR ESTABLISHING  
33 SEPARATE MINIMUM PRICES FOR EACH USE CLASSIFICATION PRESCRIBED BY THE  
34 COMMISSION, OR A SINGLE MINIMUM PRICE FOR MILK PURCHASED FROM  
35 PRODUCERS OR ASSOCIATIONS OF PRODUCERS.

36 (3) WITH RESPECT TO AN OVER-ORDER MINIMUM PRICE, PROVISIONS  
37 ESTABLISHING OR PROVIDING A METHOD FOR ESTABLISHING SUCH MINIMUM PRICE  
38 FOR CLASS I MILK.

39 (4) PROVISIONS FOR ESTABLISHING EITHER AN OVER-ORDER PRICE OR  
40 A COMMISSION MARKETING ORDER MAY MAKE USE OF ANY REASONABLE METHOD  
41 FOR ESTABLISHING SUCH PRICE OR PRICES INCLUDING FLAT PRICING AND

1 FORMULA PRICING. PROVISION MAY ALSO BE MADE FOR LOCATION ADJUSTMENTS,  
2 ZONE DIFFERENTIALS AND FOR COMPETITIVE CREDITS WITH RESPECT TO  
3 REGULATED HANDLERS WHO MARKET OUTSIDE THE REGULATED AREA.

4 (5) PROVISIONS FOR THE PAYMENT TO ALL PRODUCERS AND  
5 ASSOCIATIONS OF PRODUCERS DELIVERING MILK TO ALL HANDLERS OF UNIFORM  
6 PRICES FOR ALL MILK SO DELIVERED, IRRESPECTIVE OF THE USES MADE OF SUCH  
7 MILK BY THE INDIVIDUAL HANDLER TO WHOM IT IS DELIVERED, OR FOR THE  
8 PAYMENT OF PRODUCERS DELIVERING MILK TO THE SAME HANDLER OF UNIFORM  
9 PRICES FOR ALL MILK DELIVERED BY THEM.

10 (A) WITH RESPECT TO REGULATIONS ESTABLISHING A COMPACT  
11 OVER-ORDER PRICE, THE COMMISSION MAY ESTABLISH ONE EQUALIZATION POOL  
12 WITHIN THE REGULATED AREA FOR THE SOLE PURPOSE OF EQUALIZING RETURNS  
13 TO PRODUCERS THROUGHOUT THE REGULATED AREA.

14 (B) WITH RESPECT TO ANY COMMISSION MARKETING ORDER, AS  
15 DEFINED IN § 2(9), WHICH REPLACES ONE OR MORE TERMINATED FEDERAL ORDERS  
16 OR STATE DAIRY REGULATION, THE MARKETING AREA OF NOW SEPARATE STATE OR  
17 FEDERAL ORDERS SHALL NOT BE MERGED WITHOUT THE AFFIRMATIVE CONSENT OF  
18 EACH STATE, VOTING THROUGH ITS DELEGATION, WHICH IS PARTLY OR WHOLLY  
19 INCLUDED WITHIN ANY SUCH NEW MARKETING AREA.

20 (6) PROVISIONS REQUIRING PERSONS WHO BRING CLASS I MILK INTO  
21 THE REGULATED AREA TO MAKE COMPENSATORY PAYMENTS WITH RESPECT TO ALL  
22 SUCH MILK TO THE EXTENT NECESSARY TO EQUALIZE THE COST OF MILK  
23 PURCHASED BY HANDLERS SUBJECT TO A COMPACT OVER-ORDER PRICE OR  
24 COMMISSION MARKETING ORDER. NO SUCH PROVISIONS SHALL DISCRIMINATE  
25 AGAINST MILK PRODUCERS OUTSIDE THE REGULATED AREA. THE PROVISIONS FOR  
26 COMPENSATORY PAYMENTS MAY REQUIRE PAYMENT OF THE DIFFERENCE  
27 BETWEEN THE CLASS I PRICE REQUIRED TO BE PAID FOR SUCH MILK IN THE STATE  
28 OF PRODUCTION BY A FEDERAL MILK MARKETING ORDER OR STATE DAIRY  
29 REGULATION AND THE CLASS I PRICE ESTABLISHED BY THE COMPACT OVER-ORDER  
30 PRICE OR COMMISSION MARKETING ORDER.

31 (7) PROVISIONS SPECIALLY GOVERNING THE PRICING AND POOLING OF  
32 MILK HANDLED BY PARTIALLY REGULATED PLANTS.

33 (8) PROVISIONS REQUIRING THAT THE ACCOUNT OF ANY PERSON  
34 REGULATED UNDER A COMPACT OVER-ORDER PRICE SHALL BE ADJUSTED FOR ANY  
35 PAYMENTS MADE TO OR RECEIVED BY SUCH PERSONS WITH RESPECT TO A  
36 PRODUCER SETTLEMENT FUND OF ANY FEDERAL OR STATE MILK MARKETING  
37 ORDER OR OTHER STATE DAIRY REGULATION WITHIN THE REGULATED AREA.

38 (9) PROVISIONS REQUIRING THE PAYMENT BY HANDLERS OF AN  
39 ASSESSMENT TO COVER THE COSTS OF THE ADMINISTRATION AND ENFORCEMENT  
40 OF SUCH ORDER PURSUANT TO ARTICLE VII, § 18(A).

1 (10) PROVISIONS FOR REIMBURSEMENT TO PARTICIPANTS OF THE  
2 WOMEN, INFANTS AND CHILDREN SPECIAL SUPPLEMENTAL FOOD PROGRAM OF THE  
3 UNITED STATES CHILD NUTRITION ACT OF 1966.

4 (11) OTHER PROVISIONS AND REQUIREMENTS AS THE COMMISSION MAY  
5 FIND ARE NECESSARY OR APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS  
6 COMPACT AND TO PROVIDE FOR THE PAYMENT OF FAIR AND EQUITABLE MINIMUM  
7 PRICES TO PRODUCERS.

8 ARTICLE V. RULEMAKING PROCEDURE.

9 SEC. 11. RULEMAKING PROCEDURE.

10 BEFORE PROMULGATION OF ANY REGULATIONS ESTABLISHING A COMPACT  
11 OVER-ORDER PRICE OR COMMISSION MARKETING ORDER, INCLUDING ANY  
12 PROVISION WITH RESPECT TO MILK SUPPLY UNDER SUBSECTION 9(F), OR  
13 AMENDMENT THEREOF, AS PROVIDED IN ARTICLE IV, THE COMMISSION SHALL  
14 CONDUCT AN INFORMAL RULEMAKING PROCEEDING TO PROVIDE INTERESTED  
15 PERSONS WITH AN OPPORTUNITY TO PRESENT DATA AND VIEWS. SUCH  
16 RULEMAKING PROCEEDING SHALL BE GOVERNED BY § 4 OF THE FEDERAL  
17 ADMINISTRATIVE PROCEDURE ACT, AS AMENDED (5 U.S.C. SEC. 553). IN ADDITION,  
18 THE COMMISSION SHALL, TO THE EXTENT PRACTICABLE, PUBLISH NOTICE OF  
19 RULEMAKING PROCEEDINGS IN THE OFFICIAL REGISTER OF EACH PARTICIPATING  
20 STATE. BEFORE THE INITIAL ADOPTION OF REGULATIONS ESTABLISHING A  
21 COMPACT OVER-ORDER PRICE OR A COMMISSION MARKETING ORDER AND  
22 THEREAFTER BEFORE ANY AMENDMENT WITH REGARD TO PRICES OR  
23 ASSESSMENTS, THE COMMISSION SHALL HOLD A PUBLIC HEARING. THE  
24 COMMISSION MAY COMMENCE A RULEMAKING PROCEEDING ON ITS OWN INITIATIVE  
25 OR MAY IN ITS SOLE DISCRETION ACT UPON THE PETITION OF ANY PERSON  
26 INCLUDING INDIVIDUAL MILK PRODUCERS, ANY ORGANIZATION OF MILK  
27 PRODUCERS OR HANDLERS, GENERAL FARM ORGANIZATIONS, CONSUMER OR  
28 PUBLIC INTEREST GROUPS, AND LOCAL, STATE OR FEDERAL OFFICIALS.

29 SEC. 12. FINDINGS AND REFERENDUM.

30 (A) IN ADDITION TO THE CONCISE GENERAL STATEMENT OF BASIS AND  
31 PURPOSE REQUIRED BY § 4(B) OF THE FEDERAL ADMINISTRATIVE PROCEDURE ACT,  
32 AS AMENDED (5 U.S.C. SEC. 553(C)), THE COMMISSION SHALL MAKE FINDINGS OF  
33 FACT WITH RESPECT TO:

34 (1) WHETHER THE PUBLIC INTEREST WILL BE SERVED BY THE  
35 ESTABLISHMENT OF MINIMUM MILK PRICES TO DAIRY FARMERS UNDER ARTICLE IV.

36 (2) WHAT LEVEL OF PRICES WILL ASSURE THAT PRODUCERS RECEIVE A  
37 PRICE SUFFICIENT TO COVER THEIR COSTS OF PRODUCTION AND WILL ELICIT AN  
38 ADEQUATE SUPPLY OF MILK FOR THE INHABITANTS OF THE REGULATED AREA AND  
39 FOR MANUFACTURING PURPOSES.

1 (3) WHETHER THE MAJOR PROVISIONS OF THE ORDER, OTHER THAN  
2 THOSE FIXING MINIMUM MILK PRICES, ARE IN THE PUBLIC INTEREST AND ARE  
3 REASONABLY DESIGNED TO ACHIEVE THE PURPOSES OF THE ORDER.

4 (4) WHETHER THE TERMS OF THE PROPOSED REGIONAL ORDER OR  
5 AMENDMENT ARE APPROVED BY PRODUCERS AS PROVIDED IN § 13.

6 SEC. 13. PRODUCER REFERENDUM.

7 (A) FOR THE PURPOSE OF ASCERTAINING WHETHER THE ISSUANCE OR  
8 AMENDMENT OF REGULATIONS ESTABLISHING A COMPACT OVER-ORDER PRICE OR  
9 A COMMISSION MARKETING ORDER, INCLUDING ANY PROVISION WITH RESPECT TO  
10 MILK SUPPLY UNDER SUBSECTION 9(F), IS APPROVED BY PRODUCERS, THE  
11 COMMISSION SHALL CONDUCT A REFERENDUM AMONG PRODUCERS. THE  
12 REFERENDUM SHALL BE HELD IN A TIMELY MANNER, AS DETERMINED BY  
13 REGULATION OF THE COMMISSION. THE TERMS AND CONDITIONS OF THE PROPOSED  
14 ORDER OR AMENDMENT SHALL BE DESCRIBED BY THE COMMISSION IN THE BALLOT  
15 USED IN THE CONDUCT OF THE REFERENDUM, BUT THE NATURE, CONTENT, OR  
16 EXTENT OF SUCH DESCRIPTION SHALL NOT BE A BASIS FOR ATTACKING THE  
17 LEGALITY OF THE ORDER OR ANY ACTION RELATING THERETO.

18 (B) AN ORDER OR AMENDMENT SHALL BE DEEMED APPROVED BY  
19 PRODUCERS IF THE COMMISSION DETERMINES THAT IT IS APPROVED BY AT LEAST  
20 TWO-THIRDS OF THE VOTING PRODUCERS WHO, DURING A REPRESENTATIVE  
21 PERIOD DETERMINED BY THE COMMISSION, HAVE BEEN ENGAGED IN THE  
22 PRODUCTION OF MILK THE PRICE OF WHICH WOULD BE REGULATED UNDER THE  
23 PROPOSED ORDER OR AMENDMENT.

24 (C) FOR PURPOSES OF ANY REFERENDUM, THE COMMISSION SHALL  
25 CONSIDER THE APPROVAL OR DISAPPROVAL BY ANY COOPERATIVE ASSOCIATION OF  
26 PRODUCERS, QUALIFIED UNDER THE PROVISIONS OF THE ACT OF CONGRESS OF  
27 FEBRUARY 18, 1922, AS AMENDED, KNOWN AS THE CAPPER-VOLSTEAD ACT, BONA  
28 FIDE ENGAGED IN MARKETING MILK, OR IN RENDERING SERVICES FOR OR  
29 ADVANCING THE INTERESTS OF PRODUCERS OF SUCH COMMODITY, AS THE  
30 APPROVAL OR DISAPPROVAL OF THE PRODUCERS WHO ARE MEMBERS OR  
31 STOCKHOLDERS IN, OR UNDER CONTRACT WITH, SUCH COOPERATIVE ASSOCIATION  
32 OF PRODUCERS, EXCEPT AS PROVIDED IN SUBDIVISION (1) HEREOF AND SUBJECT TO  
33 THE PROVISIONS OF SUBDIVISIONS (2) THROUGH (5) HEREOF.

34 (1) NO COOPERATIVE WHICH HAS BEEN FORMED TO ACT AS A COMMON  
35 MARKETING AGENCY FOR BOTH COOPERATIVES AND INDIVIDUAL PRODUCERS  
36 SHALL BE QUALIFIED TO BLOCK VOTE FOR EITHER.

37 (2) ANY COOPERATIVE WHICH IS QUALIFIED TO BLOCK VOTE SHALL,  
38 BEFORE SUBMITTING ITS APPROVAL OR DISAPPROVAL IN ANY REFERENDUM, GIVE  
39 PRIOR WRITTEN NOTICE TO EACH OF ITS MEMBERS AS TO WHETHER AND HOW IT  
40 INTENDS TO CAST ITS VOTE. THE NOTICE SHALL BE GIVEN IN A TIMELY MANNER AS  
41 ESTABLISHED, AND IN THE FORM PRESCRIBED, BY THE COMMISSION.

1 (3) ANY PRODUCER MAY OBTAIN A BALLOT FROM THE COMMISSION IN  
2 ORDER TO REGISTER APPROVAL OR DISAPPROVAL OF THE PROPOSED ORDER.

3 (4) A PRODUCER WHO IS A MEMBER OF A COOPERATIVE WHICH HAS  
4 PROVIDED NOTICE OF ITS INTENT TO APPROVE OR NOT TO APPROVE A PROPOSED  
5 ORDER, AND WHO OBTAINS A BALLOT AND WITH SUCH BALLOT EXPRESSES THE  
6 PRODUCER'S APPROVAL OR DISAPPROVAL OF THE PROPOSED ORDER, SHALL NOTIFY  
7 THE COMMISSION AS TO THE NAME OF THE COOPERATIVE OF WHICH THE  
8 PRODUCER IS A MEMBER, AND THE COMMISSION SHALL REMOVE SUCH PRODUCER'S  
9 NAME FROM THE LIST CERTIFIED BY SUCH COOPERATIVE WITH ITS CORPORATE  
10 VOTE.

11 (5) IN ORDER TO INSURE THAT ALL MILK PRODUCERS ARE INFORMED  
12 REGARDING A PROPOSED ORDER, THE COMMISSION SHALL NOTIFY ALL MILK  
13 PRODUCERS THAT AN ORDER IS BEING CONSIDERED AND THAT EACH PRODUCER  
14 MAY REGISTER THE PRODUCER'S APPROVAL OR DISAPPROVAL WITH THE  
15 COMMISSION EITHER DIRECTLY OR THROUGH THE PRODUCER'S COOPERATIVE.

16 SEC. 14. TERMINATION OF OVER-ORDER PRICE OR MARKETING ORDER.

17 (A) THE COMMISSION SHALL TERMINATE ANY REGULATIONS ESTABLISHING  
18 AN OVER-ORDER PRICE OR COMMISSION MARKETING ORDER ISSUED UNDER THIS  
19 ARTICLE WHENEVER IT FINDS THAT SUCH ORDER OR PRICE OBSTRUCTS OR DOES  
20 NOT TEND TO EFFECTUATE THE DECLARED POLICY OF THIS COMPACT.

21 (B) THE COMMISSION SHALL TERMINATE ANY REGULATIONS ESTABLISHING  
22 AN OVER-ORDER PRICE OR A COMMISSION MARKETING ORDER ISSUED UNDER THIS  
23 ARTICLE WHENEVER IT FINDS THAT SUCH TERMINATION IS FAVORED BY A  
24 MAJORITY OF THE PRODUCERS WHO, DURING A REPRESENTATIVE PERIOD  
25 DETERMINED BY THE COMMISSION, HAVE BEEN ENGAGED IN THE PRODUCTION OF  
26 MILK THE PRICE OF WHICH IS REGULATED BY SUCH ORDER; BUT SUCH  
27 TERMINATION SHALL BE EFFECTIVE ONLY IF ANNOUNCED ON OR BEFORE SUCH  
28 DATE AS MAY BE SPECIFIED IN SUCH MARKETING AGREEMENT OR ORDER.

29 (C) THE TERMINATION OR SUSPENSION OF ANY ORDER OR PROVISION  
30 THEREOF, SHALL NOT BE CONSIDERED AN ORDER WITHIN THE MEANING OF THIS  
31 ARTICLE AND SHALL REQUIRE NO HEARING, BUT SHALL COMPLY WITH THE  
32 REQUIREMENTS FOR INFORMAL RULEMAKING PRESCRIBED BY § 4 OF THE FEDERAL  
33 ADMINISTRATIVE PROCEDURE ACT, AS AMENDED (5 U.S.C. SEC. 553).

34 ARTICLE VI. ENFORCEMENT.

35 SEC. 15. RECORDS, REPORTS, ACCESS TO PREMISES.

36 (A) THE COMMISSION MAY BY RULE AND REGULATION PRESCRIBE RECORD  
37 KEEPING AND REPORTING REQUIREMENTS FOR ALL REGULATED PERSONS. FOR  
38 PURPOSES OF THE ADMINISTRATION AND ENFORCEMENT OF THIS COMPACT, THE  
39 COMMISSION IS AUTHORIZED TO EXAMINE THE BOOKS AND RECORDS OF ANY  
40 REGULATED PERSON RELATING TO THE PERSON'S MILK BUSINESS AND FOR THAT

1 PURPOSE, THE COMMISSION'S PROPERLY DESIGNATED OFFICERS, EMPLOYEES, OR  
2 AGENTS SHALL HAVE FULL ACCESS DURING NORMAL BUSINESS HOURS TO THE  
3 PREMISES AND RECORDS OF ALL REGULATED PERSONS.

4 (B) INFORMATION FURNISHED TO OR ACQUIRED BY THE COMMISSION  
5 OFFICERS, EMPLOYEES, OR ITS AGENTS PURSUANT TO THIS SECTION SHALL BE  
6 CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE EXCEPT TO THE EXTENT THAT  
7 THE COMMISSION DEEMS DISCLOSURE TO BE NECESSARY IN ANY ADMINISTRATIVE  
8 OR JUDICIAL PROCEEDING INVOLVING THE ADMINISTRATION OR ENFORCEMENT OF  
9 THIS COMPACT, AN OVER-ORDER PRICE, A COMPACT MARKETING ORDER, OR OTHER  
10 REGULATIONS OF THE COMMISSION. THE COMMISSION MAY PROMULGATE  
11 REGULATIONS FURTHER DEFINING THE CONFIDENTIALITY OF INFORMATION  
12 PURSUANT TO THIS SECTION. NOTHING IN THIS SECTION SHALL BE DEEMED TO  
13 PROHIBIT (1) THE ISSUANCE OF GENERAL STATEMENTS BASED UPON THE REPORTS  
14 OF A NUMBER OF HANDLERS, WHICH DO NOT IDENTIFY THE INFORMATION  
15 FURNISHED BY ANY PERSON, OR (2) THE PUBLICATION BY DIRECTION OF THE  
16 COMMISSION OF THE NAME OF ANY PERSON VIOLATING ANY REGULATION OF THE  
17 COMMISSION, TOGETHER WITH A STATEMENT OF THE PARTICULAR PROVISIONS  
18 VIOLATED BY SUCH PERSON.

19 (C) NO OFFICER, EMPLOYEE, OR AGENT OF THE COMMISSION SHALL  
20 INTENTIONALLY DISCLOSE INFORMATION, BY INFERENCE OR OTHERWISE, WHICH IS  
21 MADE CONFIDENTIAL PURSUANT TO THIS SECTION. ANY PERSON VIOLATING THE  
22 PROVISIONS OF THIS SECTION SHALL UPON CONVICTION BE SUBJECT TO A FINE OF  
23 NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR  
24 TO BOTH, AND SHALL BE REMOVED FROM OFFICE. THE COMMISSION SHALL REFER  
25 ANY ALLEGATION OF A VIOLATION OF THIS SECTION TO THE APPROPRIATE STATE  
26 ENFORCEMENT AUTHORITY OR UNITED STATES ATTORNEY.

27 SEC. 16. SUBPOENA, HEARINGS AND JUDICIAL REVIEW.

28 (A) THE COMMISSION IS HEREBY AUTHORIZED AND EMPOWERED BY ITS  
29 MEMBERS AND ITS PROPERLY DESIGNATED OFFICERS TO ADMINISTER OATHS AND  
30 ISSUE SUBPOENAS THROUGHOUT ALL SIGNATORY STATES TO COMPEL THE  
31 ATTENDANCE OF WITNESSES AND THE GIVING OF TESTIMONY AND THE  
32 PRODUCTION OF OTHER EVIDENCE.

33 (B) ANY HANDLER SUBJECT TO AN ORDER MAY FILE A WRITTEN PETITION  
34 WITH THE COMMISSION STATING THAT ANY SUCH ORDER OR ANY PROVISION OF ANY  
35 SUCH ORDER OR ANY OBLIGATION IMPOSED IN CONNECTION THEREWITH IS NOT IN  
36 ACCORDANCE WITH LAW AND PRAYING FOR A MODIFICATION THEREOF OR TO BE  
37 EXEMPTED THEREFROM. THE HANDLER SHALL THEREUPON BE GIVEN AN  
38 OPPORTUNITY FOR A HEARING UPON SUCH PETITION, IN ACCORDANCE WITH  
39 REGULATIONS MADE BY THE COMMISSION. AFTER SUCH HEARING, THE  
40 COMMISSION SHALL MAKE A RULING UPON THE PRAYER OF SUCH PETITION WHICH  
41 SHALL BE FINAL, IF IN ACCORDANCE WITH LAW.

42 (C) THE DISTRICT COURTS OF THE UNITED STATES IN ANY DISTRICT IN  
43 WHICH SUCH HANDLER IS AN INHABITANT, OR HAS THE HANDLER'S PRINCIPAL

1 PLACE OF BUSINESS, ARE HEREBY VESTED WITH JURISDICTION IN EQUITY TO  
2 REVIEW SUCH RULING, PROVIDED A BILL IN EQUITY FOR THAT PURPOSE IS FILED  
3 WITHIN THIRTY DAYS FROM THE DATE OF THE ENTRY OF SUCH RULING. SERVICE OF  
4 PROCESS IN SUCH PROCEEDINGS MAY BE HAD UPON THE COMMISSION BY  
5 DELIVERING TO IT A COPY OF THE BILL OF COMPLAINT. IF THE COURT DETERMINES  
6 THAT SUCH RULING IS NOT IN ACCORDANCE WITH LAW, IT SHALL REMAND SUCH  
7 PROCEEDINGS TO THE COMMISSION WITH DIRECTIONS EITHER (1) TO MAKE SUCH  
8 RULING AS THE COURT SHALL DETERMINE TO BE IN ACCORDANCE WITH LAW, OR (2)  
9 TO TAKE SUCH FURTHER PROCEEDINGS AS, IN ITS OPINION, THE LAW REQUIRES.  
10 THE PENDENCY OF PROCEEDINGS INSTITUTED PURSUANT TO THIS SUBDIVISION  
11 SHALL NOT IMPEDE, HINDER, OR DELAY THE COMMISSION FROM OBTAINING RELIEF  
12 PURSUANT TO § 17. ANY PROCEEDINGS BROUGHT PURSUANT TO § 17 (EXCEPT WHERE  
13 BROUGHT BY WAY OF COUNTERCLAIM IN PROCEEDINGS INSTITUTED PURSUANT TO  
14 THIS SECTION) SHALL ABATE WHENEVER A FINAL DECREE HAS BEEN RENDERED IN  
15 PROCEEDINGS BETWEEN THE SAME PARTIES, AND COVERING THE SAME SUBJECT  
16 MATTER, INSTITUTED PURSUANT TO THIS SECTION.

17 SEC. 17. ENFORCEMENT WITH RESPECT TO HANDLERS.

18 (A) ANY VIOLATION BY A HANDLER OF THE PROVISIONS OF REGULATIONS  
19 ESTABLISHING AN OVER-ORDER PRICE OR A COMMISSION MARKETING ORDER, OR  
20 OTHER REGULATIONS ADOPTED PURSUANT TO THIS COMPACT SHALL:

21 (1) CONSTITUTE A VIOLATION OF THE LAWS OF EACH OF THE  
22 SIGNATORY STATES. SUCH VIOLATION SHALL RENDER THE VIOLATOR SUBJECT TO A  
23 CIVIL PENALTY IN AN AMOUNT AS MAY BE PRESCRIBED BY THE LAWS OF EACH OF  
24 THE PARTICIPATING STATES, RECOVERABLE IN ANY STATE OR FEDERAL COURT OF  
25 COMPETENT JURISDICTION. EACH DAY SUCH VIOLATION CONTINUES SHALL  
26 CONSTITUTE A SEPARATE VIOLATION.

27 (2) CONSTITUTE GROUNDS FOR THE REVOCATION OF LICENSE OR  
28 PERMIT TO ENGAGE IN THE MILK BUSINESS UNDER THE APPLICABLE LAWS OF THE  
29 PARTICIPATING STATES.

30 (B) WITH RESPECT TO HANDLERS, THE COMMISSION SHALL ENFORCE THE  
31 PROVISIONS OF THIS COMPACT, REGULATIONS ESTABLISHING AN OVER-ORDER  
32 PRICE, A COMMISSION MARKETING ORDER OR OTHER REGULATIONS ADOPTED  
33 HEREUNDER BY:

34 (1) COMMENCING AN ACTION FOR LEGAL OR EQUITABLE RELIEF  
35 BROUGHT IN THE NAME OF THE COMMISSION IN ANY STATE OR FEDERAL COURT OF  
36 COMPETENT JURISDICTION; OR

37 (2) WITH THE AGREEMENT OF THE APPROPRIATE STATE AGENCY OF A  
38 PARTICIPATING STATE, BY REFERRAL TO THE STATE AGENCY FOR ENFORCEMENT BY  
39 JUDICIAL OR ADMINISTRATIVE REMEDY.

40 (C) WITH RESPECT TO HANDLERS, THE COMMISSION MAY BRING AN ACTION  
41 FOR INJUNCTION TO ENFORCE THE PROVISIONS OF THIS COMPACT OR THE ORDER

1 OR REGULATIONS ADOPTED THEREUNDER WITHOUT BEING COMPELLED TO ALLEGE  
2 OR PROVE THAT AN ADEQUATE REMEDY OF LAW DOES NOT EXIST.

3 ARTICLE VII. FINANCE.

4 SEC. 18. FINANCE OF START-UP AND REGULAR COSTS.

5 (A) TO PROVIDE FOR ITS START-UP COSTS, THE COMMISSION MAY BORROW  
6 MONEY PURSUANT TO ITS GENERAL POWER UNDER § 6(D)(4). IN ORDER TO FINANCE  
7 THE COSTS OF ADMINISTRATION AND ENFORCEMENT OF THIS COMPACT, INCLUDING  
8 PAYBACK OF START-UP COSTS, THE COMMISSION IS HEREBY EMPOWERED TO  
9 COLLECT AN ASSESSMENT FROM EACH HANDLER WHO PURCHASES MILK FROM  
10 PRODUCERS WITHIN THE REGION. IF IMPOSED, THIS ASSESSMENT SHALL BE  
11 COLLECTED ON A MONTHLY BASIS FOR UP TO ONE YEAR FROM THE DATE THE  
12 COMMISSION CONVENES, IN AN AMOUNT NOT TO EXCEED 0.001% OF THE  
13 APPLICABLE FEDERAL MARKET ORDER BLEND PRICE PER HUNDREDWEIGHT OF  
14 MILK PURCHASED FROM PRODUCERS DURING THE PERIOD OF THE ASSESSMENT.  
15 THE INITIAL ASSESSMENT MAY APPLY TO THE PROJECTED PURCHASES OF  
16 HANDLERS FOR THE TWO-MONTH PERIOD FOLLOWING THE DATE THE COMMISSION  
17 CONVENES. IN ADDITION, IF REGULATIONS ESTABLISHING AN OVER-ORDER PRICE  
18 OR A COMPACT MARKETING ORDER ARE ADOPTED, THEY MAY INCLUDE AN  
19 ASSESSMENT FOR THE SPECIFIC PURPOSE OF THEIR ADMINISTRATION. THESE  
20 REGULATIONS SHALL PROVIDE FOR ESTABLISHMENT OF A RESERVE FOR THE  
21 COMMISSION'S ONGOING OPERATING EXPENSES.

22 (B) THE COMMISSION SHALL NOT PLEDGE THE CREDIT OF ANY  
23 PARTICIPATING STATE OR OF THE UNITED STATES. NOTES ISSUED BY THE  
24 COMMISSION AND ALL OTHER FINANCIAL OBLIGATIONS INCURRED BY IT, SHALL BE  
25 ITS SOLE RESPONSIBILITY AND NO PARTICIPATING STATE OR THE UNITED STATES  
26 SHALL BE LIABLE THEREFOR.

27 SEC. 19. AUDIT AND ACCOUNTS.

28 (A) THE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS  
29 AND DISBURSEMENTS, WHICH SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING  
30 PROCEDURES ESTABLISHED UNDER ITS RULES. IN ADDITION, ALL RECEIPTS AND  
31 DISBURSEMENTS OF FUNDS HANDLED BY THE COMMISSION SHALL BE AUDITED  
32 YEARLY BY A QUALIFIED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT  
33 SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE  
34 COMMISSION.

35 (B) THE ACCOUNTS OF THE COMMISSION SHALL BE OPEN AT ANY  
36 REASONABLE TIME FOR INSPECTION BY DULY CONSTITUTED OFFICERS OF THE  
37 PARTICIPATING STATES AND BY ANY PERSONS AUTHORIZED BY THE COMMISSION.

38 (C) NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO  
39 PREVENT COMMISSION COMPLIANCE WITH LAWS RELATING TO AUDIT OR  
40 INSPECTION OF ACCOUNTS BY OR ON BEHALF OF ANY PARTICIPATING STATE OR OF  
41 THE UNITED STATES.



1 ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL.

2 SEC. 20. ENTRY INTO FORCE; ADDITIONAL MEMBERS.

3 THE COMPACT SHALL ENTER INTO FORCE EFFECTIVE WHEN ENACTED INTO  
4 LAW BY ANY THREE STATES OF THE GROUP OF STATES COMPOSED OF  
5 CONNECTICUT, DELAWARE, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE,  
6 NEW JERSEY, NEW YORK, PENNSYLVANIA, RHODE ISLAND, VERMONT, AND VIRGINIA,  
7 AND WHEN THE CONSENT OF CONGRESS HAS BEEN OBTAINED. THIS COMPACT  
8 SHALL ALSO BE OPEN TO STATES WHICH ARE CONTIGUOUS TO ANY OF THE NAMED  
9 STATES AND OPEN TO STATES WHICH ARE CONTIGUOUS TO PARTICIPATING STATES.

10 SEC. 21. WITHDRAWAL FROM COMPACT.

11 ANY PARTICIPATING STATE MAY WITHDRAW FROM THIS COMPACT BY  
12 ENACTING A STATUTE REPEALING THE SAME, BUT NO SUCH WITHDRAWAL SHALL  
13 TAKE EFFECT UNTIL ONE YEAR AFTER NOTICE IN WRITING OF THE WITHDRAWAL IS  
14 GIVEN TO THE COMMISSION AND THE GOVERNORS OF ALL OTHER PARTICIPATING  
15 STATES. NO WITHDRAWAL SHALL AFFECT ANY LIABILITY ALREADY INCURRED BY OR  
16 CHARGEABLE TO A PARTY STATE PRIOR TO THE TIME OF SUCH WITHDRAWAL.

17 SEC. 22. SEVERABILITY.

18 IF ANY PART OR PROVISION OF THIS COMPACT IS ADJUDGED INVALID BY ANY  
19 COURT, SUCH JUDGMENT SHALL BE CONFINED IN ITS OPERATION TO THE PART OR  
20 PROVISION DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT  
21 SHALL HAVE BEEN RENDERED AND SHALL NOT AFFECT OR IMPAIR THE VALIDITY OF  
22 THE REMAINDER OF THIS COMPACT.

23 CONGRESS RESERVES THE RIGHT TO AMEND OR RESCIND THIS INTERSTATE  
24 COMPACT AT ANY TIME.

25 2-802.

26 (A) THE MARYLAND DELEGATION TO THE NORTHEAST INTERSTATE DAIRY  
27 COMPACT COMMISSION CONSISTS OF THE FOLLOWING FIVE MEMBERS, APPOINTED  
28 BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

29 (1) TWO DAIRY FARMERS WHO ARE ACTIVELY ENGAGED IN THE  
30 PRODUCTION OF MILK AT THE TIME OF APPOINTMENT;

31 (2) ONE DAIRY PROCESSOR WHO IS ACTIVELY ENGAGED IN THE  
32 PROCESSING OF MILK AT THE TIME OF APPOINTMENT; AND

33 (3) TWO CONSUMERS.

34 (B) THE MEMBERS OF THE DELEGATION SHALL BE SELECTED TO REPRESENT  
35 THE DIVERSITY OF THE DAIRY INTERESTS AND GEOGRAPHIC REPRESENTATION OF  
36 THE STATE.

1 (C) (1) THE TERM OF A MEMBER IS 4 YEARS AND BEGINS ON OCTOBER 1 IN  
2 THE YEAR IN WHICH THE MEMBER IS APPOINTED.

3 (2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
4 SUCCESSOR IS APPOINTED AND QUALIFIES.

5 (3) A MEMBER APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY  
6 FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
7 QUALIFIES.

8 (4) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY  
9 THE TERMS PROVIDED FOR MEMBERS OF THE DELEGATION ON OCTOBER 1, 1998.

10 (5) A MEMBER MAY SERVE NO MORE THAN 3 CONSECUTIVE TERMS.

11 (6) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR  
12 MISCONDUCT.

13 (7) IF A VACANCY ARISES OTHER THAN BY THE EXPIRATION OF A TERM,  
14 THE GOVERNOR SHALL APPOINT WITHIN 30 DAYS A SUCCESSOR TO SERVE THE  
15 REMAINDER OF THE TERM.

16 (D) A MEMBER OF THE DELEGATION:

17 (1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE  
18 DELEGATION; BUT

19 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
20 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

21 2-803.

22 THE SECRETARY MAY OBTAIN INFORMATION BY LAWFUL MEANS PERTAINING  
23 TO THE DAIRY INDUSTRY AS NECESSARY TO CARRY OUT THE PURPOSES OF THIS  
24 SUBTITLE AND THE NORTHEAST INTERSTATE DAIRY COMPACT. THE INFORMATION  
25 MAY BE USED BY THE SECRETARY, THE MARYLAND DELEGATION TO THE  
26 COMMISSION, AND THE COMMISSION.

27 2-804.

28 THE SECRETARY MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE  
29 PURPOSES OF THIS SUBTITLE AND THE NORTHEAST INTERSTATE DAIRY COMPACT.

30 2-805.

31 (A) A PERSON MAY NOT VIOLATE A PROVISION OF THIS SUBTITLE, THE  
32 NORTHEAST INTERSTATE DAIRY COMPACT, OR A REGULATION ADOPTED UNDER  
33 THIS SUBTITLE OR THE NORTHEAST INTERSTATE DAIRY COMPACT.

1 (B) INSTEAD OF PURSUING CRIMINAL CHARGES PROVIDED IN THIS ARTICLE,  
2 THE SECRETARY MAY IMPOSE ON ANY PERSON WHO VIOLATES THIS SUBTITLE A  
3 CIVIL PENALTY OF:

4 (1) FOR A FIRST VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED,  
5 NOT MORE THAN \$500;

6 (2) FOR A SECOND VIOLATION FOR WHICH A CIVIL PENALTY IS  
7 IMPOSED, NOT MORE THAN \$1,000; OR

8 (3) FOR A THIRD OR SUBSEQUENT VIOLATION FOR WHICH A CIVIL  
9 PENALTY IS IMPOSED, NOT MORE THAN \$2,000.

10 (C) PENALTIES COLLECTED BY THE SECRETARY UNDER THIS SECTION SHALL  
11 BE PAID INTO THE GENERAL FUND OF THE STATE.

12 (D) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE VIOLATION.

13 (E) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT  
14 THE PROVISIONS OF THIS SECTION.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
16 members of the Maryland delegation to the Northeast Interstate Dairy Compact  
17 Commission shall expire as follows:

18 (1) one dairy farmer member in 2002;

19 (2) one consumer member and the dairy processor in 2001;

20 (3) one dairy farmer member in 2000; and

21 (4) one consumer member in 1999.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not take  
23 effect until a similar act is passed by at least two of the other states listed in Article  
24 VIII, § 20 of the Compact contained in § 2-801 of the Agriculture Article as enacted by  
25 this Act, the United States Congress consents to the Compact, and the conditions  
26 imposed by that consent have been met; that the other listed states are requested to  
27 concur in this Act of the General Assembly of Maryland by the passage of similar Acts;  
28 that the United States Congress is requested to consent to this Act; that the  
29 Department of Legislative Services shall notify the appropriate officials of the listed  
30 states and the United States Congress of the passage of this Act; and that upon the  
31 concurrence in this Act by at least two of the other listed states, consent by the United  
32 States Congress, and meeting of the conditions imposed by that consent, the Governor  
33 of the State of Maryland shall issue a proclamation declaring this Act valid and  
34 effective and shall forward a copy of the proclamation to the Executive Director of the  
35 Department of Legislative Services.

36 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of  
37 this Act, this Act shall take effect October 1, 1998.

