

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry (General)  
**Umbrella-Unit:** 01-001  
**Statutory authority:** 7 MRS §§ 2301 - 2303  
**Chapter number/title:** Ch. 275, Emerald Ash Borer Quarantine  
**Filing number:** 2019-062  
**Effective date:** 4/10/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The principal reason for proposing this rule is to prevent the spread of Emerald Ash Borer, a highly destructive pest of all types of true ash trees, within the State of Maine.

**Basis statement:**

Emerald Ash Borer (EAB) has been federally regulated pests since 2010. It has already killed millions of ash trees from Minnesota to Texas and Georgia to New Hampshire. Unfortunately, only a fraction of a percent of Maine's more than 400 million stems of white, green and black/brown ash are expected to survive this insect. The first detection for emerald ash borer in Maine was in Madawaska on May 22, 2018 and subsequent infestations were found in Frenchville and Grand Isle. In September of 2018 EAB was also detected on monitoring traps in Lebanon and Acton. It was most recently detected in trees in Acton and Berwick in February 2019. If Maine does not impose a partial state quarantine, the USDA will most likely impose a full state quarantine. Maine Forest Service would like to contain potentially infested wood and wood products within the smaller quarantined areas to help slow the spread into uninfested areas of the state. Ch. 275 quarantines the towns with known EAB infestations and provides a two to three town buffer area around the infested towns.

The Secretary of State published a newspaper notice on January 15, 2019 and over 2500 companies and individuals representing municipal, arboriculture, horticulture and forestry interests in the state had been notified electronically. Two public hearings were held on February 11 in Ashland and February 13 in Springvale. Both hearings were attended by a cross-section of constituents and a few comments were received.

The comment period ended on February 25 and only three additional comments were received. Most of the comments were questions about how the quarantine would function. Substantive comments came from firewood dealers whose businesses are within the quarantine area and would be impacted by the loss of market area outside the quarantine boundaries and similar concerns were voiced about biomass harvesters whose chips might contain some ash and would not be able to freely move outside the quarantine boundaries. In both instances MFS will work with USDA to develop compliance agreements to facilitate the movement of ash-free firewood or mixed chips during the winter months when the EAB is unlikely to be spread.

The Department's staff reviewed the comments on March 15, 2019 and noted that none required changes to the proposed rule. The Department therefore felt very comfortable adopting Ch. 275 to create a quarantine to regulate the northeast corner of Aroostook County and all of York County.

**Fiscal impact of rule:**

The fiscal impact of the proposed rule on state government should be minor. The state will continue to monitor the spread of EAB with funds provided by USDA-APHIS. Education and enforcement has already been ongoing and should continue with a minor increase in effort. Impacts on firewood dealers could be significant if their market area is reduced or if

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they need to purchase a drying kiln. Municipalities could suffer major budget impacts from the eventual need to remove or treat roadside or park ash trees, however the quarantine should help slow the spread and allow the towns time to prepare. Finally, Wabanaki tribal basket makers may be significantly impacted if brown/black ash resources are restricted or lost due to EAB and the quarantine. We would not expect the economic impact to be above \$1,000,000.

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**Agency name:** Department of Agriculture, Conservation and Forestry (General)  
**Umbrella-Unit:** 01-001  
**Statutory authority:** 7 MRS §§ 2301 - 2303  
**Chapter number/title:** Ch. 271, Gypsy Moth Quarantine  
**Filing number:** 2019-077  
**Effective date:** 5/20/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The principal reason for proposing this rule is to prevent the spread of Gypsy Moth, a highly destructive pest of hardwood trees, within the State of Maine.

**Basis statement:**

Gypsy moth has been a federally regulated pest for over 25 years. Maine has been partially infested with gypsy moth since 1906. The state has been monitoring the spread of these pests for over 30 years. The infestation now covers more than two-thirds of the state, so it is time to quarantine the entire state.

The Secretary of State published a notice on March 20, 2019 and by that date over 7500 companies and individuals representing horticulture and forestry interests in the state had been notified by email. No public hearing was held.

The comment period ended on April 26, 2019 and only six comments were received. The Department's staff reviewed the comments on April 30, 2019. Three commenters agreed with the proposal as written and two only had questions regarding how a quarantine works. One was in opposition, believing the quarantine was excessive. Since only 10 major Maine towns remain uninfested and the major businesses affected in the area agreed with the full state quarantine, the Department staff decided to adopt the rule as proposed placing the entire state under quarantine for gypsy moth.

**Fiscal impact of rule:**

The fiscal impact of the proposed rule will be minor. The rules could have an impact on out of state movement of Christmas trees and wood products particularly from the northern part of the state. These materials will require phytosanitary certificates to be moved to uninfested states or provinces.

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**Agency name:** Department of Agriculture, Conservation and Forestry (General)  
**Umbrella-Unit:** 01-001  
**Statutory authority:** 7 MRS §§ 2701 - 2872  
**Chapter number/title:** Ch. 270, Maine Apiary Rules and Regulations  
**Filing number:** 2019-102  
**Effective date:** 6/24/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The purpose of the Apiary Program is to prevent the introduction and/or spread of regulated honey bee diseases, parasites, and undesirable genetic material in resident and migratory honey bee colonies, as well as encourage and maintain interstate movement of honey bees for crop pollination and honey production. Proposed changes to the current rules include:

1. Defining and clarifying terms within the rules.
2. Deregulate well established pests that are currently regulated, including the varroa mite and European foulbrood.
3. Adding pests and diseases of honey bees to the regulated pest list that do not currently exist in the United States but have the potential to be very harmful to the State of Maine Beekeeping industry.
4. Clarify areas of the current rule that are unclear and/or burdensome to beekeepers including the follow sections:
  - a. Regulation
  - b. Possession and Sale
  - c. Abatement Procedures
  - d. Inspection
5. Increase the apiary registration fee. The current fee schedule was first adopted in 1985 and has never been increased.

The Secretary of State published a newspaper notice on April 10, 2019. Registered beekeepers were notified of the proposed changes on March 22<sup>nd</sup> and April 23<sup>rd</sup> through GovDelivery. Email notifications were sent to the Maine Pomological Society, Maine Small Fruit and Vegetable Growers, The Maine State Beekeeper Association, the apple Cooperative Extension Specialist and the wild blueberry crop Cooperative Extension Specialist for distribution. Two public hearings were held on April 29<sup>th</sup> in Falmouth and May 2<sup>nd</sup> in Bangor.

The comment period ended on May 13, 2019. A total of 16 comments were received and responses to those comments are published on a separate document. The comments were overwhelmingly supportive of the proposed changes.

The Department's staff reviewed the comments on May 15, 2019 and noted that only minor changes were required to the proposed rule. The Department therefore felt very comfortable adopting the proposed changes to Ch, 270, *Maine Apiary Rules and Regulations*.

**Fiscal impact of rule:**

The fiscal impact on state government will be positive. The fee increase will provide the necessary funds to continue the inspection and extension programs. The fiscal impact on the majority of beekeepers will be negligible (\$8.00/year increase). Commercial operations will only see a maximum fee increase of \$50/year. Neither of those fee increases should be a large burden on the beekeeping industry nor should it cascade into higher honey or hive rental prices.

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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 7 MRS §2954

**Chapter number/title:** **Ch. 29**, Dealer Margins

**Filing number:** **2019-008**

**Effective date:** 1/15/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The principal reason for this rulemaking is to update dealer margins. The margins adopted in this rule reflect the current cost of processing milk in Maine and will be used by the Maine Milk Commission in their monthly milk price setting meetings.

**Basis statement:**

Pursuant to 7 MRS §2954, the Maine Milk Commission is responsible for setting minimum wholesale and retail milk prices. Minimum wholesale prices paid to processors (dairies) are set to reflect the lowest price at which milk purchased from Maine producers can be received, processed, packaged, and distributed to retailers within the state at a just and reasonable return. 7 MRS §2954(2)(B).

To arrive at the dairy-processing price, also known as the dealer margin, the Maine Milk Commission first conducts a cost study that evaluates the operation of milk processing plants in Maine. The study uses current price data for supplies, labor, electricity, trucking, etc., to calculate a lowest achievable price. The lowest achievable price is the theoretical price at which a Maine dairy should be able to process milk from raw product to finished product and distribute it to retailers. *Cumberland Farms Northern, Inc. v. Me. Milk Comm'n*, 377 A.2d 84, 91-92 (Me. 1977). The lowest achievable price must also factor in a reasonable return on investment. *Id.* at 92. To arrive at the dealer margin, the Commission takes the lowest achievable price generated by the study and then adjusts it, as warranted, after considering the criteria set forth in 7 MRS §2954(2), including, without limitation, conditions specific to Maine processors and the need to make milk available to the public at the lowest possible prices. *Id.*; *Cumberland Farms Northern, Inc. v. Me. Milk Comm'n*, 428 A.2d 869, 877-78 (Me. 1981).

The procedure employed to arrive at the dealer margin includes both independent investigation and a public hearing. 7 MRS §2954(1); *Cumberland Farms Northern, Inc.*, 377 A.2d at 88. The Commission conducts a public hearing on the proposed dealer margin. After considering the input of processors, any other interested parties, and the public, the Commission adopts a rule establishing the dealer margin. This margin is the minimum return that processors are guaranteed until a new study is completed. Processors may obtain a higher price for a gallon of milk from retailers, but the price paid by retailers cannot be below the dealer margin. A new cost study is required every three years. 7 MRS §2952-A (3).

In June of 2018, the Commission contracted with Herbein & Co. of Reading, Pennsylvania to conduct a new dairy processing cost study to be used as the basis for setting new dealer margins. This is the thirteenth major pricing order the Commission has set, and embodies continued improvement and refinement over earlier orders. With each new order the data, and the information made available and reviewed by the Commission, has become more detailed and specific.

The Commission received input from interveners, processors, and milk producers.

**Fiscal impact of rule:** None.

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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3**, Schedule of Minimum Prices, **Order #02-19**

**Filing number:** **2019-020**

**Effective date:** 2/3/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **February 2019** minimum Class I price is **\$18.55/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$2.33/cwt.** handling fee for a total of **\$23.75/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.79**.

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$13.78/cwt.** and a Class IV price of **\$15.09/cwt.** for **December 2018**.

The Class II price for **December 2018** is **\$15.67/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$18.55/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on January 24, 2019 and therefore should be passed on in minimum prices effective February 3, 2019. These prices also include a handling fee of \$2.33/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3, Schedule of Minimum Prices, Order #03-19**

**Filing number:** **2019-043**

**Effective date:** 3/3/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **March 2019** minimum Class I price is **\$19.23/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.86/cwt.** handling fee for a total of **\$23.96/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.81.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$13.96/cwt.** and a Class IV price of **\$15.48/cwt.** for **January 2019.**

The Class II price for **January 2019** is **\$15.74/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$19.23/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on February 21, 2019 and therefore should be passed on in minimum prices effective March 3, 2019. These prices also include a handling fee of \$1.86/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3, Schedule of Minimum Prices, Order #04-19**

**Filing number:** **2019-054**

**Effective date:** 3/31/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **April 2019** minimum Class I price is **\$19.01/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.86/cwt.** handling fee for a total of **\$23.74/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.79.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$13.89/cwt.** and a Class IV price of **\$15.86/cwt.** for **February 2019.**

The Class II price for **February 2019** is **\$16.13/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$19.01/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on March 21, 2019 and therefore should be passed on in minimum prices effective March 31, 2019. These prices also include a handling fee of \$1.86/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.



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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3, Schedule of Minimum Prices, Order #05-19**

**Filing number:** **2019-067**

**Effective date:** 4/28/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **May 2019** minimum Class I price is **\$19.67/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.40/cwt.** handling fee for a total of **\$23.94/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.81.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$15.04/cwt.** and a Class IV price of **\$15.71/cwt.** for **March 2019.**

The Class II price for **March 2019** is **\$16.61/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$19.67/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on April 18, 2019 and therefore should be passed on in minimum prices effective April 28, 2019. These prices also include a handling fee of \$1.40/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3**, Schedule of Minimum Prices, **Order #06-19**

**Filing number:** **2019-087**

**Effective date:** 6/2/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **June 2019** minimum Class I price is **\$20.32/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$.93/cwt.** handling fee for a total of **\$24.12/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.83.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$15.96/cwt.** and a Class IV price of **\$15.72/cwt.** for **April 2019.**

The Class II price for **April 2019** is **\$16.38/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$20.32/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on May 23, 2019 and therefore should be passed on in minimum prices effective June 2, 2019. These prices also include a handling fee of \$0.93/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3, Schedule of Minimum Prices, Order #07-19**

**Filing number:** **2019-104**

**Effective date:** 6/30/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **July 2019** minimum Class I price is **\$20.43/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.93/cwt.** handling fee for a total of **\$24.23/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.84.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$16.39/cwt.** and a Class IV price of **\$16.29/cwt.** for **May 2019.**

The Class II price for **May 2019** is **\$16.48/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$20.43/cwt. plus \$1.63/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on June 20, 2019 and therefore should be passed on in minimum prices effective June 30, 2019. These prices also include a handling fee of \$0.93/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3, Schedule of Minimum Prices, Order #08-19**

**Filing number:** **2019-137**

**Effective date:** 8/4/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **August 2019** minimum Class I price is **\$21.14/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$24.38/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.86.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$16.27/cwt.** and a Class IV price of **\$16.83/cwt.** for **June 2019.**

The Class II price for **June 2019** is **\$17.30/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$21.14/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on July 18, 2019 and therefore should be passed on in minimum prices effective August 4, 2019. These prices also include a handling fee of \$0.47/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3, Schedule of Minimum Prices, Order #09-19**

**Filing number:** **2019-157**

**Effective date:** 9/1/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **September 2019** minimum Class I price is **\$21.10/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$24.34/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.85.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$17.55/cwt.** and a Class IV price of **\$16.90/cwt.** for **July 2019.**

The Class II price for **July 2019** is **\$17.61/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$21.10/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on August 22, 2019 and therefore should be passed on in minimum prices effective September 1, 2019. These prices also include a handling fee of \$0.47/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3, Schedule of Minimum Prices, Order #10-19**

**Filing number:** **2019-171**

**Effective date:** 10/29/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **October 2019** minimum Class I price is **\$21.09/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$24.33/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.85.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$17.60/cwt.** and a Class IV price of **\$16.74/cwt.** for **August 2019.**

The Class II price for **August 2019** is **\$17.60/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$21.09/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on September 19, 2019 and therefore should be passed on in minimum prices effective September 29, 2019. These prices also include a handling fee of \$0.47/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**  
**Umbrella-Unit:** **01-015**  
**Statutory authority:** 5 MRS §8054; 7 MRS §2954  
**Chapter number/title:** **Ch. 3**, Schedule of Minimum Prices, **Order #11-19**  
**Filing number:** **2019-184**  
**Effective date:** 11/3/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **November 2019** minimum Class I price is **\$21.39/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$24.63/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.88.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$18.31/cwt.** and a Class IV price of **\$16.35/cwt.** for **September 2019.**

The Class II price for **September 2019** is **\$16.93/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$21.39/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on October 24, 2019 and therefore should be passed on in minimum prices effective November 29, 2019. These prices also include a handling fee of \$0.47/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3**, Schedule of Minimum Prices, **Order #12-19**

**Filing number:** **2019-211**

**Effective date:** 12/1/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **December 2019** minimum Class I price is **\$22.58/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$25.82/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.98.**

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$18.72/cwt.** and a Class IV price of **\$16.39/cwt.** for **October 2019.**

The Class II price for **October 2019** is **\$16.68/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$22.58/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on November 21, 2019 and therefore should be passed on in minimum prices effective December 01, 2019. These prices also include a handling fee of \$0.47/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine Milk Commission**

**Umbrella-Unit:** **01-015**

**Statutory authority:** 5 MRS §8054; 7 MRS §2954

**Chapter number/title:** **Ch. 3**, Schedule of Minimum Prices, **Order #01-20**

**Filing number:** **2019-255**

**Effective date:** 12/29/2019

**Type of rule:** Routine Technical

**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason for this rule is the need to respond to Federal Order changes and to certain other conditions affecting prevailing Class I, II and III milk prices in Southern New England in accordance with 7 MRS §2954.

The final **January 2020** minimum Class I price is **\$22.26/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.47/cwt.** handling fee for a total of **\$25.50/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.95**.

**Basis statement:**

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rulemaking hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$20.45/cwt.** and a Class IV price of **\$16.60/cwt.** for **November 2019**.

The Class II price for **November 2019** is **\$16.85/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$22.26/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.04/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on December 19, 2019 and therefore should be passed on in minimum prices effective December 29, 2019. These prices also include a handling fee of \$0.47/cwt.**

The schedule of prices listed herein reflects the latest Class I, Class II, Class III and Class IV prices plus the minimum dealer, producer and retail margins adopted by the Commission's Orders (DM) Dealer Margins, (PM) Producer Margins, and (RM) Retail Margins. The Class I prices reflect a Processor Assessment of **\$.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine State Harness Racing Commission**

**Umbrella-Unit:** **01-017**

**Statutory authority:** 8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279,  
279-A, 279-E, 281, 298

**Chapter number/title:** **Ch. 5, Tracks**

**Filing number:** **2019-011**

**Effective date:** 1/22/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The amendments establish standards for the proper maintenance of tracks.

**Basis statement:**

Two amendments were proposed for Ch. 5 of the Commission rules. The first proposed amendment, found in new Section 5.1, would require licensed associations conducting pari-mutuel racing to submit a “purse distribution plan” to the Commission for approval prior to the first race date in any calendar year. The Commission could waive the requirement for a plan whenever a written agreement existed between the association and a state-wide organization representing horsemen, which addressed purse distribution.

The second proposed amendment involved a new section which would create standards for the maintenance of tracks. Each association would be required to prepare an annual track maintenance plan. Additionally, tracks would need to ensure there would be adequate drainage and adequate equipment.

After reviewing the testimony and deliberating on the propriety of the proposed amendments, the Commission found that the requirements for an annual purse distribution plan was reasonable and best served the interests of the industry. Consequently, the Commission voted to retain that language in the final rule.

However, the Commission found that the proposed new section creating standards for track maintenance was somewhat vague and likely difficult to enforce. In addition, the Commission agreed that the track licensing criteria—while not the ideal mechanism—provides an avenue to address track maintenance concerns. Consequently, the Commission elected not to adopt proposed new Section 8.

**Fiscal impact of rule:**

The only changes that could potentially have any significant fiscal impact might be the establishment of standards for the maintenance of tracks in Ch. 5, although tracks are presumably already conducting maintenance similar to what is described in the draft amendments.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine State Harness Racing Commission**

**Umbrella-Unit:** **01-017**

**Statutory authority:** 8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279,  
279-A, 279-E, 281, 298

**Chapter number/title:** **Ch. 7, Racing**

**Filing number:** **2019-012**

**Effective date:** 1/22/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The proposed amendments involve a fairly comprehensive update to this chapter. The chapter needs to be aligned with Ch. 17, *Rule Violations: Penalties*, because there are now penalties for conduct that is not specifically prohibited in rule. Also, the language in the chapter is not well constructed. Horsemen has expressed sentiment indicating that greater flexibility is appropriate in rules specific to the types of races that are conducted and the manner in which purses are paid out. Finally, the Commission recognized that the conduct of drivers participating in a race is regulated, but the conduct of other licensed participants at the track is not regulated.

**Basis statement:**

The Commission proposed dozens of minor amendments and updates to Ch. 7, together with a few more substantive ones over a process that spanned two rulemaking initiatives (the first effort was not adopted) and the better part of two years. The Commission took extensive testimony and received written comments on the proposals, and it deliberated the merits of many specific amendments at three separate meetings covering the most recent rulemaking initiative.

The Commission made minor refinements to the proposed language in several areas based largely on comments received, and in some cases findings made by the Commission. The Commission deliberated extensively on the language and proposed amendments contained in Section 46, "Duties of Trainer", and finally settled on language which the Commission determined best described the minimum interactions and decision making required to legitimately define the role of a trainer.

After extensive review and deliberation, the Commission voted to adopt the revised language on December 13, 2018 based on its belief that the adopted amendments best serve the public interest.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine State Harness Racing Commission**

**Umbrella-Unit:** **01-017**

**Statutory authority:** 8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279,  
279-A, 279-E, 281, 298

**Chapter number/title:** **Ch. 9**, Sire Stakes

**Filing number:** **2019-013**

**Effective date:** 1/22/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

The proposed amendments would alter the purse distribution formula for the Sire Stakes finals and would require trainers to notify the Department about the location where participating horses are trained to facilitate testing.

**Basis statement:**

The Commission proposed two amendments to Ch. 9 which were supported by the Maine Standardbred Breeders and Owners Association. The first amendment would require trainers of horses participating in Maine's Sire Stakes Program to notify the Commission of the location where participating horses would be stabled for the year. This information would facilitate out-of-competition testing.

The second proposed amendment involved a change in the purse distribution structure for the Sire Stakes Finals. Sixth, seventh and eighth place finishers would now receive 1.25%, 1% and 0.75% of the base purse respectively.

No comments were received relative to the first proposal. The Commission received a comment from a representative of Scarborough Downs opposing the purse payment structure believing it be too complicated. The commenter offered an alternative purse payment plan.

The Commission reviewed the comment and deliberated on the merits of the proposals. The Commission determined that the proposed amendment relating to purses was reasonable given that it only affects eight races/year which all occur on the same day. Consequently, the Commission elected to adopt both proposed amendments as written.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Maine State Harness Racing Commission**

**Umbrella-Unit:** **01-017**

**Statutory authority:** 8 MRS §§ 263-A, 263-C, 264, 267-A, 268, 272-B, 272-C, 279,  
279-A, 279-E, 281, 298

**Chapter number/title:** **Ch. 11, Medications, Prohibited Substances and Testing**

**Filing number:** **2019-014**

**Effective date:** 1/22/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

This chapter received extensive updating in 2016 in order to keep pace with the rapidly evolving science and policies around preventing the use of performance enhancing drugs. A couple of additional updates are appropriate to clarify that drugs not currently listed are prohibited, and to specify the process for assigning unlisted drugs to a penalty class.

**Basis statement:**

The Commission proposed a handful of substantive changes to Ch. 11. First, it proposed updating the prohibited substance list which is adopted by reference. Second, it added a subsection intended to further discourage the use of alkalizing agents. Third, the Commission proposed to replace the incorporated reference to a therapeutic medication list with a list contained within the rule itself.

Only one comment was received relative to Ch. 11 questioning the intent of specific language relative to the new list of therapeutic medications. The Commission was satisfied that the legal intent was evident and clear.

After deliberating, the Commission determined that all three proposed amendments served the interests of the harness racing community and voted to adopt the amendments as proposed.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Board of Pesticides Control**

**Umbrella-Unit:** **01-026**

**Statutory authority:** 22 MRS §1471A-X

**Chapter number/title:** **Ch. 10**, Definition and Terms

**Filing number:** **2019-130**

**Effective date:** 7/23/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

1. Amend the definition of “Aerial Applicator” to allow certification as a private applicator. Currently the rule requires applicators to hold a commercial license which prevents an individual from making applications on their own property. This is required by the new EPA C&T rules, and is in anticipation of potential applications by unmanned aircraft systems.
2. Clarify the definition of property not deemed to be open to use by the public to also include where the public has not been permitted on the treated portion of privately held recreational land within seven days of a pesticide application for vegetation management.

**Fiscal impact of rule:**  
*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Board of Pesticides Control**

**Umbrella-Unit:** **01-026**

**Statutory authority:** 22 MRS §§ 1471-D and S

**Chapter number/title:** **Ch. 31**, Certification and Licensing Provisions / Commercial Applicators

**Filing number:** **2019-131**

**Effective date:** 7/23/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

1. Add requirement for a government-issued photo id for all exams (required by EPA C&T).
2. Establish annual training requirements for noncertified applicators of restricted use pesticides (required by EPA C&T).
3. Establish minimum age for individuals certified as commercial or private applicators (required by EPA C&T).
4. Describe the credentials which will be issued to each applicator verifying certification (required by EPA C&T).
5. Remove section on transitioning to revised licensing and certification requirements since the time frame has passed.
6. Update the names of certain categories to align with current exams.
7. Remove requirement to collect social security number.
8. Change cost of master exams from \$50 for both to \$10 for Master Regulations exam and \$40 for Master Oral exam.
9. Remove exemption for those certifying in the Post Harvest Treatment category from having to take the core exam.
10. Remove requirements for applicators to receive continuing education credits in specific categories as the Board doesn't categorize courses this way.
11. Remove fee for replacement and upgraded licenses as the Board no longer charges for these due to improved software.

**Fiscal impact of rule:**  
*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Board of Pesticides Control**

**Umbrella-Unit:** **01-026**

**Statutory authority:** 22 MRS §§ 1471-D and S

**Chapter number/title:** **Ch. 32**, Certification and Licensing Provisions for Private Applicators

**Filing number:** **2019-132**

**Effective date:** 7/23/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

1. Amend competency standards to include those required by EPA C&T: label comprehension; responsibilities for supervisors of noncertified applicators; stewardship; ability to read and understand pesticide labeling.
2. Remove option to provide oral exam as EPA C&T no longer allows non-reader accommodations.
3. Add supplemental private categories which can be obtained in addition to certification for private licensure: aerial application; soil fumigation; non-soil fumigation (required by EPA C&T).
4. Establish minimum age for individuals certified as commercial or private applicators (required by EPA C&T).
5. Describe the credentials which will be issued to each applicator verifying certification (required by EPA C&T).
6. Add requirement for a government-issued photo id for all exams (required by EPA C&T amendments).

**Fiscal impact of rule:**  
*(No response)*



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Board of Pesticides Control**  
**Umbrella-Unit:** **01-026**  
**Statutory authority:** 22 MRS §§ 1471-G and M  
**Chapter number/title:** **Ch. 50**, Record Keeping & Reporting Requirements  
**Filing number:** **2019-133**  
**Effective date:** 7/23/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

1. Add requirements to dealer records of sales (required by EPA C&T amendments):
  - a. customer address
  - b. issuing authority, certification expiration date, and categories of certification in addition to the applicator's certification number

**Fiscal impact of rule:**  
*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Board of Pesticides Control**

**Umbrella-Unit:** **01-026**

**Statutory authority:** 22 MRS §§ 1471-D and S

**Chapter number/title:** **Ch. 36 (Repeal)**, Certification and Licensing Provisions for Monitors and Spotters for Forest Insect Aerial Spray Program

**Filing number:** **2019-134**

**Effective date:** 7/23/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**  
Repeal of chapter. Associated requirements were previously repealed because they are no longer necessary with the current technology used in aircraft.

**Fiscal impact of rule:**  
*(No response)*

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry, **Land Use Planning Commission (LUPC)**  
**Umbrella-Unit:** **01-672**  
**Statutory authority:** 12 MRS §§ 685-A(7-A), 689  
**Chapter number/title:** **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps): Zoning Petition: ZP 774 (Chesuncook Twp., — Piscataquis County) (petitioner David and Luisa Suprenant)  
**Filing number:** **2019-019**  
**Effective date:** 1/21/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This memo and attachment is to notify your office of Commission actions to amend certain Land Use Guidance Maps, and that notice of said changes has been published in the *Kennebec Journal* newspaper. A current copy of the map has been placed on file as required.

**Basis statement:**

Pursuant to 12 MRS §§ 685-A(7-A) and 689, the Maine Land Use Planning Commission hereby gives notice of its approval of certain amendments to official Land Use Guidance Maps and that these changes have been placed on file with the appropriate County Registry of Deeds:

**ZONING PETITION**

ZP 774

**PETITIONER OR  
COPETITIONER**

David and Luisa  
Suprenant

**LOCATION**

Chesuncook Twp.,  
Piscataquis County

**Fiscal impact of rule:**

N/A

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Land Use Planning Commission (LUPC)**

**Umbrella-Unit:** **01-672**

**Statutory authority:** 12 MRS §685-A(3),(7-A)

**Chapter number/title:** **Ch. 10**, Land Use Districts and Standards: **10.27**, Activity-Specific Standards: **D.**, Roads and Water Crossings

**Filing number:** **2019-092**

**Effective date:** 6/17/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The primary objectives of this rulemaking were to update the standards regarding roads and water crossings to be more consistent with the Maine Department of Environmental Protection's (DEP) standards in 06-096 CMR 305, *Permit By Rule*; to enhance public safety; and to provide for aquatic habitat connectivity in flowing waters. The amendments also reorganize Section 10.27,D, "Roads and Water Crossings", to improve readability.

Key changes to the rules include:

- A reorganization to group standards by roads, water crossings, and wetland crossings.
- Additional and improved provisions to minimize erosion and sedimentation of surface waters.
- New requirements for maintenance of roads, drainage structures, and crossings.
- A new instream work window of July 15 to September 30.
- New standards for temporary crossings.
- Improved standards for permanent crossings including sizing standards to accommodate a 25-year frequency storm event, a width standard for sizing crossings, a requirement to embed culverts below the streambed elevation, and a requirement for natural substrate installation for certain larger crossings.

**Fiscal impact of rule:**

Not applicable. 12 MRS §685-A(7-A)(B)

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Land Use Planning Commission (LUPC)**

**Umbrella-Unit:** **01-672**

**Statutory authority:** 12 MRS §§ 685-A(3),(7-A), 685-C(10)(D)

**Chapter number/title:** **Ch. 10**, Land Use Districts and Standards: **Appendix D**, Lakes and Rivers on which the Use of Personal Watercraft is Prohibited: Upper Wilson Pond (Lake 30410), Piscataquis County

**Filing number:** **2019-093**

**Effective date:** 6/17/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

Consistent with 12 MRS §685-C(10)(D), the Commission is updating its list of "Lakes and rivers on which the use of personal watercraft is prohibited" to include Upper Wilson Pond in Bowdoin College Grant West Township. Because of the Moosehead Region Conservation Easement, Upper Wilson Pond now meets the statutory criteria for prohibition of personal watercraft.

**Basis statement:**

On January 3, 2019, the Commission received a petition requesting rulemaking to update the list of "Lakes and rivers on which the use of personal watercraft is prohibited" (Ch.10, Appendix D). Specifically, the petitioner requests that the Commission add Upper Wilson Pond in Bowdoin College Grant West Township to the list.

The use of personal watercraft on certain categories of great ponds is prohibited by statute (12 MRS §685-C(10)). Since the Moosehead Region Conservation Easement became effective (2009), Upper Wilson Pond now falls into one of those categories. The Commission maintains a list of the waterbodies on which the use of personal watercraft is statutorily prohibited in Ch. 10, Appendix D. This list is used by the public and by staff as a helpful reference.

The statute (12 MRS §685-C(10)) reads, in part:

"10. Operating a personal watercraft is prohibited on the following categories of great ponds: ...

D. Great ponds with less than all but more than 2/3 of their surface area in or partly in the jurisdiction of the commission that are identified as being of statewide significance in the "Maine Wildlands Lake Assessment" dated June 1, 1987 prepared by the commission, with 2 or more outstanding resource values in fisheries, wildlife, scenic or shore character and with more than 1/2 of their shoreline in public and private conservation ownership with guaranteed public access for low-impact public recreation."

Upper Wilson Pond is a Great Pond designated as a resource class 1A lake. This means that it is a lake of statewide significance with two or more outstanding values, specifically outstanding fisheries and scenic values.

About 88%, or more than 2/3, of the surface area of Upper Wilson Pond is in Bowdoinham College Grant West Township and within the LUPC jurisdiction. The remainder of Upper Wilson Pond lies within the Town of Greenville. Approximately 67% of the shoreline of Upper Wilson Pond, or more than 1/2, is protected by the Moosehead Region Conservation Easement.

The Moosehead Region Conservation Easement establishes a permanent right of public access for low intensity outdoor recreation on protected lands. This right is described in Section 6 of the Conservation Easement.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

Therefore, based on the facts presented here, the use of personal watercraft is prohibited by statute on Upper Wilson Pond. This rulemaking updates Appendix D of Ch. 10 of the Commission's rules to reflect that.

**Fiscal impact of rule:**

None.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry,  
**Land Use Planning Commission (LUPC)**

**Umbrella-Unit:** **01-672**

**Statutory authority:** 12 MRS §685-A(1),(3),(7-A)

**Chapter number/title:** **Ch. 10**, Land Use Districts and Standards (relating to the  
Adjacency Principle)

**Filing number:** **2019-094**

**Effective date:** 6/17/2019

**Type of rule:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rule:**

**Amendments to Ch. 10, Land Use Districts and Standards, related to the  
Commission's policy for locating new development, called the adjacency principle:**

Today, single family homes can locate in most places in the Commission's service area, but most subdivisions and commercial development need a rezoning. To get a rezoning, these subdivisions and commercial developments generally must be located within one mile by road of existing compatible development. The changes replace the one mile rule-of-thumb with a new system for locating most new development near existing communities and public roads to make the delivery of public services more cost-effective and reduce fragmentation of undeveloped areas. In addition, the proposal would allow commercial and residential development that is dependent on, or centered around, natural or recreational resources to locate near these resources in certain circumstances. Also included in the amendment are revisions to the Commission's subdivision layout and design standards. The changes are intended to improve the subdivision layout and design standards for the area served by the Commission, incorporating more flexibility and allowing more design options, while improving protections for important natural and cultural resources.

**Basis statement:**

The Maine Land Use Planning Commission adopts rule changes that guide the location of zoning subdistricts for new development, including through refinement of the adjacency principle, and that update the standards for how subdivisions may be developed. This rulemaking is intended to improve economic opportunity, encourage the health of service providing communities and the surrounding region, and protect the environmental quality and habitat and the unique character of lands in the area served by the Commission, an area that comprises nearly half of the State of Maine.

**1. Purpose and Objectives of the Adjacency Principle**

The adjacency principle is one of the fundamental elements of the Commission's planning for development in the unorganized and deorganized areas of Maine (the UT). This long-standing policy guides new zones for development toward existing development and away from undeveloped areas. This helps lower tax burdens, ensures land remains available for forestry, agriculture and recreation, and promotes the health of existing communities.

The Purpose and Scope section of the Commission's statute states that "it is desirable to extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State ... " and goes on to describe some broad concepts that reflect these sound planning principles. The 2010 Comprehensive Land Use Plan (CLUP) describes the adjacency principle and how it should be applied (CLUP, pg. 62), along with its deficiencies (CLUP, pg. 120).

The Commission has used the adjacency principle as a tool to guide new zones for development to locations that satisfy the sound planning and zoning principles articulated in the

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

Statute and in the CLUP. These principles can be thought of as objectives that need to be achieved when locating a new zone for development.

Objectives:

- Encourage appropriate residential, recreational, commercial and industrial uses
- Encourage well-planned and managed multiple uses, while discouraging intermixing of incompatible uses
- Support and encourage Maine's natural resource-based economy and strong environmental protections
- Promote economic health of development centers, and encourage and facilitate regional economic viability
- Ensure that the provision of public services matches the new development, or that any needed additional service capacity may be added efficiently and economically over time
- Minimize development near productive natural resource based activities
- Protect resources and values of the jurisdiction
- Ensure that the anticipated future development is in keeping with the character of the area
- Ensure orderly growth by pacing development
- Allow for incremental assessment of impacts from development (the resources and values of the jurisdiction may be better supported, and development may be better planned, by providing an opportunity for interim assessments of impacts because future phases of development can then consider those impact assessments).

In the past, the Commission has interpreted the adjacency principle to mean that areas to be rezoned for development must be within one road mile of existing, compatible development (CLUP, pg. 62). However, the CLUP recognizes that this application of the policy has significant flaws and calls for it to be further refined (CLUP, pg. 120, 128).

The adopted rule revisions represent a more nuanced approach to applying the adjacency principle than the one-mile rule of thumb to better meet the policy objectives.

**Fiscal impact of rule:**

N/A



**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2019 to December 31, 2019**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5*

**Agency name:** Department of Agriculture, Conservation and Forestry, **Land Use Planning Commission (LUPC)**  
**Umbrella-Unit:** **01-672**  
**Statutory authority:** 12 MRS §§ 685-A(7-A), 689  
**Chapter number/title:** **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps): Zoning Petitions:  
**ZP 776** (Unity Twp. — Kennebec County)  
(petitioner Three Corners Solar, LLC)  
**ZP 768:** (Cross Lake Twp., Madawaska Lake Twp., Sinclair Twp., T15 R5 WELS, T16 R5 WELS, T17 R3 WELS) (Aroostook County)  
(petitioners Allagash Timberlands LLC, Aroostook Timberlands LP, and Maine Woodlands Realty Company)  
**Filing number:** **2019-175**  
**Effective date:** 9/30/2019  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This memo and attachment is to notify your office of Commission actions to amend certain Land Use Guidance Maps, and that notice of said changes has been published in the *Kennebec Journal* newspaper. A current copy of the map has been placed on file as required.

**Basis statement:**

Pursuant to 12 MRS §§ 685-A(7-A) and 689, the Maine Land Use Planning Commission hereby gives notice of its approval of certain amendments to official Land Use Guidance Maps and that these changes have been placed on file with the appropriate County Registry of Deeds:

<b>ZONING PETITION</b>	<b>PETITIONER OR COPETITIONER</b>	<b>LOCATION</b>
<b>ZP 776</b>	Three Corners Solar, LLC)	(Unity Twp. — Kennebec County)
<b>ZP 768:</b>	Allagash Timberlands LLC, Aroostook Timberlands LP, and Maine Woodlands Realty Company	(Cross Lake Twp., Madawaska Lake Twp., Sinclair Twp., T15 R5 WELS, T16 R5 WELS, T17 R3 WELS) (Aroostook County)

**Fiscal impact of rule:**

N/A