



# UNITED

## FRESH POTATO GROWERS OF COLORADO

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**Fresh Facts**

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**Carton prices continue to increase! Looking for more base acreage? Do you have excess base for rent? Contact the UNITED office for information on E-Base.**

**The significance of Capper-Volstead is that it allows farm operators to organize effectively and to judiciously use what market power they gain through cooperative marketing and bargaining associations.**

Over eighty years ago, Congress enacted into law the Capper-Volstead Act of 1922 to provide limited antitrust immunity for farm operators organized in cooperative marketing associations. This significant legislation provided authority for farmers and ranchers to join together in cooperative associations without, per se, violating antitrust laws.

### Historical Perspective

The period from 1919 to 1922, when this legislation was before Congress, was one of the most active farmer-organizing periods in American history. Thousands of cooperatives were being organized as a response to marketing problems encountered with the emergence of large-scale commercial production. Since farmers were small in size and large in number, they often found themselves taken advantage of by unscrupulous merchants, bankers and railroads. Organized selling empowered them to get improved returns from the marketplace and a modicum of market power in dealing with their buyers.

### Features of the Act

The law contains two sections. Section 1 stated that "persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations ... in collectively processing, preparing for market, handling and marketing in interstate and foreign commerce such products of persons so engaged." Such organizations could have marketing agencies-in-common and could use contracts to affect their purposes.

The act also listed qualifying requirements an association had to conform to in order to be considered a Capper-Volstead cooperative. The association had to be operated in the mutual interest of members as producers and conform to one or both of the following requirements:

- No member would be allowed more than one vote because of the amount of stock or membership capital he may own in the association;
- The association could not pay dividends on stock or membership capital greater than 8 percent per year. In any case, the association could not deal in the products of non-members in an amount greater in value than that which it handled for members. This latter qualification was added following the Senate debate.

Section 2 provides for a unique regulation by the secretary of agriculture under the act. If the agriculture secretary finds that a cooperative has "unduly enhanced prices," he or she is authorized to order it to cease and desist from enforcing such prices. This provision provides protection to consumers and the general public against any abusive pricing practices by cooperatives.

### Significance of Capper-Volstead

**The Capper-Volstead Act places no limits on the size of cooperatives. Courts have ruled that cooperatives may grow by voluntary membership until all producers of a product belong to the cooperative, giving it a 100-percent share of the market. This fact provides an opportunity and a challenge to farm operators who generally have not made as much use of the act due to their independent nature and to their lack of interest in taking responsibility to better manage their own industry.**

## MANAGE YOUR BULK LOADS BEFORE THEY MANAGE YOU!!!

As the price of bulk potatoes continue to climb higher, it always seems that the number of “kicked” loads seems to be more frequent.

United encourages you to communicate with your Broker/Buyers regarding the receiver’s requirements for your load(s) and offers the following suggestions:

- You know your inventory. Are the broker’s specifications/expectations for percent over 6 oz., percent #1s, top size, percent under size, appearance being met? Make a note of the amount of dirt, rocks, and clods.
- Talk to your inspector. If you don’t list percentages on the inspection, have an idea what they were and what the inspector has seen or noted.
- Know who your receiver is and what their receiving/unloading procedures are. Will they pay on shipped or received weight? Is a tare amount involved? Do they require a seal on the doors and when will that seal be removed? Have an idea of when the load will deliver.
- Visit with the truck driver. Was the refrigeration unit operating? Has the driver be told what temperature to run the unit?
- Develop a protocol for handling “kicked” loads. Communicate with the broker as to how, when, and what information you would like when the broker contacts you. Make sure both of you know whom to talk to regarding this information. Decided on a timeline as to when you would like to be notified that there is a problem. What is the status of the truck loaded or unloaded? Know the broker’s procedure for requesting a Federal inspection and the broker’s procedure to handling “kicked” loads. Where and when will the Federal Inspection take place? Will you receive a copy of the Inspection? Who will be paying for the Federal Inspection? Contact the Inspection Service for assistance.

The Bulk Committee is planning to work with the Inspection Service to develop a checklist to assist growers with these “kicked” loads. We are looking into hosting a PACA (Perishable Agricultural Commodities Act) speaker to discuss how to use PACA to our benefit.

Bulk shippers are encouraged to join the bulk shipper call every Wednesday at 1:00 p.m. Please feel free to join even if you are not currently shipping. Contact the United office for additional information. Remember to check the United bulk line at 852-0844 or the website for the latest bulk and packaged price targets.