

later than May 1, 1998. The memorandum of understanding shall include provisions for certification by supplying vendor/processors that their bid and contract cost structures do in fact incorporate the over-order price obligation, in whole or in part, and provisions for defining the components of cost structure to be provided in support of such certification. The memorandum shall also establish the procedure for providing reimbursement to the school food service programs, including the scheduling of payments and the amount to be escrowed by the Commission to account for such payments.

Daniel Smith,

Executive Director.

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NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1301

Results of Producer Referendum on Compact Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of referendum results.

SUMMARY: The Northeast Dairy Compact Commission adopted an over-order price regulation by Final Rule on January 26, 1998, which is published elsewhere in this issue. To become effective the 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 February 10 through February 20, 1998. The Commission's price regulation was approved by more than two-thirds of all producers voting in the referendum.

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, and the Commission shall remove their vote from the total certified by the Cooperative.

By Final Rule, published in this **Federal Register**, the Commission adopted an amendment to the over-order price regulation on January 26, 1998, which is published elsewhere in this issue. 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 January 26, 1998 meeting:

The Compact Commission resolves and adopts this procedure for certifying whether the price regulation adopted by this final rule has been duly approved by producer referendum in accordance with Compact Article V, section 12.

Mae Schmidle, Vice-Chair, is hereby designated as "Referendum Agent" and authorized to administer this procedure.

The designated Referendum Agent shall:

1. Verify all ballots with respect to timeliness, producer eligibility, cooperative identification, authenticity and other steps taken to avoid duplication of ballots.

Verification of ballots shall include those cast individually by block vote. Ballots determined by the Referendum Agent to be invalid shall be marked "disqualified" with a notation of the reason for disqualification. Disqualified ballots shall not be considered in determining approval or disapproval of the regulation.

2. Compute and 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.

4. At the completion of his or her work, 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 Executive Director shall publish the certified results of the referendum in the **Federal Register**.

A referendum was held during the period of February 10 through February 20, 1998. 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 February 10, 1998 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 February 20, 1998.

Twelve Cooperative Associations were notified of the procedures necessary to block vote by letter dated February 4, 1998. 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 February 20, 1998.

Notice

On February 23, 1998 the referendum agent¹ verified all Ballots according to procedures and criteria established by the Commission. A total of 4,193 ballots were mailed to eligible producers. All ballots and Block Vote Reporting Forms received by the Commission were opened and counted. A total of 392 producer ballots and 10 cooperative association Block Vote Reporting forms were received in 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 66 ballots were disqualified by the referendum agent.

Block votes cast by Cooperative Associations were then counted. A total of 10 Cooperative Associations cast affirmative block votes on behalf of a total of 2,435 producer members. No cooperative associations cast a block vote in opposition to the price regulation. Producer votes against their cooperative associations block vote were then counted for each cooperative association. A total of 27 producer cooperative association members cast votes in opposition to the price regulation and to their cooperative association's vote. These votes were deducted from the cooperative association's total and were counted as a No vote. A total of 59 ballots were returned by cooperative members who cast votes in the affirmative.

Votes of independent producers were then counted. A total of 201 independent producers returned ballots marked in the affirmative. A total of 74

independent producers returned ballots marked in opposition.

The referendum agent then certified the following:

A total of 4,193 ballots were mailed to eligible producers.

A total of 2,741 ballots were returned to the Commission.

A total of 66 ballots were disqualified.

A total of 2,675 ballots were verified.

A total of 2,563 verified ballots were cast in favor of the price regulation.

A total of 112 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 January 26, 1998, I hereby provide notice that 2,563 verified ballots of 2,675 verified ballots cast were in favor of the price regulation, and therefore two-thirds of all verified ballots were cast in the affirmative.

Daniel Smith,

Executive Director.

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¹ Chair of the Commission Michael Wiers substituted for Mae Schmidle as referendum agent on the designated date.