

SENATE BILL 285

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1998 Regular Session
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CF HB 237

By: **Senators Derr, Ferguson, Hafer, Haines, and Munson (Western Maryland Senators)**

Introduced and read first time: February 4, 1998
Assigned to: Economic and Environmental Affairs

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.

