

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Umbrella-Unit: 01-001
Statutory authority: 7 MRS §§ 2301-2303
Chapter number/title: Ch. 266, Hemlock Woolly Adelgid Quarantine
Filing number: 2020-048
Effective date: 3/15/2020
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To prevent the spread of Hemlock Woolly Adelgid, a highly destructive pest of Eastern Hemlock trees, within the State of Maine.

Basis statement:

Since 1988, the State of Maine has imposed a quarantine to prevent the introduction of hemlock woolly adelgid (HWA). The current rule prohibits the importation of hemlock plants and plant products including nursery stock, logs and lumber with bark from many states and counties in the United States as well as parts of Canada that have been designated as infested with HWA. It also specifies requirements that persons must meet in order to import hemlock plants and plant products from non-infested areas of the United States.

The quarantine has not been entirely successful since an annual survey in 2003 detected this highly destructive pest on native hemlocks in one town in York County. HWA has now been detected all along the Maine coast as far north as Mount Desert Island.

The quarantine area will be amended to include the entire counties of York, Knox, Lincoln and Sagadahoc and towns and minor civil divisions within Androscoggin, Cumberland, Hancock, Kennebec and Waldo counties. This includes both infested and un-infested towns. HWA has expanded rapidly in the last few years and traditionally plant pests with this spread are regulated at the county level. Maine has decided to regulate at the subcounty level because counties are large, and the Department will continue to conduct a standardized annual survey on the edge of the quarantine area to monitor spread. Because of these factors and the fact that amending regulations is a slow process it seemed prudent to include buffer towns in the quarantine area. In addition, the amendment will include counties from other states that have become infested since the rule was last amended in 2013.

The Secretary of State published a newspaper notice on January 23, 2020 and over 5,657 companies and individuals representing municipal, arboriculture, horticulture and forestry interests in the state were notified electronically. No public hearings were held.

The comment period ended on February 28, 2020 with one email comment from a wood broker and sawmill owner who was not aware that HWA had been detected in Penobscot Bay area and in Hancock County. The landowner mentioned that his businesses had already made adjustments to reduce the potential for HWA spread.

The Department's staff reviewed the hearing record on March 2, 2020 and noted there had been no opposition to the proposed changes. The Department therefore felt very comfortable amending Ch. 266 as proposed.

Fiscal impact of rule:

The fiscal impact of the proposed rule will be minor. It may require additional inspection work, which will be scheduled, as much as possible, when other inspection work is taking place. It may limit the availability of hemlock nursery stock to homeowners and landscapers, but alternate trees and shrubs are available, and the Department will work with the nursery industry to seek additional alternatives. If this rule is not adopted, and the Hemlock Woolly Adelgid moves into other areas of the State's native hemlock resource, the fiscal impact to the state, forest product companies, and the habitat of many species of wildlife, will be significant. We would not expect the economic impact to be above \$1,000,000.

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Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Umbrella-Unit: 01-001
Statutory authority: 7 MRS §2231
Chapter number/title: Ch. 274, Rules for Growing Hemp
Filing number: 2020-015
Effective date: 2/4/2020
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To implement statutory changes including new indoor growing license and reporting requirements. Public Law ch. 528.

Basis statement:

In September 2019 changes to Title 7 MRS ch. 406-A §2231, Hemp, instructed the Department to adopt rules establishing guidelines for monitoring the growth and harvest of hemp grown indoors and amended many definitions and the licensing process. It also added reporting requirements and made grower location data confidential. The rule presented here was written to comply with statute as amended.

The Secretary of State published a notice on December 18, 2020 and on the same day 192 growers and 1200 individuals on the hemp GovDelivery list were notified electronically about the proposed rule. A public hearing was held in Augusta on January 7, 2020 with approximately 75 people in attendance and 17 people providing comment on the rule.

The comment period ended on January 20, 2020 with 6 additional people submitting emailed comments and 2 speakers from the public hearing submitting additional emailed comments. No comments were received in the mail.

The Department's staff reviewed the hearing record and written comments on January 27, 2020 and noted most comments centered on the THC standard, proposed outdoor growing fee increase, remediation of non-compliant hemp, the definition of hemp, sampling protocols and a few other issues.

Upon further analysis the Department determined that it could make the definition of hemp consistent with the 2018 Farm Bill and USDA-AMS interim rule definition which also amends the THC standard. This was done to respond to many comments concerned that the total THC standard would prevent farmers from growing the CBD varieties of hemp which they need to grow to be profitable. The Department also agreed with multiple commenters that it is not a good time to raise the per acre outdoor growing licensing agreement fee from \$50.00 per acre to \$100.00 per acre. It will keep the fee at \$50.00 per acre for the 2020 growing season and re-evaluate the need for fee changes for the 2021 season after submitting a plan to USDA for approval. Despite multiple comments requesting that the Department add rules for remediation of non-compliant hemp, the Department has decided to leave the rule language as is and to use its enforcement discretion in cases where hemp is found to be above 0.3% Δ9 THC. Commenters also requested that the hemp sampling protocol be incorporated into these rules, but the Department prefers to leave sampling protocols outside of the rules to allow for flexibility as the science is evolving. One commenter suggested adding a definition for "planting date" and the Department agrees and has added a new definition. Many other comments were received and responded to in the summary of comments. Most were either outside of the jurisdiction of the Hemp Program or were contrary to the enabling statute.

The Department amended the rule to change the THC standard, definition of hemp, remove the fee increase and added the definition of "planting date" and decided to adopt the rule as amended.

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Fiscal impact of rule:

The fiscal impact will depend on the level of participation. This program is required to be self-funded, so the intention is to collect adequate fees to run the program. If at least 100 growers participate there should be minimal fiscal impact; if not there will be a fiscal impact on the Department.

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Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Umbrella-Unit: 01-001
Statutory authority: 7 MRS §§ 2301-2303
Chapter number/title: Ch. 275, Emerald Ash Borer Quarantine
Filing number: 2020-049
Effective date: 3/15/2020
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

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 a federally regulated pest since 2010. It has already killed millions of ash trees from Minnesota to Texas and Georgia to New Hampshire. Soon we will see the first tree mortality in Maine.

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's attack. 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 detected on monitoring traps in Lebanon and Acton. It was also detected in trees in Acton and Berwick in February 2019. In October and November of 2019 EAB was found in a monitoring trap in Payson Park in Portland and in girdled trap trees in the towns of Alfred, Kittery, and Limington.

After the 2018 and early 2019 discoveries, the State adopted a quarantine of the northeast corner of Aroostook County and all of York County. Ch. 275 became law on April 10, 2019. This amendment extends the quarantine to encompass the newly discovered populations and provides a two to three town buffer area around the infested towns.

The Secretary of State published a newspaper notice on January 23, 2020 and over 5,657 companies and individuals representing municipal, arboriculture, horticulture and forestry interests in the state were notified electronically. No public hearings were held.

The comment period ended on February 28, 2020 and only three comments were received. A summary of comments and responses to those comments are published in a separate document. Two comments were in support of the quarantine expansion and one was from a firewood dealer concerned about restrictions on firewood movement across the Maine/New Hampshire border. However, the quarantine expansion has no bearing in this situation since movement of firewood was previously restricted by separate firewood laws in both Maine and New Hampshire. Maine Forest Service and the New Hampshire Division of Forests and Lands will work with the firewood dealer to develop compliance agreements to help facilitate the movement of their firewood.

The Department's staff reviewed the comments on March 2, 2020 and noted that none of the comments compelled 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 Cumberland and York Counties and the five most southwestern towns in Oxford 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 have 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 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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Rules Adopted January 1, 2020 to December 31, 2020
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Umbrella-Unit: 01-001
Statutory authority: 22 MRS §§ 2154, 2517-E sub-§3
Chapter number/title: Ch. 332, Rabbit Processing
Filing number: 2020-014
Effective date: 2/3/2020
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

RABBIT PROCESSING is an existing rule that has not been updated since its adoption in July 27, 1987. Revision of the rule sets the same standards for all rabbit processors at the same time updating the rule to take advantage of current advances in food science and food safety. The proposed rule has been updated to include construction, design and sanitary operation requirement all in accordance with good manufacturing practices. It also addresses, the health and humane treatment of rabbits and establishes lot coding, recordkeeping and labeling requirements to enhance consumer protection.

Fiscal impact of rule:

While current licensed rabbit processors are required to utilize good manufacturing practices, it would be expected that establishments would be minimally affected. Any costs associated by industry to meet the regulatory requirements would be that of routine upgrade and maintenance. New establishments would consider the rule as guidance in their business model for design, construction, and operating costs.

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Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Umbrella-Unit: 01-001
Statutory authority: 22 MRS §§ 2154, 2517-E sub-§3
Chapter number/title: **Ch. 361**, On Farm Raising, Slaughter and Processing of Less Than 1000 Rules Ready-to-Cook Whole Rabbits Carcasses (*New*)
Filing number: **2020-016**
Effective date: 2/4/2020
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

Ch. 361 is being adopted to implement the statutory requirement enacted by the 129th Legislature. 22 MRS §2512 sub-§1 exempts a processor of fewer than 1000 rabbits of their own raising from the statutory licensing requirement. 22 MRS §2517-E sub-§3 requires the Department to establish requirements for the physical facilities and processes used by rabbit producers whose rabbit products are exempt. Ch. 332, *Rabbit Processing*, are those rules.

Fiscal impact of rule:

While current licensed rabbit processors are required to utilize good manufacturing practices, it would be expected that establishments would be minimally affected. Any costs associated by industry to meet the regulatory requirements would be that of routine upgrade and maintenance. New establishments would consider the rule as guidance in their business model for design, construction, and operating costs.

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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 #02-20**
Filing number: **2020-013**
Effective date: 2/2/2020
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 2020** minimum Class I price is **\$20.80/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 **\$0.93/cwt.** handling fee for a total of **\$24.50/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.86.**

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 **\$19.37/cwt.** and a Class IV price of **\$16.70/cwt.** for **December 2019.**

The Class II price for **December 2019** is **\$16.81/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 **\$20.80/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 January 23, 2020 and therefore should be passed on in minimum prices effective February 2, 2020. 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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Rules Adopted January 1, 2020 to December 31, 2020
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 #03-20**

Filing number: **2020-032**

Effective date: 3/1/2020

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 2020** minimum Class I price is **\$29.71/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 **\$0.93/cwt.** handling fee for a total of **\$24.41/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 **\$17.05/cwt.** and a Class IV price of **\$16.65/cwt.** for **January 2020**.

The Class II price for **January 2020** is **\$17.05/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 **\$20.71/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 February 20, 2020 and therefore should be passed on in minimum prices effective March 1, 2020. 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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Rules Adopted January 1, 2020 to December 31, 2020
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 #04-20**

Filing number: **2020-060**

Effective date: 3/29/2020

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 2020** minimum Class I price is **\$19.89/cwt. plus \$1.58/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 **\$24.11/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 **\$17.00/cwt.** and a Class IV price of **\$16.20/cwt.** for **February 2020**.

The Class II price for **February 2020** is **\$16.84/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 **\$19.89/cwt. plus \$1.58/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 19, 2020 and therefore should be passed on in minimum prices effective March 29, 2020. 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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Rules Adopted January 1, 2020 to December 31, 2020
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 #05-20**

Filing number: **2020-110**

Effective date: 5/3/2020

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 2020** minimum Class I price is **\$16.20/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 **\$4.65/cwt.** handling fee for a total of **\$23.72/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 **\$16.25/cwt.** and a Class IV price of **\$14.87/cwt.** for **March 2020.**

The Class II price for **March 2020** is **\$16.75/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 **\$16.20/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 23, 2020 and therefore should be passed on in minimum prices effective May 3, 2020. 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 #06-20**

Filing number: **2020-127**

Effective date: 5/31/2020

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 2020** minimum Class I price is **\$14.67/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 **\$6.05/cwt.** handling fee for a total of **\$23.59/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 **\$13.07/cwt.** and a Class IV price of **\$11.40/cwt.** for **April 2020**.

The Class II price for **April 2020** is **\$13.87/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 **\$14.67/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 May 21, 2020 and therefore should be passed on in minimum prices effective May 31, 2020. These prices also include a handling fee of \$6.05/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 #07-20**

Filing number: **2020-142**

Effective date: 6/28/2020

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 2020** minimum Class I price is **\$19.81/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 **\$24.08/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.87.**

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 **\$12.14/cwt.** and a Class IV price of **\$10.67/cwt.** for **May 2020.**

The Class II price for **May 2020** is **\$12.30/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 **\$19.81/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 18, 2020 and therefore should be passed on in minimum prices effective June 28, 2020. 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 #08-20**

Filing number: **2020-170**

Effective date: 8/2/2020

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 2020** minimum Class I price is **\$23.03/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 **\$0.47/cwt.** handling fee for a total of **\$26.37/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$4.09.**

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 **\$21.04/cwt.** and a Class IV price of **\$12.90/cwt.** for **June 2020.**

The Class II price for **June 2020** is **\$12.99/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 **\$23.03/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 July 23, 2020 and therefore should be passed on in minimum prices effective August 2, 2020. 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, 2020 to December 31, 2020
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 #09-20**

Filing number: **2020-192**

Effective date: 8/30/2020

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 2020** minimum Class I price is **\$21.69/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 **\$0.47/cwt.** handling fee for a total of **\$25.03/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 **\$24.54/cwt.** and a Class IV price of **\$13.76/cwt.** for **July 2020.**

The Class II price for **July 2020** is **\$13.79/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 **\$21.69/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 August 20, 2020 and therefore should be passed on in minimum prices effective August 30, 2020. 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, 2020 to December 31, 2020
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 #10-20**

Filing number: **2020-211**

Effective date: 10/4/2020

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 2020** minimum Class I price is **\$18.45/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 **\$2.79/cwt.** handling fee for a total of **\$24.11/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 **\$19.77/cwt.** and a Class IV price of **\$12.53/cwt.** for **August 2020.**

The Class II price for **August 2020** is **\$13.27/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 **\$18.45/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 September 24, 2020 and therefore should be passed on in minimum prices effective October 4, 2020. These prices also include a handling fee of \$2.79/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, 2020 to December 31, 2020
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 #11-20**

Filing number: **2020-224**

Effective date: 11/1/2020

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 2020** minimum Class I price is **\$21.29/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 **\$0.47/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 **\$3.93.**

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 **\$16.43/cwt.** and a Class IV price of **\$12.75/cwt.** for **September 2020.**

The Class II price for **September 2020** is **\$13.16/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 **\$21.29/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 October 22, 2020 and therefore should be passed on in minimum prices effective November 1, 2020. 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, 2020 to December 31, 2020
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 #12-20**

Filing number: **2020-235**

Effective date: 11/29/2020

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 2020** minimum Class I price is **\$23.12/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 **\$0.47/cwt.** handling fee for a total of **\$26.46/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$4.10**.

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 **\$21.61/cwt.** and a Class IV price of **\$13.47/cwt.** for **October 2020**.

The Class II price for **October 2020** is **\$13.63/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 **\$22.12/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 November 19, 2020 and therefore should be passed on in minimum prices effective November 29, 2020. 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 **\$0.20/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, 2020 to December 31, 2020
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 #01-21**

Filing number: **2020-256**

Effective date: 1/3/2021

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 2021** minimum Class I price is **\$18.39/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 **\$0.47/cwt.** handling fee for a total of **\$24.05/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.87.**

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 **\$23.34/cwt.** and a Class IV price of **\$13.30/cwt.** for **November 2020.**

The Class II price for **November 2020** is **\$13.86/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 **\$18.39/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 December 23, 2020 and therefore should be passed on in minimum prices effective January 3, 2021. These prices also include a handling fee of \$2.79/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, 2020 to December 31, 2020
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. 27**, Retail Margins

Filing number: **2020-063**

Effective date: 4/1/2020

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The principal reason for this rule is the need to establish retail margins for milk sold within the State of Maine in accordance with 7 MRS §2954 using information from the latest Retail Margins study.

Basis statement:

A public hearing on this rule was held on February 20, 2020, and a written comment period was open through March 3, 2020. A representative from Herbein & Co. presented the results of the retail margin study at the public hearing. No testimony was offered nor were written comments received. The Commission voted to adopt the new retail margins at their meeting held on March 19, 2020.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

Chapter number/title: **Ch. 1, Administration**

Filing number: **2020-112**

Effective date: 5/1/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

During the COVID-19 pandemic, with the entire harness racing industry shut and no prospects for income, the Commission reasoned it was reasonable to issue licenses to participants prior to receiving the license fee.

Basis statement:

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the licensing of participants, a component of harness racing, that is contained in ch. 1 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission wishes to free up cash flow of the participants by suspending the requirement that license applicants submit the application fee before a license can be issued. Consequently, the Commission has determined that the immediate adoption of these rules is necessary to mitigate an immediate threat to the general welfare of the industry and the Standardbred horses.

This emergency rule shall take effect on the date specified in the rule and will be in effect for ninety days subsequent to its effective date.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

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

Filing number: **2020-171**

Effective date: 7/31/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

With the COVID-19 pandemic all of the pari-mutuel fairs have cancelled for the 2020 racing season and have relinquished the race dates that have been awarded to them. This change in rule allows any association that has cancelled the races for 2020 to return purse money to the state and be redistributed to the tracks that are racing. The changes in rule is from August 1, 2020 through November 1, 2020.

Basis statement:

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the tracks, a component of harness racing, that are contained in ch. 5 of the Commission rules.

On July 28, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission believes that the interests of Maine's harness racing industry is best served by adopting an emergency amendment that speaks to situations in which multiple Maine tracks were awarded race dates and received purse funds but are unable to race due to a public health emergency. The rule amendment clarifies that tracks may request to carry over purse funds and return purse funds for redistribution to tracks that continue to race. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

Therefore, the Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054 and voted to temporarily waive the requirement for Commission approval of the base purse.

These emergency rules shall take effect on the dates specified in the rule and will be in effect for ninety days subsequent to their effective date.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

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

Filing number: **2020-249**

Effective date: 12/22/2020

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The statutory schedules and formulas for disbursing purse funds to tracks do not allow for adjustments necessary when tracks are unable to race, when a track closes or when a new track opens. This rule gives the Commission authority to make necessary adjustments while remaining true to the statutory intent of maintaining purse equity between all licensed tracks.

Basis statement:

The Maine State Harness Racing Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission proposed to amend CMR 01-017 ch. 5 for two principle reasons: 1) the Commission requires flexibility to adjust purse supplement distributions when circumstances result in inequity between tracks, and 2) tracks no longer play a role in submitting purse supplement assessments to the statewide association of horsemen pursuant 8 MRS §272-B. Therefore, rule language relating to submission of the assessments must be removed from the rule chapter that specifically details duties/responsibilities of licensed tracks. In addition to the two principle amendments, a handful of minor amendments were also considered by the Commission.

The Commission considered three verbal comments received during the public hearing on November 23, 2020, and three written comments received prior to the December 3 deadline. Based on the advice from legal counsel, the Commission determined that the “Department” manages disbursements in accordance with 8 MRS §263-C, and is therefore the correct term to reference in Section 5 of the rules when disbursements are made consistent with the statute or when a track closes. Conversely, the “Commission” is charged with public policy decisions relating to harness racing, and therefore is the correct entity to approve distributions that vary from the statute, which are all done in the context of approval of purse distribution plans. Consequently, the draft language was adjusted to codify this distinction more clearly.

The Commission found it advisable to 1) delete reference to “flush” toilets, since some fairs provide portable bathroom facilities, 2) to clarify that a speedometer on the starting car should be in working condition, and 3) to clarify that the ambulance requirement should be for the benefit of anyone in attendance at a licensed harness racing event.

The Commission did not agree with retaining certain components of section 7 relating to submitting purse supplement assessments to the statewide association of horsemen, because 1) tracks—which are the sole subject matter of ch. 5 — no longer have any role in the process, and 2) 8 MRS §272-B does not authorize the Commission to approve or disapprove the budget submitted by the statewide association.

At its December 11, 2020 meeting, the Commission found that the interests of Maine’s harness racing industry were best served by adopting the amendments to ch. 5 with the revisions described herein.

Fiscal impact of rule:

(No response)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

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

Filing number: **2020-131**

Effective date: 6/1/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

During the COVID-19 pandemic, with the entire harness racing industry shut down. A delayed start of the season for Maine horsemen has resulted in no income since December 2019. Consequently, the Commission reasoned it was appropriate to award purse money to the first six finishers in each race in order to provide economic benefits to greater number of horsemen, thereby providing monetary support for the care of horses.

Basis statement:

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 7 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission wishes to broaden the number of horsemen who receive income by reconfiguring the purse distribution so that the first six finishers all receive a portion of the purse. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

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

Filing number: **2020-172**

Effective date: 7/31/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

To allow associations to make necessary changes to make it easier on them to offer live racing.

Basis statement:

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 7 of the Commission rules.

On July 28, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission believes that the interests of Maine's harness racing industry is best served by allowing licensed associations to charge a COVID-19 mitigation fee for racing. The Commission also agreed that—if a licensed track and the horsemen's association agree—they can use a different purse payment structure than that specified in sections 75 and 76. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

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

Filing number: **2020-184**

Effective date: 8/17/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

To waive the requirement that a horse must requalify if they make a break on the next race after a qualifying race.

Basis statement:

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 7 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission believes that the interests of Maine's harness racing industry is best served by temporarily waiving the requirement that a horse be placed on the Steward's List for breaking in its first race following a qualifying race as specified under section 7, subsection 2, paragraph G of ch. 7. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

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

Filing number: **2020-149**

Effective date: 7/6/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

During the COVID-19 pandemic, it has been very difficult to establish a long-term schedule for the 2020 season as tracks are struggling to open. Due to the large degree of uncertainty relating to the 2020 season, the Commission elected to waive the requirements relating to setting the Sire Stakes schedule and setting the base purse.

Basis statement:

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the Sires Stakes program, a component of harness racing, that are contained in ch. 9 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending the 2020 race date awards as the result of the 2019 COVID 19 pandemic. The Commission has subsequently awarded new race dates monthly as opposed to on an annual basis.

The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. Therefore, to maintain the health and welfare of the animals utilized in the industry, the Commission wishes to provide flexibility in scheduling of races beyond the structure that would otherwise be required by rules addressed in this emergency rulemaking. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate an immediate threat to the general welfare.

These emergency rules shall take effect on the dates specified in the rule and will be in effect for ninety days of their effect.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

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

Filing number: **2020-185**

Effective date: 8/17/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

To waive the requirement that a horse must remain in the paddock after furosemide administration.

Basis statement:

8 MRS §263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted a rule pertaining to the standard purse distribution formula that is contained in ch. 11 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending authorization to conduct harness racing meets as the result of the COVID-19 pandemic. The harness racing industry is particularly disrupted since the means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. The cost of maintaining horses is particularly disrupted by the cancellation and delay of harness racing meets since the industry was anticipating funding after a seasonal period of maintaining horses without income.

Therefore, to maintain the health and welfare of the horses utilized in the industry, the Commission wishes to waive the requirement that horses remain in the paddock following administration of furosemide. Therefore, the Commission has determined that the immediate adoption of these rules is necessary to mitigate a current threat to the general welfare of the industry and the Standardbred horses.

The Commission recognizes that the health and welfare of Maine's harness racing industry—and by extension—the health and welfare of Maine's Standardbred horses, constitute an emergency pursuant to 5 MRS §8054.

This emergency rule shall take effect immediately and will be in effect for ninety days.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2020 to December 31, 2020
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 §279-A

Chapter number/title: **Ch. 19**, Protests, Appeals and Race Date Assignment Hearings

Filing number: **2020-150**

Effective date: 7/6/2020

Type of rule: Routine Technical

Emergency rule: Yes

Principal reason or purpose for rule:

Due to the uncertainty on the 2020 race season schedule, the Commission voted to temporarily waive the requirement that the licensees be given a Notice of Hearing 10 days prior to adjusting the racing schedule. The Commission also now allows the Executive Director to move for reopening of the Race Date Hearing.

Basis statement:

8 MRS section 263-A designates that the Commission is responsible for the adoption of rules related to the conduct of harness racing. The Commission has adopted rules pertaining to the conducting of race date assignment hearings, a component of harness racing, that are contained in ch. 19 of the Commission rules.

On March 31, 2020 the Commission issued an order suspending the 2020 race date awards as the result of the 2019 COVID19 pandemic. The Commission has subsequently awarded new race dates monthly as opposed to on an annual basis. The Commission will be required to conduct additional assignment of race dates that are dependent on events that are transpiring on an unpredictable basis.

The harness racing industry is particularly disrupted since the industries means of production, namely live horses, cannot be simply idled without the ongoing costs of maintaining their health. Therefore, to maintain the health and welfare of the animals utilized in the industry, the Commission wishes to provide flexibility in scheduling of race dates beyond the structure that would otherwise be required by the procedural rules contained in Chapter 19. Therefore, the Commission has determined that the immediate adoption of the proposed changes to the procedural rules is necessary to mitigate an immediate threat to the general welfare of the animals.

These emergency rules shall take effect on the dates specified in the rule and will be in effect for ninety days of their effect.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Bureau of Parks and Lands
Umbrella-Unit: **01-670**
Statutory authority: 12 MRS §1859 (PL 2017 ch. 289 §9)
Chapter number/title: **Ch. 57**, Logging and Forestry Education Grant Program
Filing number: **2020-209**
Effective date: 9/27/2020
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Required by 12 MRS §1859 (PL 2017 ch. 289 §9).

Basis statement:

The statutory authority for this rule is 12 MRS §1859, as enacted by Public Law 2017 ch. 289 §9. The law requires the Commissioner of Agriculture, Conservation and Forestry, through the Bureau of Parks and Lands (BPL), to establish standards for the BPL's administration of an educational grant program for public secondary or public postsecondary institutions or career and technical education centers that are related to logging or forestry. The Bureau found it necessary to amend these rules based on discussions with vocational schools which indicated the existing grant requirements did not offer enough flexibility for schools to maximize the intended benefit of the grants to purchase logging equipment for training programs.

Process involved in developing this rule: Following enactment of the law, and adoption of the rule, BPL consulted with the Attorney General's Office prior to undertaking rulemaking.

The BPL released the draft rule for public comment in March 2020. A public hearing was scheduled, and comment period extended to April 24, 2020 due to COVID-19. The BPL received 2 written comments on this proposal.

Economic impact of the rule: Multiple sections of the law governing state rulemaking (5 MRS ch. 375 sub-ch. 2) require agencies to conduct economic impact analyses of proposed rules, including, but not limited to, effects on small businesses, fiscal impact (on the state treasury), and any effects on municipalities and counties. Agencies may, within existing resources, also conduct a cost-benefit analysis of proposed rules.

The BPL has determined that the operation of this rule will not have a fiscal impact on the municipalities or counties. The Legislature appropriated \$300,000 for the BPL to administer this program.

Further, the BPL has determined that this rule will have no discernible impact on small businesses or the regulated community.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 777 (TA R2 WELS — Aroostook County) (petitioner
William Robinson, LLC)

Filing number: **2020-012**

Effective date: 1/13/2020

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 777

**PETITIONER OR
COPETITIONER**

William Robinson, LLC

LOCATION

Ta R2 WELS,
Aroostook County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 778 (Atkinson Twp. — Piscataquis County) (petitioner Maine Land Use Planning Commission, Staff Initiated)
Filing number: **2020-031**
Effective date: 2/21/2020
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 778

**PETITIONER OR
COPETITIONER**

Maine Land Use Planning
Commission, Staff Initiated

LOCATION

Atkinson Twp.,
Piscataquis County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 693B (Kingsbury Plt. — Piscataquis County) (petitioner Maine Land Use Planning Commission, Staff Initiated)
Filing number: **2020-128**
Effective date: 5/18/2020
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 693B

**PETITIONER OR
COPETITIONER**

Maine Land Use Planning
Commission, Staff Initiated

LOCATION

Kingsbury Plt.,
Piscataquis County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 707B (many locations) (petitioner Weyerhaeuser Company and Weyerhaeuser NR Company, c/o Luke Muzzy)
Filing number: **2020-191**
Effective date: 8/10/2020
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

**PETITIONER OR
COPETITIONER**

LOCATION

ZP 707B

Weyerhaeuser Company and
Weyerhaeuser NR Company,
c/o Luke Muzzy)

(many locations)

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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), 685-A(7-A); 685-C(5); 28-B MRS §404
Chapter number/title: **Ch. 10**, Land Use Districts and Standards
Filing number: **2020-208**
Effective date: 10/1/2020
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rulemaking by the Maine Land Use Planning Commission establishes new standards for marijuana standards and carries out routine maintenance of its ch. 10 rules, *Land Use Districts and Standards*.

Specifically, the revisions respond to Title 28-B §404 by establishing minimum requirements for marijuana businesses regarding odors produced by indoor and outdoor growing operations, to protect against light pollution from lighting within greenhouses; and address currently conflicting regulations for signs advertising activities that are illegal under state or federal laws or regulations.

Several other revisions act to clarify distinctions between constructed ponds, water impoundments, and water bodies. These revisions also confirm that constructed ponds are not a protected natural resource and therefore shoreline frontage, setback, vegetative clearing, and filling and grading requirements do not apply.

All remaining revisions represent routine maintenance of this rule, generally including housekeeping matters, unifying references, clarifying existing provisions, and updating a list of applicable FEMA maps.

Fiscal impact of rule:
Not applicable.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2020 to December 31, 2020
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 780 (Pleasant Ridge Plt. — Somerset County) (petitioner Robert F. Howe d/b/a/ Pine Grove Lodge & Cabins)
Filing number: **2020-237**
Effective date: 11/10/2020
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 780

**PETITIONER OR
COPETITIONER**

Robert F. Howe
d/b/a/ Pine Grove Lodge
& Cabins

LOCATION

Pleasant Ridge Plt.,
Somerset County

Fiscal impact of rule:

N/A