

**§ 1307.4 Payments to producers.**

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(f) At a partially regulated plant each handler shall make payments, on a pro rata basis, to all producers and dairy farmers for milk (excluding diverted pool producer milk) received from them during the month, the payment received pursuant to § 1307.3 (b).

**Daniel Smith,**

*Executive Director.*

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## **NORTHEAST DAIRY COMPACT COMMISSION**

### **7 CFR Chapter XIII**

#### **Results of Producer Referendum**

**AGENCY:** Northeast Dairy Compact Commission.

**ACTION:** Notice of referendum results.

**SUMMARY:** On October 23, 1997, the Northeast Dairy Compact Commission adopted, by final rule, an extension of the current over-order price regulation through the termination of the Compact enabling legislation,<sup>1</sup> which is published elsewhere in this issue of the **Federal Register**. To become effective, the extension of a price regulation must be approved by at least two-thirds of all producers voting by referendum. A producer referendum was held during the period of October 24 through November 12, 1997. The extension of the Commission's price regulation through termination of the Compact enabling legislation was approved by more than two-thirds of all producers voting in the referendum. This document discusses the referendum on the final rule and gives notice of the results.

**ADDRESSES:** Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601.

**FOR FURTHER INFORMATION CONTACT:** Daniel Smith, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229-1941 or by facsimile at (802) 229-2028.

**SUPPLEMENTARY INFORMATION:** The Compact Commission was established under the authority of the Northeast Interstate Dairy Compact ("Compact"). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Pub. L. 93-320; Maine—Pub. L. 89-437, as amended, Pub. L. 93-274; Massachusetts—Pub. L. 93-370; New

Hampshire—Pub. L. 93-336; Rhode Island—Pub. L. 93-106; Vermont—Pub. L. 89-95, as amended, 93-57. Consistent with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104-127 (FAIR ACT), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact.

Article V, Section 13(a) of the Compact provides that to ascertain whether a price regulation established by the Commission is approved by producers the Commission shall conduct a referendum among producers. Section 13(b) provides further that a price regulation shall be deemed approved by producers if the Commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period, have been engaged in the production of milk subject to Commission price regulation. Section 13(c) directs the Commission to consider the approval or disapproval of any qualified cooperative association by block vote as the approval or disapproval of the producers who are members or stockholders in the cooperative association. Section 13(c)(4) provides that producers who are members of cooperatives may express their approval or disapproval of the order by ballot, contrary to the position taken by their cooperative, and the Commission shall then remove their vote from the total certified by the Cooperative.

By Final Rule, published in this **Federal Register**, the Commission adopted an extension of the over-order price regulation through termination of the Compact enabling legislation on October 23, 1997. The Final Rule includes specific findings of fact required under Section 12(a)(1)-(4) of the Compact. The following notice provides certification of the finding required under Section 12(a)(4), specifically: "Whether the terms of the proposed regional order or amendment are approved by producers as provided in section 13."

The Commission adopted the following resolution for certifying a referendum vote at its October 23, 1997 meeting:

#### *Referendum Approval Certification Procedure*

The Compact Commission resolves and adopts this procedure for certifying whether the Price Regulation adopted on October 23 has been duly approved by producer referendum in accordance with Article V, § 12 of the Northeast Interstate Dairy Compact.

The Compact Commission further resolves to designate and authorize a "Referendum Agent" to administer this procedure. The Referendum Agent shall:

1. Verify all ballots in accordance with Commission's requirements with respect to timeliness, Cooperative identification, producer eligibility, appearance of authenticity and other steps taken to avoid duplication of ballots. Ballots determined by the referendum agent to be invalid shall be marked "disqualified" with a notation of the reason for the disqualification. Disqualified ballots shall not be considered in determining approval or disapproval of the regulation. Verification of ballots shall include those cast individually and by block vote.

2. Certify the following:

- a. The total number of ballots cast.
- b. The total number of ballots disqualified.
- c. The total number of verified ballots cast in favor of the price.
- d. The total number of verified ballots cast in opposition to the price regulation.
- e. Whether two-thirds of all verified ballots were cast in the affirmative.

3. Report to the Executive Director of the Compact Commission the certified computations and results of the referendum under Section 2, who shall publish such results in the **Federal Register**.

4. At the completion of his or her work, shall seal all ballots, including the disqualified ballots, and shall submit a final report to the Executive Director stating all actions taken in connection with the referendum. The final report shall include all ballots cast and all other information furnished to or compiled by the Referendum Agent.

The ballots cast, the identity of any person or cooperative, or the manner in which any person or cooperative voted and all information furnished to or compiled by the Referendum Agent shall be regarded as confidential.

The Commission hereby duly appoints Mae Schmidele as the Referendum Agent to act in accordance with the procedures adopted by this Resolution.

The Commission appointed Ms. Mae Schmidele, the Commission's Vice Chair as Referendum Agent. A referendum was held during the period of October 24 through November 12, 1997. All producers who were producing milk pooled in Federal Order #1 or for consumption in New England, during August of 1997, the representative period determined by the Commission were deemed eligible to vote. The mailing of ballots to eligible producers was completed on October 30, 1997 by the Federal Order #1 Market Administrator. The ballots included an official summary of the Commission's action. Producers were notified that, to be counted, their ballots had to be returned to the Commission offices by 5:00 PM on November 12, 1997.

Eleven Cooperative Associations were notified of the procedures necessary to

<sup>1</sup> U.S.C. 7256(3).

block vote by a letter dated October 24, 1997. Cooperatives were required to provide prior written notice of their intention to block vote to all members on a form provided by the Commission, and to certify to the Commission that (1) timely notice was provided, (2) the number of eligible producers for whom they claimed to be voting, and (3) that they were qualified under the Capper-Volstead Act. Cooperative Associations were further notified that Cooperative Association block vote reporting forms had to be returned to the Commission offices by 5:00 PM on November 12, 1997.

#### **Notice**

On November 13, 1997 the duly authorized referendum agent verified all Ballots according to procedures and criteria established by the Commission. A total of 4,178 ballots were mailed to eligible producers. All ballots and Block

Vote Reporting Forms received by the Commission were opened and counted. A total of 3,560 producer ballots were returned to the Commission office. Ballots and Block Vote Reporting forms were verified or disqualified based on criteria established by the Commission, including timeliness, cooperative identification by cooperative members, producer eligibility, appearance of authenticity, appropriate certifications by cooperative associations and other steps taken to avoid duplication of ballots. Ballots determined by the referendum agent to be invalid were marked "disqualified" with a notation as to the reason. A total of 65 ballots were disqualified by the referendum agent.

The referendum agent then certified the following:

A total of 4,178 ballots were mailed to eligible producers.

A total of 3,560 ballots were returned to the Commission.

A total of 65 ballots were disqualified.

A total of 3,495 ballots were verified.

A total of 3,482 verified ballots were cast in favor of the price regulation.

A total of 13 verified ballots were cast in opposition to the price regulation.

Accordingly, pursuant to the Referendum Approval Certification Procedure resolution adopted by the Northeast Dairy Compact Commission on October 23, 1997, I hereby provide notice that 3,482 of 3,495 verified ballots cast or 99.6% of all verified ballots cast were in favor of the price regulation, and that, therefore, greater than two-thirds of all verified were cast in the affirmative.

**Daniel Smith,**

*Executive Director.*

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