

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 484

WATER MANAGEMENT AND PROTECTION COMPACTS

Connecticut River Flood Control Compact

Section 484:1

484:1 Interstate Compact. – The governor and council, on behalf of this state, are authorized to enter into and execute a compact substantially in the following form with the states of Vermont, Massachusetts and Connecticut, by and through the commissioners or duly authorized representatives appointed or who may be appointed under or by virtue of a law of the legislatures of the respective states, and the legislature signifies in advance its approval and ratification of such compact, so entered into, such approval and ratification to be effective as set forth in this compact:

Whereas, the federal government exercises jurisdiction over the nation's navigable rivers and their tributaries through passage of the Flood Control Act of 1936 and various amendments to that act; and

Whereas, these acts provide for construction by the United States of dams for flood control and, where feasible, in addition to flood control, for storage of water to be used for irrigation, recreation or hydroelectric power or for any of these purposes; and

Whereas, the Connecticut is an interstate river and control of major floods on it can be obtained only by the construction of dams by the United States under authorization of the above mentioned acts; and

Whereas, the Commonwealth of Massachusetts and the states of Connecticut, New Hampshire and Vermont recognize that it is in the interest of their general welfare that the United States construct in the Connecticut River Valley a comprehensive system of local protection works and dams and reservoirs to control floods and prevent loss of life and property, the disruption of orderly processes and the impairment of commerce between the aforesaid states; and

Whereas, the United States has constructed dikes, flood walls and other local protection works at Hartford and East Hartford in the state of Connecticut, and at Springfield, Riverdale, West Springfield, Chicopee, Northampton, Holyoke, and Springdale in the Commonwealth of Massachusetts, and dams and reservoirs for the storage of flood waters at Knightville, Birch Hill and Tully in the Commonwealth of Massachusetts, at Surry Mountain in the state of New Hampshire and at Union Village in the state of Vermont and has reached agreements with the state in which these facilities are located for construction of dams and reservoirs for the storage of flood waters at Barre Falls in the Commonwealth of Massachusetts and at Ball Mountain and at Townshend in the state of Vermont; and

Whereas, the Congress has at various times authorized construction by the United States of other dams and reservoirs for the storage of flood waters in the Commonwealth of Massachusetts and in the states of New Hampshire and Vermont and has more recently instructed the Corps of Engineers to determine what additional local protection works and dams and reservoirs are required for a comprehensive system to control floods in the Connecticut River and its tributaries; and

Whereas, it is believed that such a comprehensive flood control system should include dams and reservoirs controlling flood runoff from approximately 25 percent of the total drainage area of the Connecticut River above Hartford, Connecticut, and strategically located in reference to characteristics of tributaries and to damage centers; and

Whereas, construction by the United States of additional dams and reservoirs in the Commonwealth of Massachusetts and in the states of New Hampshire and Vermont to complete such a comprehensive flood control system will remove from the tax rolls of local governments of those states such property as is acquired by the United States and may work other hardships against the people of Massachusetts, New Hampshire and Vermont;

and

Whereas, it is highly desirable that any flood control dam and reservoir constructed by the United States in the Connecticut River Valley have the approval of the state in which it is located and that states benefiting from construction of such dam and reservoir make reimbursement for such loss of taxes and for such hardships; and Whereas, a comprehensive system for the prevention of destructive floods and for water resources utilization in the Connecticut River Valley can best be accomplished by cooperation between the several states in the valley and by and through a common and joint agency of said several states;

Now, therefore, the said Commonwealth of Massachusetts and states of Connecticut, New Hampshire and Vermont do enter into the following compact, to-wit:

Article I

The principal purposes of this compact are: (a) to promote interstate comity among and between the signatory states; (b) to assure adequate storage capacity for impounding the waters of the Connecticut River and its tributaries for the protection of life and property from floods; and (c) to provide a joint or common agency through which the signatory states, while promoting, protecting and preserving to each the local interest and sovereignty of the respective signatory states, may more effectively cooperate in accomplishing the object of flood control and water resources utilization in the basin of the Connecticut River and its tributaries.

Article II

There is created "The Connecticut River Valley Flood Control Commission," referred to in this compact as the "commission," which shall consist of 12 members, 3 of whom shall be residents of the Commonwealth of Massachusetts, 3 of whom shall be residents of the state of Connecticut, 3 of whom shall be residents of the state of New Hampshire, and 3 of whom shall be residents of the state of Vermont.

The members of the commission shall be chosen by their respective states in such manner and for such term as may be fixed and determined from time to time by the law of each of said states respectively by which they are appointed. A member of the commission may be removed or suspended from office as provided by the law of the state for which he shall be appointed, and any vacancy occurring in the commission shall be filled in accordance with the laws of the state in which such vacancy exists.

A majority of the members from each state shall constitute a quorum for the transaction of business, the exercise of any of its powers or the performance of any of its duties, but no action of the commission shall be binding unless at least 2 of the members from each state shall vote in favor of such action.

The compensation of members of the commission shall be fixed, determined, and paid by the state which they respectively represent. All necessary expenses incurred in the performance of their duties shall be paid from the funds of the commission.

The commission shall elect from its members a chairman, vice-chairman, clerk and treasurer. Such treasurer shall furnish to the commission, at its expense, a bond with corporate surety, to be approved by the commission, in such amount as the commission may determine, conditioned for the faithful performance of his duties.

The commission shall adopt suitable bylaws and shall make such rules and regulations as it may deem advisable not inconsistent with laws of the United States, of the signatory states or with any rules or regulations lawfully promulgated under this compact.

The commission shall make an annual report to the governor and legislature of each of the signatory states, setting forth in detail the operations and transactions conducted by it pursuant to this compact.

The commission shall keep a record of all its meetings and proceedings, contracts and accounts, and shall maintain a suitable office, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at such times and under such regulations as the commission shall determine.

Article III

The commission shall constitute a body, both corporate and politic, with full power and authority: (1) to sue and be sued; (2) to have a seal and alter the same at pleasure; (3) to appoint and employ such agents and employees

as may be required in the proper performance of the duties committed to it and to fix and determine their qualifications, duties and compensation; (4) to enter into such contracts and agreements and to do and perform any and all other acts, matters and things as may be necessary and essential to the full and complete performance of the powers and duties committed to and imposed upon it and as may be incidental to such powers and duties; and (5) to have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of any of said states, concurred in by the legislatures of the other states and by the Congress of the United States.

The commission shall make, or cause to be made, such studies as it may deem necessary, in cooperation with the Corps of Engineers and other federal agencies, for the development of a comprehensive plan for flood control and for utilization of the water resources of the Connecticut River Valley.

The commission shall not pledge the credit of the signatory states or any of them.

Article IV

The signatory state in which is located the site of each of the following dams and reservoirs agrees to the construction by the United States of each such dam and reservoir in accordance with authorization by the Congress: In the Commonwealth of Massachusetts, (1) at Barre Falls on the Ware River controlling a drainage area of approximately 57 square miles and providing flood storage of approximately 8 inches of runoff from said drainage area.

In the state of Vermont:

(1) At West Townshend on the West River controlling a net drainage area of approximately 106 square miles and providing flood control storage of approximately 6 inches of runoff from said drainage area.

(2) At Ball Mountain on the West River controlling a net drainage area of approximately 132 square miles and providing flood control storage of approximately 6 inches of runoff from said drainage area.

(3) At North Hartland on the Ottauquechee River controlling a drainage area of approximately 222 square miles and providing flood control storage for approximately 6 inches of runoff from said drainage area.

(4) At Groton Pond on the Wells River controlling a drainage area of approximately 17.3 square miles and providing flood control storage for approximately 8 inches of runoff from said drainage area.

(5) At Victory on the Moose River controlling a drainage area of approximately 66 square miles and providing flood control storage for approximately 7 inches of runoff from said drainage area.

(6) In Bloomfield on the Nulhegan River controlling a drainage area of approximately 70 square miles and providing flood control storage for approximately 9 inches of runoff from said drainage area.

In the state of New Hampshire:

(1) At South Keene on the Otter Brook, tributary of the Ashuelot River, controlling a drainage area of approximately 47 square miles and providing flood control storage for approximately 7 inches of runoff from said drainage area.

(2) At Walpole on the Cold River controlling a drainage area of approximately 101 square miles and providing flood control storage for approximately 8 inches of runoff from said drainage area.

(3) At Bethlehem Junction on the Ammonoosuc River controlling a drainage area of approximately 90 square miles and providing flood control storage for approximately 6 inches of runoff from said drainage area.

(4) At Franconia on the Ammonoosuc River controlling a drainage area of approximately 30 square miles and providing flood control storage for approximately 8 inches of runoff from said drainage area.

(5) At Swiftwater on the Wild Ammonoosuc River controlling a drainage area of approximately 57 square miles and providing flood control storage for approximately 10 inches of runoff from said drainage area.

Article V

The Commonwealth of Massachusetts agrees to reimburse the state of New Hampshire 50 percent and the state of Vermont 50 percent of the amount of taxes lost to their political subdivisions by reason of ownership by the United States of lands, rights or other property therein for the flood control dams and reservoirs at Surry Mountain in New Hampshire and at Union Village in Vermont.

The state of Connecticut agrees to reimburse the Commonwealth of Massachusetts 40 percent, the state of New

Hampshire 40 percent and the state of Vermont 40 percent of the amount of taxes lost to their political subdivisions by reason of ownership by the United States of lands, rights or other property therein for the flood control dams and reservoirs at Tully, at Knightville and at Birch Hill in Massachusetts, at Surry Mountain in New Hampshire and at Union Village in Vermont.

The Commonwealth of Massachusetts agrees to reimburse the state of New Hampshire 50 percent and the state of Vermont 50 percent of the amount of taxes lost to their political subdivisions by reason of acquisition and ownership by the United States of lands, rights or other property therein for construction in the future of any flood control dam and reservoir specified in Article IV and also for any other flood control dam and reservoir hereafter constructed by the United States in the Connecticut River Valley.

The state of Connecticut agrees to reimburse the Commonwealth of Massachusetts 40 percent, the state of New Hampshire 40 percent and the state of Vermont 40 percent of the amount of taxes lost to their political subdivisions by reason of acquisition and ownership by the United States of lands, rights or other property therein for construction in the future of any flood control dam and reservoir specified in Article IV and also for any other flood control dam and reservoir hereafter constructed by the United States in the Connecticut River Valley.

Annually, not later than November 1 of each year, the commission shall determine the loss of taxes resulting to political subdivisions of each signatory state by reason of acquisition and ownership therein by the United States of lands, rights or other property in connection with each flood control dam and reservoir for which provision for tax reimbursement has been made in the four paragraphs next above. Such losses of taxes as determined by the commission shall be based on the tax rate then current in each such political subdivision and on the average assessed valuation for a period of 5 years prior to the acquisition by the United States of such property; provided that whenever a political subdivision in which a flood control dam and reservoir or portion of such dam or reservoir is located shall have made a general revaluation of property subject to the annual municipal taxes of such subdivision, the commission may use such revaluation for the purpose of determining the amount of taxes for which reimbursement shall be made. Using the percentage of payment agreed to in said four paragraphs, the commission shall then compute the sum, if any, due from each signatory state to each other signatory state and shall send a notice to the treasurer of each signatory state setting forth in detail the sums, if any, each is to pay to and to receive from each other signatory state in reimbursement of tax losses.

Each signatory state on receipt of formal notification from the commission of the sum which it is to pay in reimbursement for tax losses shall, not later than July 1 of the following year, make its payment for such tax losses to the signatory state in which such loss or losses occur, except that in case of the first annual payment for tax losses at any dam or reservoir such payment shall be made by payor states not later than July 1 of the year in which the next regular session of its legislature is held. Payment by a signatory state of its share of reimbursement for taxes in accordance with formal notification received from the commission shall be a complete and final discharge of all liability by the payor state to the payee state for each flood control dam and reservoir within the payee state for the time specified in such formal notification. Each payee signatory state shall have full responsibility for distributing or expending all such sums received, and no agency or political subdivision shall have any claim against any signatory state other than the payee state, nor against the commission relative to tax losses covered by such payments.

Whenever a state which makes reimbursement for tax losses and a state which receives such reimbursement from it shall agree, through the commission, on a lump sum payment in lieu of annual payments and such lump sum payment has been made and received, the requirement that the commission annually shall determine the tax losses, compute sums due from each state and send notice thereof to the treasurer of each state shall no longer apply to the aforesaid states with respect to any flood control dam and reservoir for which lump sum payment has been made and received.

The Commonwealth of Massachusetts and the state of Connecticut each agrees to pay its respective share in reimbursement, as determined by the commission under the procedure following, for economic losses and damages occurring by reason of ownership of property by the United States for construction and operation of a flood control dam and reservoir at any site specified in Article IV, and for any other flood control dam and reservoir constructed hereafter by the United States in the Connecticut River Valley; provided, however, that no reimbursement shall be made for speculative losses and damages or losses or damages for which the United States is liable.

On receipt of information from the chief of engineers that request is to be made for funds for the purpose of preparing detailed plans and specifications for any flood control dam and reservoir proposed to be constructed in

the Connecticut River Valley, including those specified in Article IV, the commission shall make an estimate of the amount of taxes which would be lost to and of economic losses and damages which would occur in political subdivisions of the signatory state in which such dam and reservoir would be located, wholly or in part, by reason of acquisition and ownership by the United States of lands, rights or other property for the construction and operation of such flood control dam and reservoir and shall decide whether the flood control benefits to be derived in the signatory states from such flood control dam and reservoir, both by itself and as a unit of a comprehensive flood control plan, justifies, in the opinion of the commission, the assumption by signatory states of the obligation to make reimbursement for loss of taxes and for economic losses and damages. Such estimate and decision shall thereafter be reviewed by the commission at 5-year intervals until such time as the United States shall have acquired title to the site of such flood control dam or plans for its construction are abandoned. The commission shall notify the governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state and the chief of engineers as to the commission's decision and as to any change in such decision.

On receipt of information from the chief of engineers that any flood control dam and reservoir is to be constructed, reconstructed, altered or used for any purpose in addition to flood control, including those flood control dams and reservoirs previously constructed and those specified in Article IV, the commission shall make a separate estimate of the amount of taxes which would be lost to and of economic losses and damages which would occur in political subdivisions of the signatory state in which such dam and reservoir would be located, wholly or in part, by reason of acquisition and ownership by the United States of lands, rights or other property for the construction and operation of such dam and reservoir in excess of the estimated amount of taxes which would be lost and of the economic losses and damages which would occur if the dam were constructed and operated for flood control only and the commission shall decide the extent to which, in its opinion, the signatory states would be justified in making reimbursement for loss of taxes and for economic losses and damages in addition to reimbursement for such dam and reservoir if constructed and used for flood control only. Such estimate and decision shall thereafter be reviewed by the commission at 5-year intervals until such time as such dam and reservoir shall be so constructed, reconstructed, altered or used or plans for such construction, reconstruction, alteration or use are abandoned. The commission shall notify the governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state as to the commission's decision and as to any change in such decision.

Within 30 days after acquisition by the United States of the site of any flood control dam, the commission shall proceed to make a final determination of economic losses and damages occasioned by such dam and reservoir. The commission shall not include in such determination either speculative losses and damages or losses and damages for which the United States is liable.

The commission shall compute the share the Commonwealth of Massachusetts and the state of Connecticut shall each pay to the state in which such dam or reservoir is located by multiplying the sum of such losses and damages, as previously determined, by the percentage of flood control benefits which the Commonwealth of Massachusetts and the state of Connecticut each receives, in the allocation by states, of the flood control benefits resulting from the dam and reservoir.

The commission shall send a notice to the treasurer of the Commonwealth of Massachusetts and to the treasurer of the state of Connecticut setting forth in detail the sum, if any, each is to pay to the state in which such dam and reservoir is located in reimbursement for economic losses and damages and shall also send such notice to the treasurer of the state in which such dam and reservoir is located.

The Commonwealth of Massachusetts and the state of Connecticut on receipt of such formal notification by the commission shall each pay its share of such economic losses or damages to the signatory states in which such losses or damages occur. Full payment by either state of the sum specified in such formal notification from the commission as to the amount of economic losses and damages for which such state is to make reimbursement shall be a complete and final discharge of all liability by the payor state to the payee state for economic losses and damages for each flood control dam and reservoir within the payee state designated in such formal notification. Each payee signatory state shall have full responsibility for distributing or expending all such sums received and no agency, political subdivision, private person, partnership, firm, association or corporation shall have any claim against any signatory state other than the payee state, nor against the commission relative to such economic losses and damages.

A signatory state may, in agreement with the commission and the chief of engineers, acquire title or option to acquire title to any or all lands, rights or other property required for any flood control dam and reservoir within

its boundaries and transfer such titles or options to the United States. Whenever the fair cost to said signatory state for such titles or options, as determined by the commission, is greater than the amount received therefor from the United States, the Commonwealth of Massachusetts and the state of Connecticut shall each pay its share of such excess cost to said signatory state, such share to be determined by the commission in accordance with procedure contained in this compact for determining reimbursement for economic losses and damages. Whenever the commission shall not agree, within a reasonable time or within 60 days after a formal request from the governor of any signatory state, concerning reimbursement for loss of taxes or for economic losses and damages at any flood control dam and reservoir previously or hereafter constructed by the United States in the Connecticut River Valley, or concerning the extent, if any, to which reimbursement shall be made for additional loss of taxes and for additional economic losses and damages caused by construction, reconstruction, alteration or use of any such dam for purposes other than flood control, the governor of each signatory state shall designate a person from his state as a member of a board of arbitration, hereinafter called the board, and the members so designated shall choose one additional member who shall be chairman of such board. Whenever the members appointed by the governors to such board shall not agree within 60 days on such additional member of the board, the governors of such signatory states shall jointly designate the additional member. The board shall by majority vote decide the question referred to it and shall do so in accordance with the provisions of this compact concerning such reimbursement. The decision of the board on each question referred to it concerning reimbursement for loss of taxes and for economic losses and damages shall be binding on the commission and on each signatory state, notwithstanding any other provision of this compact.

Article VI

Nothing contained in this compact shall be construed as a limitation upon the authority of the United States.

Article VII

The signatory states agree to appropriate for compensation of agents and employees of the commission and for office, administrative, travel and other expenses on recommendation of the commission subject to limitations as follows: The Commonwealth of Massachusetts obligates itself to not more than \$7,500 in any one year, the state of New Hampshire obligates itself to not more than \$1,000 in any one year, the state of Vermont obligates itself to not more than \$1,000 in any one year and the state of Connecticut obligates itself to not more than \$6,500 in any one year.

Article VIII

Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts of the compact shall continue to be in full force and effect.

Article IX

This compact shall become operative and effective when ratified by the Commonwealth of Massachusetts and the states of New Hampshire, Vermont and Connecticut and approved by the Congress of the United States. Notice of ratification shall be given by the governor of each state to the governors of the other states and to the President of the United States, and the President of the United States is requested to give notice to the governors of each of the signatory states of approval by the Congress of the United States.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:2

484:2 Procedure for Notification and Recordation of Compact. – The said agreement or compact when ratified by the legislatures of each of said states and approved by the Congress of the United States, shall thereupon become operative and effective. The governor is authorized and directed forthwith to notify the governors, respectively, of the said states and the President of the United States, that the state of New Hampshire on its part has approved and ratified said compact or agreement. Upon its execution in quintuplicate by the commissioners or representatives of each of said states as previously stated, a duly executed original of the compact shall be filed in the office of the secretary of state of the state of New Hampshire, together with the original notice of ratification received from the governors of the remaining signatory states, and such notice, if any, as may be received from the President or the Congress of the United States, signifying the approval of such Congress to the compact.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:3

484:3 Appointment of Commission. – Within 30 days after such agreement or compact shall have become effective as provided in RSA 484:2, the governor shall, with advice and consent of the council, appoint 3 members of the Connecticut River Valley Flood Control Commission, one of whom shall serve until May 1, 1952, and one of whom shall serve until May 1, 1953, and one of whom shall serve until May 1, 1954. In the month of April, 1952, and each year thereafter, the governor, by and with the advice and consent of the council, shall appoint one member of the said commission, whose term of office shall be 3 years from and after May 1 of the year in which he is appointed.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:4

484:4 Vacancies. – If a vacancy occurs in the commission, the governor shall, with the advice and consent of the council, appoint a member to serve only for the unexpired term. Any member of the commission shall be eligible for reappointment.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:5

484:5 Compensation. – Each commissioner designated or appointed by the governor and council, who, while such commissioner holds no salaried state office, shall be paid by the state as compensation the sum of \$30 for each day's service performed in connection with his duties as such commissioner but not to exceed \$600 in any fiscal year. Such compensation shall be paid by the state treasurer, upon warrant of the governor, with the advice and consent of the council, upon bills approved by the chairman or vice chairman and treasurer of the commission. All commissioners shall be entitled to their actual expenses incurred in the performance of their duties as such.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:6

484:6 Designation of Alternate. – Each commissioner designated or appointed under this compact may appoint an alternate member to serve in his place at meetings of the commission that he is unable to attend; provided, however, that whenever a member is a state employee, his alternate shall also be a state employee. All such appointments shall be made in writing, with written notification to the commission identifying the alternate member. Alternate members shall receive no compensation. Each commissioner may not appoint more than one alternate, and at no meeting shall one alternate represent more than one commissioner.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Merrimack River Flood Control Compact

Section 484:7

484:7 Interstate Compact. –

The governor and council, on behalf of this state, are authorized to enter into and execute a compact substantially in the following form with the Commonwealth of Massachusetts, by and through the commissioners or duly authorized representatives appointed or who may be appointed under or by virtue of a law of the legislature of the state of New Hampshire, and the legislature hereby signifies in advance its approval and ratification of such compact, so entered into, such approval and ratification to be effective as set forth in this compact:

Whereas, the federal government exercises jurisdiction over the nation's navigable rivers and their tributaries through passage of the Flood Control Act of 1936 and various other amendments to that act; and

Whereas, these acts provide for construction by the United States of dams for flood control and, where feasible, in addition to flood control, for storage of water to be used for irrigation, recreation or hydroelectric power or for any of these purposes; and

Whereas, the Merrimack is an interstate river and control of major floods on it can be obtained only by the construction of dams by the United States under authorization of the above-mentioned acts; and

Whereas, the Commonwealth of Massachusetts and the state of New Hampshire recognize that it is in the interest of their general welfare that the United States construct in the Merrimack River Valley a comprehensive system of local protection works and dams and reservoirs to control floods and prevent loss of life and property, the disruption of orderly processes and the impairment of commerce between the said 2 states; and

Whereas, the United States has constructed dikes, flood walls and other local protection works at Nashua in the state of New Hampshire and at Haverhill, Lowell and Fitchburg in the Commonwealth of Massachusetts, and dams and reservoirs for the storage of flood waters at Franklin Falls, Peterborough and at Webster in the state of New Hampshire, and has prepared designs for dikes and flood walls and other local protection works at Lawrence and North Andover in the Commonwealth of Massachusetts; and

Whereas, the Congress has at various times authorized construction by the United States of other dams and reservoirs for the storage of flood waters in the Commonwealth of Massachusetts and in the state of New Hampshire and has more recently instructed the Corps of Engineers to determine what additional local protection works and dams and reservoirs are required for a comprehensive system to control floods in the Merrimack River and its tributaries; and

Whereas, it is believed that such a comprehensive flood control system should include dams and reservoirs controlling flood runoff from approximately 30 percent of the total drainage area of the Merrimack River Basin and strategically located in reference to characteristics of tributaries and to damage centers; and

Whereas, dams and reservoirs to control 30 percent of flood runoff will be located in the state of New Hampshire and the major benefits from such dams and reservoirs will accrue to the Commonwealth of Massachusetts; and

Whereas, construction by the United States of additional dams and reservoirs in the state of New Hampshire to complete such a comprehensive flood control system will remove from the tax rolls of local governments of the state of New Hampshire such property as is acquired by the United States and may work other hardships against the people of New Hampshire; and

Whereas, it is highly desirable that any flood control dam and reservoir constructed by the United States in the Merrimack River Valley have the approval of the state of New Hampshire and the Commonwealth of Massachusetts and that the Commonwealth of Massachusetts benefiting from construction of such dam and reservoir make reimbursement for such loss of taxes and for such hardships; and

Whereas, a comprehensive system for the prevention of destructive floods and for water resources utilization in the Merrimack River Valley can best be accomplished by cooperation between the Commonwealth of Massachusetts and the state of New Hampshire and by and through a common and joint agency of said 2 states; Now, therefore, the said Commonwealth of Massachusetts and the state of New Hampshire do enter into the following compact, to wit:

Article I

The principal purposes of this compact are: (a) to promote interstate comity among and between the signatory states; (b) to provide adequate storage capacity for impounding the waters of the Merrimack River and its tributaries for the protection of life and property from floods; and (c) to provide a joint or common agency through which the signatory states, while promoting, protecting and preserving to each the local interest and sovereignty of the respective signatory states, may more effectively cooperate in accomplishing the object of flood control and water resources utilization in the basin of the Merrimack River and its tributaries.

Article II

There is created "The Merrimack River Valley Flood Control Commission," referred to in this compact as the "commission," which shall consist of 6 members, 3 of whom shall be residents of the Commonwealth of Massachusetts and one of whom shall be a resident of the Merrimack Valley, and 3 of whom shall be residents of the state of New Hampshire.

The members of the commission shall be chosen by their respective states in such manner and for such term as may be fixed and determined from time to time by the law of each of said states, respectively, by which they are appointed. A member of the commission may be removed or suspended from office as provided by the law of the state from which he shall be appointed, and any vacancy occurring in the commission shall be filled in accordance with the laws of the state in which such vacancy exists.

A majority of the members of each state shall constitute a quorum for the transaction of business, the exercise of any powers or the performance of any duties, but no action of the commission shall be binding unless at least 2 members from each state shall vote in favor of such action.

The compensation of members of the commission shall be fixed, determined, and paid by the state which they respectively represent. All necessary expenses incurred in the performance of their duties shall be paid from the funds of the commission.

The commission shall elect from its members a chairman, vice-chairman, clerk and treasurer. Such treasurer shall furnish to the commission, at its expense, a bond with corporate surety, to be approved by the commission, in such amount as the commission may determine, conditioned for the faithful performance of his duties.

The commission shall adopt suitable bylaws and shall make such rules and regulations as it may deem advisable not inconsistent with laws of the United States, of the signatory states or with any rules or regulations lawfully promulgated thereunder.

The commission shall make an annual report to the governor and legislature of each of the signatory states, setting forth in detail the operations and transactions conducted by it pursuant to this compact.

The commission shall keep a record of all its meetings and proceedings, contracts and accounts, and shall maintain a suitable office, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at such times and under such regulations as the commission shall determine.

Article III

The commission shall constitute a body, both corporate and politic, with full power and authority: (1) to sue and be sued; (2) to have a seal and alter the same at pleasure; (3) to appoint and employ such agents and employees as may be required in the proper performance of the duties committed to it and to fix and determine their qualifications, duties and compensation; (4) to enter into such contracts and agreements and to do and perform any and all other acts, matters and things as may be necessary and essential to the full and complete performance of the powers and duties hereby committed to and imposed upon it and as may be incidental thereto; and (5) to have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of either of said states, concurred in by the legislature of the other state and by the Congress of the United States.

The commission shall make, or cause to be made, such studies as it may deem necessary, in cooperation with the Corps of Engineers and other federal agencies, for the development of a comprehensive plan for flood control

and for utilization of the water resources of the Merrimack River Valley.
The commission shall not pledge the credit of the signatory states or either of them.

Article IV

The state of New Hampshire in which is located the site of each of the following dams and reservoirs agrees to the construction by the United States of each such dam and reservoir in accordance with authorization by the Congress:

(1) At West Hopkinton on the Contoocook River, controlling a drainage area of approximately 426 square miles, and near East Weare, on the north branch of the Piscataquog River, controlling a drainage area of approximately 64 square miles, and providing flood control storage for approximately 6 inches of runoff over both said drainage areas; and

(2) Near Loudon on the Soucook River, controlling a drainage area of approximately 77 square miles and providing flood control storage for approximately 6 inches of runoff over said drainage area.

Article V

The Commonwealth of Massachusetts agrees to reimburse the state of New Hampshire 70 percent of the amount of taxes lost by reason of acquisition and ownership by the United States of lands, rights or other property therein for the flood control dams and reservoirs at Franklin Falls, Blackwater and West Peterborough, and for construction in the future of any flood control dam and reservoir specified in Article IV, and also for any other flood control dam and reservoir constructed in the future by the United States in the Merrimack River Valley. Annually, not later than November 1 of each year, the commission shall determine the loss of taxes resulting to political subdivisions of the state of New Hampshire by reason of acquisition and ownership therein by the United States of lands, rights or other property in connection with each flood control dam and reservoir for which provision for tax reimbursement has been made in the preceding paragraphs. Such losses of taxes as determined by the commission shall be based on the tax rate then current in each such political subdivision and on the average assessed valuation for a period of 5 years prior to the acquisition by the United States of such property; provided, that whenever a political subdivision wherein a flood control dam and reservoir or portion thereof is located shall have made a general revaluation of property subject to the annual municipal taxes of such subdivision, the commission may use such revaluation for the purpose of determining the amount of taxes for which reimbursement shall be made in the paragraph next above. Using the percentage of payment agreed to in said paragraph, the commission shall then compute the sum, if any, due from the Commonwealth of Massachusetts to the state of New Hampshire and shall send notice to the treasurer of the Commonwealth of Massachusetts setting forth in detail the sums, if any, to be paid to New Hampshire in reimbursement of tax losses due from the Commonwealth of Massachusetts to the state of New Hampshire.

The Commonwealth of Massachusetts, on receipt of formal notification from the commission of the sum which it is to pay in reimbursement for tax losses, shall, not later than July 1 of the following year, make its payment for such tax losses to the state of New Hampshire, except that in case of the first annual payment for tax losses at any dam or reservoir such payment shall be made by the Commonwealth of Massachusetts not later than July 1 of the year in which the next regular session of its legislature is held.

Payment by the Commonwealth of Massachusetts of its share of reimbursement for taxes in accordance with formal notification received from the commission shall be a complete and final discharge of all liability of the Commonwealth of Massachusetts to the state of New Hampshire for each flood control dam and reservoir within the State of New Hampshire for the time specified in such formal notification. The state of New Hampshire shall have full responsibility for distributing or expending all such sums received, and no agency or political subdivision shall have any claim against the Commonwealth of Massachusetts, nor against the commission relative to tax losses covered by such payments.

Whenever the Commonwealth of Massachusetts and the state of New Hampshire shall agree, through the commission, on a lump sum payment in lieu of annual payments and such lump sum payment has been made and received, the requirement that the commission annually shall determine the tax losses, compute sums due from the Commonwealth of Massachusetts and send notice of such sums to the treasurer of the Commonwealth

of Massachusetts shall no longer apply to the 2 states with respect to any flood control dam and reservoir for which lump sum payment has been made and received.

The Commonwealth of Massachusetts agrees to pay the state of New Hampshire its respective share in reimbursement, as determined by the commission under the procedure following, for economic losses and damages occurring by reason of ownership of property by the United States, for construction and operation of a flood control dam and reservoir at any site specified in Article IV, and for any other flood control dam and reservoir constructed hereafter by the United States in the Merrimack River Valley, provided, that no reimbursement shall be made for speculative losses and damages or losses or damages for which the United States is liable.

On receipt of information from the chief of engineers that request is to be made for funds for the purpose of preparing detailed plans and specifications for any flood control dam and reservoir proposed to be constructed in the Merrimack River Valley, including those specified in Article IV, the commission shall make an estimate of the amount of taxes which would be lost to and of economic losses and damages which would occur in political subdivisions of the state of New Hampshire in which such dam and reservoir would be located, wholly or in part, by reason of acquisition and ownership by the United States of lands, rights or other property for the construction and operation of such flood control dam and reservoir and shall decide whether the flood control benefits to be derived in the signatory states from such flood control dam and reservoir, both by itself and as a unit of a comprehensive flood control plan, justifies, in the opinion of the commission, the assumption by a signatory state of the obligation to make reimbursement for loss of taxes and for economic losses and damages. Such estimate and decision shall thereafter be reviewed by the commission at 5-year intervals until such time as the United States shall have acquired title to the site of such flood control dam or plans for its construction are abandoned. The commission shall notify the governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state and the chief of engineers as to the commission's decision and as to any change in such decision.

On receipt of information from the chief of engineers that any flood control dam and reservoir is to be constructed, reconstructed, altered or used for any purpose in addition to flood control, including those flood control dams and reservoirs previously constructed and those specified in Article IV, the commission shall make a separate estimate of the amount of taxes which would be lost to and of economic losses and damages which would occur in political subdivisions of the signatory state in which such dam and reservoir would be located, wholly or in part, by reason of acquisition and ownership by the United States of lands, rights or other property for the construction and operation of such dam and reservoir in excess of the estimated amount of taxes which would be lost and of the economic losses and damages which would occur if the dam were constructed and operated for flood control only and the commission shall decide the extent to which, in its opinion, the signatory states would be justified in making reimbursement for loss of taxes and for economic losses and damages in addition to reimbursement for such dam and reservoir if constructed and used for flood control only. Such estimate and decision shall thereafter be reviewed by the commission at 5-year intervals until such time as such dam and reservoir shall be so constructed, reconstructed, altered or used or plans for such construction, reconstruction, alterations or use are abandoned. The commission shall notify the governor, the members of the United States Senate and the members of the United States House of Representatives from each signatory state as to the commission's decision and as to any change in such decision.

Within 30 days after acquisition by the United States of the site of any flood control dam, the commission shall proceed to make a final determination of economic losses and damages occasioned by such dam and reservoir. The commission shall not include in such determination either speculative losses and damages or losses and damages for which the United States is liable.

The commission shall compute the share the Commonwealth of Massachusetts shall pay to the state of New Hampshire by multiplying the sum of such losses and damages, as previously determined, by the percentage of flood control benefits which the Commonwealth of Massachusetts receives of the flood control benefits resulting from the dam and reservoir.

The commission shall send a notice to the treasurer of the Commonwealth of Massachusetts, setting forth in detail the sum, if any, the Commonwealth of Massachusetts is to pay to the state of New Hampshire in reimbursement for economic losses and damages and shall also send such notice to the treasurer of the state of New Hampshire.

The Commonwealth of Massachusetts, on receipt of such formal notification by the commission, shall pay its share of such economic losses or damages to the state of New Hampshire. Full payment by the Commonwealth

of Massachusetts of the sum specified in such formal notification from the commission as to the amount of economic losses and damages for which the Commonwealth of Massachusetts is to make reimbursement shall be a complete and final discharge of all liability by the Commonwealth of Massachusetts to the state of New Hampshire for economic losses and damages for each flood control dam and reservoir within the said state designated in such formal notification. The state of New Hampshire shall have full responsibility for distributing or expending all such sums received, and no agency, political subdivision, private person, partnership, firm, association nor corporation shall have any claim against the Commonwealth of Massachusetts, nor against the commission relative to such economic losses and damages.

The state of New Hampshire may, in agreement with the commission and the chief of engineers, acquire title or option to acquire title to any or all lands, rights or other property required for any flood control dam and reservoir within its boundaries, and transfer such titles or options to the United States. Whenever the fair cost to said signatory state for such titles or options, as determined by the commission, is greater than the amount received therefor from the United States, the Commonwealth of Massachusetts shall pay its share of such excess cost to said state of New Hampshire, such share to be determined by the commission in accordance with procedure contained in this compact for determining reimbursement for economic losses and damages.

Whenever the commission shall not agree, within a reasonable time or within 60 days after a formal request from the governor of the state of New Hampshire or the Commonwealth of Massachusetts, concerning reimbursement for loss of taxes or for economic losses and damages at any flood control dam and reservoir previously or hereafter constructed by the United States in the Merrimack River Valley, or concerning the extent, if any, to which reimbursement shall be made for additional loss of taxes and for additional economic losses and damages caused by construction, reconstruction, alteration or use of any such dam for purposes other than flood control, the governor of each signatory state shall designate a person from his state as a member of a board of arbitration, hereinafter called the board, and the members so designated shall choose one additional member who shall be chairman of such board. Whenever the members appointed by the governors to such board shall not agree within 60 days on such additional member of the board, the governors of such signatory states shall jointly designate the additional member. The board shall by majority vote decide the question referred to it and shall do so in accordance with the provisions of this compact concerning such reimbursement. The decision of the board on each question referred to it concerning reimbursement for loss of taxes and for economic losses and damages shall be binding on the commission and on each signatory state, notwithstanding any other provision of this compact.

Article VI

Nothing contained in this compact shall be construed as a limitation upon the authority of the United States.

Article VII

The signatory states agree to appropriate for compensation of agents and employees of the commission for office, administrative, travel and other expenses on recommendation of the commission subject to limitations as follows: The Commonwealth of Massachusetts obligates itself to not more than \$17,500 for the first year and to not more than \$14,000 in any one year thereafter; the state of New Hampshire obligates itself to not more than \$7,500 the first year and to not more than \$6,000 in any one year thereafter.

Article VIII

Should any part of this compact be held to be contrary to the constitution of either signatory state or of the United States, all other parts of the compact shall continue to be in full force and effect.

Article IX

This compact shall become operative and effective when ratified by the Commonwealth of Massachusetts and

the state of New Hampshire, and approved by the Congress of the United States. Notice of ratification shall be given by the governor of each state to the governor of the other state and to the President of the United States, and the President of the United States is requested to give notice to the governors of the Commonwealth of Massachusetts and the state of New Hampshire of approval by the Congress of the United States.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:8

484:8 Procedure for Notification and Recordation of Compact. – The said agreement or compact, when ratified by the legislature of each of said states and approved by the Congress of the United States, shall thereupon become operative and effective. The governor is authorized and directed forthwith to notify the governor of the Commonwealth of Massachusetts and the President of the United States that the state of New Hampshire on its part has approved and ratified said compact or agreement. Upon its execution in triplicate by the commissioners or representatives of each of said states as aforesaid, a duly executed original of the compact shall be filed in the office of the secretary of state of New Hampshire, together with the original notice of ratification received from the governor of Massachusetts, and such notice, if any, as may be received from the President or the Congress of the United States, signifying the approval of such Congress to the compact.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:9

484:9 Appointment of Commission. – Within 30 days after the aforesaid agreement or compact shall have become effective as provided in RSA 484:8, the governor shall, with the advice and consent of the council, appoint 3 members of the Merrimack River Valley Flood Control Commission, one of whom shall serve until March 1, 1958, one of whom shall serve until March 1, 1959 and one of whom shall serve until March 1, 1960. In the month of February 1958, and each year thereafter, the governor, by and with the advice and consent of the council, shall appoint one member of the said commission, whose term of office shall be 3 years from and after March 1 of the year in which he is appointed.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:10

484:10 Vacancies. – If a vacancy occurs in the commission, the governor shall, with the advice and consent of the council, appoint a member to serve only for the unexpired term. Any member of the commission shall be eligible for reappointment.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:11

484:11 Compensation. – Each commissioner designated or appointed by the governor and council, if he holds no salaried state office, shall be paid by the state as compensation the sum of \$30 for each day's service performed in connection with his duties as such commissioner but not to exceed \$600 in any fiscal year. Such compensation shall be paid by the state treasurer, upon warrant of the governor, with the advice and consent of the council, upon bills approved by the chairman or vice chairman and treasurer of the commission. All commissioners shall be entitled to their actual expenses incurred in the performance of their duties as such.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:12

484:12 Designation of Alternate. – Each commissioner designated or appointed under this compact may appoint an alternate member to serve in his place at meetings of the commission that he is unable to attend; provided, however, that whenever a member is a state employee, his alternate shall also be a state employee. All such appointments shall be made in writing, with written notification to the commission identifying the alternate member. Alternate members shall receive no compensation. Each commissioner may not appoint more than one alternate, and at no meeting shall one alternate represent more than one commissioner.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Northeastern Water and Related Land Resources Compact

Section 484:13

484:13 Ratification. – The governor on behalf of the state is authorized to enter into a compact with any 2 or more of the states of Connecticut, Maine, Rhode Island, Vermont and the Commonwealth of Massachusetts as follows:

Article I

Findings

The northeastern part of the United States is by virtue of geographic location and other characteristics a great natural resource area which, with more intense use of natural resources, increasingly requires coordinated planning as a basic ingredient of effective resource management and orderly growth of the region. The work of the New England-New York Interagency Committee demonstrated that a continuation and furtherance of activities such as those undertaken by it would be of great value. To this end, it is the intent of this compact to establish and provide for the operation of a joint agency for the northeast.

Article II

Purpose

It is the purpose of this compact to provide, in the northeastern region, improved facilities and procedures for the coordination of the policies, programs, and activities of the United States, the several states, and private persons or entities in the field of water and related land resources, and to study, investigate, and plan the development and use of the same and conservation of such water and related land resources; to provide means by which conflicts may be resolved; to provide procedures for coordination of the interests of all public and private agencies, persons and entities in the field of water and related land resources; and to provide an organization for cooperation in such coordination on both the federal and state levels of government.

Article III

Creation of Commission

There is created the Northeastern Resources Commission, hereinafter called the commission.

Article IV

Membership

The commission shall consist of one member from each party state to be appointed and to serve, in accordance with and subject to the laws of the state which he represents, and 7 members representing departments or agencies of the United States having principal responsibilities for water and related land resources development to be appointed and to serve in such manner as may be provided by the laws of the United States.

Article V

Functions

It shall be the responsibility of the commission to recommend to the states and the United States, or any intergovernmental agency, changes in law or policy which would promote coordination, or resolution of problems, in the field of water and related land resources. The efforts of the commission in coordination of work and resolution of conflicts may be directed towards all state and federal activities involved in water and related land resources development responsibilities and shall include coordination of the following:

- (1) Collection and interpretation of basic data;
- (2) Investigation and planning of water and related land resources projects;
- (3) Programming (including scheduling) of water and related land resources construction and development;
- (4) Encouraging of the referral of plans or proposals for resources projects to the commission.

The commission shall use qualified public and private agencies to make investigations and conduct research in the field of water and related land resources, but if it is unable to secure the undertaking of such investigations or original research by a qualified public or private agency, it shall have the power to make its own investigations and conduct its own research. The commission may make contracts with any public or private agencies or private persons or entities for the undertaking of such investigations, or original research within its purview.

Article VI

Voting

No action of the commission respecting the internal management of the commission shall be binding unless taken at a meeting at which a majority of the members are present and vote in favor of such action; provided that any action not binding for such a reason may be ratified within 30 days by the concurrence in writing of a majority of the commission membership. No action of the commission respecting a matter other than its internal management shall be binding unless taken at a meeting at which a majority of the state members and a majority of the members representing the United States are present and a majority of said state members together with a majority of said members representing the United States vote in favor of such action; provided that any action not binding for such a reason may be ratified within 30 days by the concurrence in writing of a majority of the state members and the concurrence in writing of a majority of the members representing the United States.

Article VII

Finances

A. The commission shall submit to the governor or designated officer of each party state a request for funds to cover estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature of such state. Any such request shall indicate the sum or sums which the commission has requested or intends to request be appropriated by the United States for the use or support of the commission during the period covered by such sums.

B. With due regard for such monies and other assistance as may be made available to it, the commission shall be provided with such funds by each of the several states participating in the compact to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the commission.

With due allowance for monies otherwise available, each budget of the commission shall be the responsibility of the party states, to be apportioned among them on a weighted formula based 50 percent on population and 50 percent on gross land area, such population and gross land area to be determined in accordance with the last official United States Census of Population, but provided that the total contributions of all of the states shall not be required to exceed \$50,000 annually and provided further that regardless of the number of states party to the compact at any time the maximum annual contribution required of any state shall not exceed its share of the \$50,000 as determined above. Any state may contribute such funds in excess of its share, as determined above, as it may desire.

C. The commission shall not pledge the credit of any jurisdiction. The commission may meet any of its obligations in whole or in part with funds available to it under Article VIII(E) of this compact, provided that the commission takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in such manner.

D. The members of the commission shall be paid by the commission their actual expenses incurred and incident to the performance of their duties, subject to the approval of the commission.

E. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

F. The accounts of the commission shall be open at any reasonable time for inspection by such agency, representative, or representatives of the jurisdictions which appropriate funds to the commission.

Article VIII

Administration and Management

A. The commission may sue and be sued, and shall have a seal.

B. The commission shall elect annually, from among its members, a chairman, vice-chairman and treasurer. The commission shall appoint an executive director who shall also act as secretary, and together with the treasurer, shall be bonded in such amounts as the commission may require.

C. The commission shall appoint and remove or discharge such personnel as may be necessary for the performance of its functions irrespective of any civil service laws which might otherwise apply. The commission shall establish and maintain, independently, by contract or agreement with the United States or an agency thereof, or in conjunction with any one or more of the party states, suitable retirement programs for its employees. Employees of the commission shall be eligible for social security coverage in respect to old age and survivors insurance, provided that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the commission terms and conditions of employment similar to those enjoyed by employees of the party states generally.

D. The commission may borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency of any state or the United States, from any intergovernmental agency, or from any institution, person, firm or corporation.

E. The commission may accept for any of its purposes and functions under this compact any and all appropriations, donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state or the United States or any subdivision or agency of any state or the United States, or intergovernmental agency, or any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

F. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may accept, hold, and convey real and personal property and any interest therein.

G. The commission may adopt, amend, and rescind bylaws, rules and regulations for the conduct of its business.

H. The commission shall make and transmit annually, to the legislature and governor of each party state, and to the President and Congress of the United States, a report covering the activities of the commission for the

preceding year, and embodying such recommendations as may have been adopted by the commission. The commission may issue such additional reports as it may deem desirable.

Article IX

Other Compacts and Activities

Nothing in this compact shall be construed to impair, or otherwise affect, the jurisdiction of any interstate agency in which any party state participates nor to abridge, impair, or otherwise affect the provisions of any compact to which any one or more of the party states may be a party, nor to supersede, diminish, or otherwise affect any obligation assumed under any such compact. Nor shall anything in this compact be construed to discourage additional interstate compacts among some or all of the party states for the management of natural resources, or the coordination of activities with respect to a specific natural resource or any aspect of natural resource management, or for the establishment of intergovernmental planning agencies in sub-areas of the region. Nothing in this compact shall be construed to limit the jurisdiction or activities of any participating government, agency, or officer thereof or any private person or agency.

Article X

Enactment

- A. This compact shall become effective when entered into and enacted into law by any 3 of the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, and when the United States has provided by law for the designation of its representation on the commission. Thereafter it shall become effective with respect to any other aforementioned state upon its enacting this compact into law.
- B. Upon consent of the Congress of the United States of America, any other state in the northeastern area may become a party to this compact, by entering into and enacting this compact into law.

Article XI

Withdrawal

This compact shall continue in force and remain binding upon each party state until renounced by it. Renunciation of this compact must be preceded by sending 3 years' notice in writing of intention to withdraw from the compact to the governor of each of the other states party to this compact and to such officers or agencies of the United States as may be designated by federal law.

Article XII

Construction and Severability

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof, to any state, agency, person, or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any other state, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:14

484:14 Procedure. – When the governor shall have executed said compact on behalf of this state and shall have caused a verified copy to be filed with the secretary of state and when said compact shall have been ratified by 2 or more of the states named in RSA 484:13, then said compact shall become operative and effective as between this state and such other states. The governor is authorized and directed to take such action as may be necessary to complete the exchange of official documents as between this state and any other states ratifying said compact and to take such steps as may be necessary to secure the designation by the Congress of the United States of its representation on the commission.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:15

484:15 Commissioner. – After the aforesaid compact shall become effective and operative as previously provided, the governor, with the advice and consent of the council, shall designate or appoint a person to serve as a member of the Northeastern Resources Commission. Said commissioner shall serve for a term of 4 years. Any vacancy in said office shall be filled for the remainder of the unexpired term.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:16

484:16 Compensation. – The commissioner shall not be entitled to salary as such commissioner, but may be reimbursed for actual expenses incurred in the performance of his duties as such commissioner.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Water Pollution Control Compact

Section 484:17

484:17 Ratification. –

The state department of environmental services is authorized to enter into a compact with any one or more of the states of Maine, Vermont, Rhode Island, Connecticut and New York and the Commonwealth of Massachusetts, as follows:

New England Interstate Water Pollution Control Compact

Whereas, The growth of population and the development of the territory of the New England states has resulted in serious pollution of certain interstate streams, ponds and lakes, and of tidal waters ebbing and flowing past the boundaries of 2 or more states; and

Whereas, Such pollution constitutes a menace to the health, welfare and economic prosperity of the people living in such areas; and

Whereas, The abatement of existing pollution and the control of future pollution in the interstate waters of the New England area are of prime importance to the people and can best be accomplished through the cooperation of the New England states in the establishment of an interstate agency to work with the states in the field of pollution abatement;

Now, therefore, the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont do agree and are bound as follows:

Article I. It is agreed between the signatory states that the provisions of this compact shall apply to streams, ponds and lakes which are contiguous to 2 or more signatory states or which flow through 2 or more signatory states or which have a tributary contiguous to 2 or more signatory states or flowing through 2 or more signatory states, and also shall apply to tidal waters ebbing and flowing past the boundaries of 2 states.

Article II. There is created the New England Interstate Water Pollution Control Commission (referred to in this compact as the commission) which shall be a body corporate and politic having the powers, duties and jurisdiction enumerated in this compact and such other and additional powers as shall be conferred upon it by the act or acts of a signatory state concurred in by the others.

Article III. The commission shall consist of 5 commissioners from each signatory state, each of whom shall be a resident voter of the state from which he is appointed. The commissioners shall be chosen in the manner and for the terms provided by law of the state from which they shall be appointed. For each state there shall be on the commission a member representing the state health department, a member representing the state water pollution control board (if such exists), and, except where a state in its enabling legislation decides that the best interests of the state will be otherwise served, a member representing municipal interests, a member representing industrial interests, and a member representing an agency acting for fisheries or conservation.

Article IV. The commission shall annually elect from its members a chairman and vice chairman and shall appoint and at its pleasure remove or discharge such officers. It may appoint and employ a secretary who shall be a professional engineer versed in water pollution and may employ such stenographic or clerical employees as shall be necessary, and at its pleasure remove or discharge such employees. It shall adopt a seal and suitable bylaws and shall adopt rules and regulations for its management and control. It may maintain an office for the transaction of its business and may meet at any time or place within the signatory states. Meetings shall be held at least twice each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the commission imposing any obligation on any signatory state or on any municipal agency or subdivision thereof or on any person, firm or corporation therein shall be binding unless a majority of the members from such signatory state shall have voted in favor of such action. Where meetings are planned to discuss matters relevant to problems of water pollution control affecting only certain of the signatory states, the commission may vote to authorize special meetings of the commissioners of the states especially concerned. The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each signatory state setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the signatory states which may be necessary to implement the intent and purpose of this compact. The commission shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the signatory states adequate to meet the same, nor shall the commission pledge the credit of any of the signatory states. Each signatory state reserves the right to provide hereafter by law for the examination and audit of the accounts of the commission. The commission shall appoint a treasurer who may be a member of the commission, and disbursements by the commission shall be valid only when authorized by the commission and when vouchers therefor have been signed by the secretary and countersigned by the treasurer. The secretary shall be custodian of the records of the commission with authority to attest to and certify such records or copies of such records.

Article V. It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, industrial and agricultural uses, bathing and other recreational purposes, maintenance and propagation of fish life, shellfish culture, navigation and disposal of wastes.

The commission shall establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory states through appropriate agencies will prepare a classification of its interstate waters in entirety or by portions according to present and proposed highest use and for this purpose technical experts employed by state departments of health and state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting 2 or more states. Each signatory state agrees to submit its classification of its interstate waters to the commission for approval. It is agreed that after such approval, all signatory states through their appropriate state health departments and water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet standards established by the commission for classified waters. The commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity.

Article VI. Each of the signatory states pledges to provide for the abatement of existing pollution and for the

control of future pollution of interstate inland and tidal waters as described in Article I, and to put and maintain the waters thereof in a satisfactory condition consistent with the highest classified use of each body of water. Article VII. Nothing in this compact shall be construed to repeal or prevent the enactment of any legislation or prevent the enforcement of any requirement by any signatory state imposing any additional condition or restriction to further lessen the pollution of waters within its jurisdiction. Nothing contained in this compact shall affect or abate any action now pending brought by any governmental board or body created by or existing under any of the signatory states.

Article VIII. The signatory states agree to appropriate for the salaries, office, administrative, travel and other expenses such sum or sums as shall be recommended by the commission. The commonwealth of Massachusetts obligates itself only to the extent of \$6,500 in any one year, the state of Connecticut only to the extent of \$3,000 in any one year, the state of Rhode Island only to the extent of \$1,500 in any one year, and the states of New Hampshire, Maine, and Vermont each only to the extent of \$1,000 in any one year.

Article IX. Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts of the compact shall continue to be in full force and effect.

Article X. The commission is authorized to discuss with appropriate state agencies in New York state questions of pollution of waters which flow into the New England area from New York state or vice versa and to further the establishment of agreements on pollution abatement to promote the interests of the New York and New England areas. Whenever the commission by majority vote of the members of each signatory state shall have given its approval and the state of New York shall have taken the necessary action to do so, the state of New York shall be a party to this compact for the purpose of controlling and abating the pollution of waterways common to New York and the New England states signatory to this compact, but excluding the waters under the jurisdiction of the Interstate Sanitation Commission (New York, New Jersey and Connecticut).

Article XI. This compact shall become effective immediately upon the adoption of the compact by any 2 contiguous states of New England but only insofar as it applies to those states and upon approval by federal law. Thereafter upon ratification by other contiguous states, it shall also become effective as to those states.

Source. 1989, 339:1. 1996, 228:108, eff. July 1, 1996.

Section 484:18

484:18 Procedure. – Whenever the department shall have entered into the compact substantially in the form set forth in RSA 484:17 with the duly authorized agency of any of the states specified in said section, it shall file a certified copy of such compact in the office of the secretary of state and shall notify the governor of its action. Such compact shall thereupon become effective and operative as between this state and such other state or states, subject to the consent of the Congress of the United States, which the governor shall take such steps as may be necessary to obtain. The governor is authorized and requested, upon receiving notice of the filing of the required copy of the compact in the office of the secretary of state, to notify, forthwith the governors of the specified states and the President of the United States that the state on its part has ratified and executed said compact. The original notice of ratification received from the governor or other duly authorized official of any state joining in said compact shall be filed with the official copy of said compact in the office of the secretary of state, and such notice, if any as may be received from the President or the Congress of the United States, signifying the consent of the Congress to said compact, shall be filed in the same manner.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

Section 484:19

484:19 Commissioners. – The governor, with the consent of the council, shall appoint 5 commissioners to the New England Interstate Water Pollution Control Commission. These commissioners shall include the commissioner of environmental services or his designee and 4 other persons to be nominated by the commissioner of environmental services. All commissioners, except the commissioner of environmental services, shall serve 4-year terms. A vacancy shall be filled for the remainder of the unexpired term.

Source. 1989, 339:1. 1995, 310:182. 2000, 44:2, eff. June 6, 2000.

Section 484:20

484:20 Compensation. – Each commissioner designated or appointed by the governor who, while such commissioner, holds no salaried state office shall be paid by the state as compensation the sum of \$30 for each day's service performed in connection with his duties as such commissioner, but not to exceed \$600 in any fiscal year. All commissioners shall be entitled to their actual expenses incurred in the performance of their duties as such.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:21

484:21 Reports. – The commissioners on the part of the state shall obtain accurate accounts of all the commission's receipts and disbursements and shall report to the governor and the commissioner of administrative services annually on or before September 15, setting forth in such detail as the commissioner of administrative services may require the transactions of the commission for the fiscal year ending on the preceding June 30. They shall include in such report recommendations for any legislative action that the commission deems advisable, including such amendments or additions to the laws of the state as may be necessary or desirable to implement the intent and purposes of the New England Interstate Water Pollution Control Compact among the states joining in the compact.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Interstate Water Pollution Control Commission Standards for Sewage and Waste Treatment Plant Personnel

Section 484:22

484:22 Control Commission. – The New England Interstate Water Pollution Control Commission, established by RSA 484:17, and called the commission in this subdivision, may develop standards for the training, educational and experience requirements for operating personnel necessary to the proper operation of sewage and other waste treatment plants.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:23

484:23 Training of Personnel. –

I. The commission may administer programs of training and certification for such personnel and may make classifications of such personnel. Any certificate issued by the commission shall be accepted by this state and all agencies and subdivisions of this state as conclusive evidence that the holder has the training, education and experience necessary for certification for the class of position or responsibility described in such certificate. The department of environmental services, may impose and administer any other requirements for certification within any applicable provisions of law, but it shall not reexamine or reinvestigate the applicant for a certificate with respect to training, education, or experience qualifications.

II. The commission shall keep a record of all certificates issued by it, and in response to any inquiry concerning such a certificate, the commission shall inform the inquirer concerning its issuance and validity. The commission shall annul any certificate issued by it if the commission finds that the certificate was obtained by misrepresentation of any material fact relating to the education, training or experience of the applicant. Such annulment shall be pursuant to rules and regulations of the commission, which shall afford due notice to the certificate holder and an opportunity to present relevant evidence for consideration by the commission.

Source. 1989, 339:1. 1996, 228:67, eff. July 1, 1996.

Section 484:24

484:24 Application. – Nothing contained in this subdivision shall limit or abridge the authority of the commission to revise its standards and to issue new or additional certificates. In any such case, the department may require an applicant for a certificate to present a certificate or certificates which evidence training, education and experience meeting the current standards of the commission.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

Section 484:25

484:25 Limitations. –

I. Certificates issued by the commission shall be recognized and given in connection with personnel employed in or having responsibilities for plants discharging into any waters of this state.

II. Nothing in this subdivision shall be construed to require any person to have a certificate in order to be employed in the operation of a sewage or other waste treatment plant. Such requirements, if any, shall be as set forth in or pursuant to other laws of this state; provided that in any case where a certificate is required, an appropriate certificate issued by the commission shall be accepted in lieu of any certificate otherwise required.

Source. 1989, 339:1, eff. Jan. 1, 1990.

Section 484:26

484:26 Application. – To the extent that the authority conferred upon the commission by this subdivision is not otherwise exercisable by the commission under the provisions of the New England Interstate Water Pollution Control Compact, the commission shall not require the financial or other support of the program or programs authorized by this subdivision by any state not having enacted legislation substantially similar to this subdivision.

Source. 1989, 339:1, eff. Jan. 1, 1990.