

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS, Chapter 409, § 2301-2303
Chapter number/title: **Ch. 266**, Hemlock Woolly Adelgid Quarantine
Filing number: **2023-214**
Effective date: 10/30/2023
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 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. This expansion of the quarantine is in reaction to additional detections in 2022. Five of the detections were in towns on the existing quarantine border, and one detection was found outside of the existing quarantine.

The quarantine area will be expanded to include the entire counties of Androscoggin, Cumberland, Kennebec, and Waldo, and towns and minor civil divisions within Franklin, Hancock, Oxford, Penobscot, and Somerset counties. This includes both infested and uninfested 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 sub-county 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 was important to include a significant number of 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 2020.

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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
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Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 M.R.S.A., Chapter 409, § 2301-2303
Chapter number/title: **Ch. 272**, European Larch Canker Quarantine
Filing number: **2023-215**
Effective date: 10/30/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To prevent the spread of European Larch Canker, a highly destructive pest of all types of larch trees, within the State of Maine.

Basis statement:

European larch canker has been a federally regulated pest for over 39 years. Maine has been partially infested with European larch canker (ELC) since the 1970s. For Maine to maintain a partially infested status with the USDA (United States Department of Agriculture), Maine is required to have in place a program to conduct an annual survey to monitor the spread of European larch canker within the state. The state has been monitoring the spread of this pest for over 34 years.

Another requirement of USDA is that the state maintain parallel regulations to the federal regulations. Maine meets this requirement by using the authority under 7 M.R.S.A. Chapter 409, Section 2301. There will be no changes to the process in place for annually monitoring European larch canker populations, but by having this rule in place, Maine will be able to maintain its status with USDA as a state partially infested with ELC.

Fiscal impact of rule:

The fiscal impact of the proposed rule will be minor. The state will continue to monitor the spread of European larch canker with funds provided by USDA. If this rule is not put into place, the USDA could declare the entire state infested with European larch canker, and this would have an impact on out-of-state movement of larch wood products.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
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Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS Chapter 406-A §2231
Chapter number/title: **Ch. 274**, Rules for Growing Hemp
Filing number: **2023-024**
Effective date: 2/19/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To implement statutory changes and align the state rules with the USDA final rules.

Basis statement:

In September 2022 changes to Title 7 MRS Chapter 406-A § 2231, Hemp, instructed the Department to adopt rules to align the laws governing hemp in this State with 7 United States Code, Section 1639p(a)(2)(A) (2020), 7 Code of Federal Regulations, Part 990 (2020) and any additional federal statutes or regulations.

The Secretary of State published a notice on November 4, 2022, and on the same day, 18 growers and 1200 individuals on the hemp GovDelivery list were notified electronically about the proposed rule. A public hearing was held in Augusta on November 28, 2022, with 3 people in attendance, in person and one person in attendance virtually. None of the hearing attendees provided any substantive comments on the rule.

The comment period ended on January 5, 2023, with 3 people submitting emailed comments and 2 speakers from the public hearing submitting emailed comments. No comments were received in the U.S. mail.

The Department's staff reviewed the hearing record and written comments on January 30, 2022, and noted most comments centered on the proposed licensing and regulation of hemp processors. These comments illustrated the need for the Department to hold off on regulating processors until more is known about the production and sale of intoxicating hemp products and the need to assure all consumable hemp products are safe for consumers.

Upon further analysis, the Department removed all the requirements for licensing and regulating hemp processors from the final rule and will hold public information-gathering sessions before developing new proposed rules to regulate hemp products.

The amendments to Chapter 274 that align the state rules with the USDA rules were all adopted as proposed since there were no substantive comments to the contrary.

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 150 growers participate there should be minimal fiscal impact; if not there will be a fiscal impact on the Department.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
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Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: **01-001**
Statutory authority: 7 MRS, Chapter 409, § 2301-2303
Chapter number/title: **Ch. 275**, Emerald Ash Borer Quarantine
Filing number: **2023-240**
Effective date: 11/26/2023
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 Maine. The US Department of Agriculture, Animal & Plant Health Inspection Service deregulated EAB on January 14, 2021, and Chapter 275 was amended by adding an exterior quarantine to replace the federal quarantine on April 21, 2021. Additionally, Maine has now seen significant mortality in ash trees in western York County and parts of Cumberland and Oxford Counties, while the Aroostook County infestation appears to be moving slower. Even though EAB is spreading in the southeastern part of the state, the Maine Forest Service estimates that over 60% of Maine's ash remains uninfested.

Unfortunately, only a fraction of a percent of Maine's more than 400 million stems of white, green, and black/brown ash is expected to survive this insect's attack. The first detection of emerald ash borer in Maine was in Madawaska on May 22, 2018; 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. Chapter 275 became law on April 10, 2019. Since then, multiple towns in Androscoggin, Cumberland, Kennebec, Oxford, Sagadahoc, and Somerset Counties have been infested.

This amendment extends the quarantine into all or parts of Androscoggin, Franklin, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, and Waldo Counties.

Fiscal impact of rule:

The fiscal impact of the proposed rule on state government should be minimal (\approx \$5,000). The state will continue to monitor the spread of EAB despite losing some funds provided by USDA-APHIS for that purpose. Those funds have been moved to the EAB biocontrol program, and MFS should receive greater fiscal assistance for that part of the EAB response. Education and enforcement have already been ongoing and should continue with a minor increase in effort. Impacts on firewood dealers could continue if their unregulated market area is not included in this proposal. Otherwise, they will need to purchase a heat treatment system or negotiate a special compliance agreement with MFS. Municipalities could suffer major budget impacts

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
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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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Department of Agriculture, Conservation and Forestry, Animal Welfare Program
Umbrella-Unit: **01-001**
Statutory authority §3910-B, Companion Animal Sterilization Fund
Chapter number/title: **Ch. 702**, Rules for the Low Income Spay Neuter Program
Filing number: **2023-027**
Effective date: 3/1/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Rule changing to accommodate administration by third party and the addition of feral cats per 7 MRS §3910-B(1-A) Companion Animal Sterilization Fund enacted in 2022, as well as updating program's payment delivery to providers, increasing program efficiency, and reducing administration costs.

Basis statement:

The revisions proposed to these rules will accommodate administration by third party and the addition of feral cats per 7 MRS §3910-B(1-A) Companion Animal Sterilization Fund enacted in 2022, as well as updating program's payment delivery to providers, increasing program efficiency, and reducing administration costs. These rules provide necessary guidelines for administration of the Help Fix ME (Companion Animal Sterilization Fund) to comply with the requirement of engaging a third-party administrator per 7 MRS §3910-B(1-A) Companion Animal Sterilization Fund enacted earlier this year. Additional rules are required to ensure a suitable administrator will be found and to ensure the effective delivery of the program on behalf of the state.

These rules will also improve delivery of the Help Fix ME (Companion Animal Sterilization Fund programming) to both the public and participant veterinary providers by providing updated and more effective and efficient payment processes and communication processes. These rules allow for methods and modes of service delivery more in line with modern approaches to spay/neuter delivery to low-income clientele. These rules also account for the current shortage of veterinary professionals in the state by specifically including large scale spay/neuter events which have become the primary mode of service delivery to areas of the state most lacking in veterinary capacity for providing Help Fix ME surgeries. They will also allow for feral cats to be spayed and neutered by anyone regardless of income status.

Section I changes- Definitional changes were required to add definitions that were not necessary for previous Rules, to address previous omissions, and to ensure alignment with current statutes.

Section 2 changes- Aligns eligibility with 2022 statute change adding feral cats.

Section 3 changes- Facilitate more efficient payment and administrative tracking of veterinary providers utilizing spay/neuter events as mode of surgical delivery, while providing option for current payment methods to continue for occasional veterinary participants.

Section 4 changes. Accommodates third party administration and clarify requirements and communication between the department and administrator and to safeguard use of taxpayer funded monies.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Section 5 changes. Improves reporting requirements to better provide insight into meeting the purposes of this funding and facilitate data based strategic planning of programming going forward.

Fiscal impact of rule:

Expectation is that the Rules will increase efficiency of program delivery. Any potential impact expected to be negligible.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
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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 #02-23**
Filing number: **2023-015**
Effective date: 1/29/2023
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 M.R.S.A. Section 2954.

The final February **2023** minimum Class I price is **\$24.03/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 **\$27.37/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus, the minimum retail price of a gallon of whole milk is set at **\$4.32.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$20.50/cwt.** and a Class IV price of **\$22.12/cwt.** for **December 2022.**

The Class II price for **December 2022 is \$23.11/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 **\$24.03/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 January 19, 2023 and therefore should be passed on in minimum prices effective January 29, 2023. 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
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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 #03-23**

Filing number: **2023-037**

Effective date: 3/5/2023

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 M.R.S.A. Section 2954.

The final **March 2023** minimum Class I price is **\$22.24/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 **\$25.58/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus, the minimum retail price of a gallon of whole milk is set at **\$4.15.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$19.43/cwt.** and a Class IV price of **\$20.01/cwt.** for **January 2023.**

The Class II price for **January 2023 is \$21.61/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **March 2023** Federal Order Class I price of **\$22.24/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 23, 2023 and therefore should be passed on in minimum prices effective March 5, 2023. 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, 2023 to December 31, 2023
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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 #04-23**

Filing number: **2023-049**

Effective date: 4/2/2023

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 M.R.S.A. Section 2954.

The final **April 2023** minimum Class I price is **\$22.10/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 **\$25.44/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus, the minimum retail price of a gallon of whole milk is set at **\$4.14.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$17.78/cwt.** and a Class IV price of **\$18.86/cwt.** for **February 2023.**

The Class II price for **February 2023 is \$20.83/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **April 2023** Federal Order Class I price of **\$22.10/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 23, 2023 and therefore should be passed on in minimum prices effective April 2, 2023. 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, 2023 to December 31, 2023
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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 #05-23**

Filing number: **2023-058**

Effective date: 4/30/2023

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 M.R.S.A. Section 2954.

The final **May 2023** minimum Class I price is **\$22.82/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 **\$26.16/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus, the minimum retail price of a gallon of whole milk is set at **\$4.20.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$18.10/cwt.** and a Class IV price of **\$18.38/cwt.** for **March 2023.**

The Class II price for **March 2023 is \$19.52/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **May 2023** Federal Order Class I price of **\$22.82/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 20, 2023 and therefore should be passed on in minimum prices effective April 30, 2023. 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, 2023 to December 31, 2023
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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 #06-23**
Filing number: **22023-075**
Effective date: 5/28/2023
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 M.R.S.A. Section 2954.

The final **June 2023** minimum Class I price is **\$21.26/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 **\$24.60/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.06.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$18.52/cwt.** and a Class IV price of **\$17.95/cwt.** for **April 2023.**

The Class II price for **April 2023 is \$19.20/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **June 2023** Federal Order Class I price of **\$21.26/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 18, 2023 and therefore should be passed on in minimum prices effective May 28, 2023. 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, 2023 to December 31, 2023
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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 #07-23**

Filing number: **2023-098**

Effective date: 7/2/2023

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 M.R.S.A. Section 2954.

The final **July 2023** minimum Class I price is **\$20.57/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 **\$24.37/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.03.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$16.11/cwt.** and a Class IV price of **\$18.10/cwt.** for **May 2023.**

The Class II price for **May 2023 is \$19.11/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **July 2023** Federal Order Class I price of **\$20.57/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 22, 2023 and therefore should be passed on in minimum prices effective July 2, 2023. 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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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 #08-23**

Filing number: **2022-112**

Effective date: 7/30/2023

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 M.R.S.A. Section 2954.

The final **August 2023** minimum Class I price is **\$19.87/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 **\$24.14/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.01.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$14.91/cwt.** and a Class IV price of **\$18.26/cwt.** for **June 2023.**

The Class II price for **June 2023 is \$18.83/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **August 2023** Federal Order Class I price of **\$19.87/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 20, 2023 and therefore should be passed on in minimum prices effective July 30, 2023. 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.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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 #09-23**

Filing number: **2023-134**

Effective date: 9/3/2023

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 M.R.S.A. Section 2954.

The final **September 2023** minimum Class I price is **\$22.15/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 **\$25.49/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.13.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$13.77/cwt.** and a Class IV price of **\$18.26/cwt.** for **July 2023.**

The Class II price for **July 2023 is \$19.12/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **September 2023** Federal Order Class I price of **\$22.15/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 24, 2023 and therefore should be passed on in minimum prices effective September 3, 2023. 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, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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 #10-23**

Filing number: **2023-180**

Effective date: 10/1/2023

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 M.R.S.A. Section 2954.

The final **October 2023** minimum Class I price is **\$22.72/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 **\$26.06/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.19.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$17.19/cwt.** and a Class IV price of **\$18.91/cwt.** for **August 2023.**

The Class II price for **August 2023 is \$19.91/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **October 2023** Federal Order Class I price of **\$22.72/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 21, 2023 and therefore should be passed on in minimum prices effective October 1, 2023. 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, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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 #11-23**

Filing number: **2023-194**

Effective date: 11/20/2023

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 M.R.S.A. Section 2954.

The final **November 2023** minimum Class I price is **\$23.00/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 **\$26.34/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.22.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$18.39/cwt.** and a Class IV price of **\$19.09/cwt.** for **September 2023.**

The Class II price for **September 2023 is \$19.98/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **November 2023** Federal Order Class I price of **\$23.00/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 19, 2023 and therefore should be passed on in minimum prices effective October 29, 2023. 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, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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 #12-23**
Filing number: **2023-243**
Effective date: 12/3/2023
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 M.R.S.A. Section 2954.

The final **December 2023** minimum Class I price is **\$23.01/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 **\$0.47/cwt.** handling fee for a total of **\$26.35/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.23.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$16.84/cwt.** and a Class IV price of **\$21.49/cwt.** for **October 2023.**

The Class II price for **October 2023 is \$21.95/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **December 2023** Federal Order Class I price of **\$23.01/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 November 22, 2023 and therefore should be passed on in minimum prices effective December 03, 2023. 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, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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 #01-24**
Filing number: **2023-254**
Effective date: 12/31/2023
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 M.R.S.A. Section 2954.

The final **January 2024** minimum Class I price is **\$21.73/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 **\$25.07/cwt.**, which includes a processor assessment of **\$0.20/cwt.** Thus, the minimum retail price of a gallon of whole milk is set at **\$4.11.**

Basis statement:

Pursuant to 5 M.R.S.A., Section 8054 and 7 M.R.S.A., Section 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 **\$17.15/cwt.** and a Class IV price of **\$20.87/cwt.** for **November 2023.**

The Class II price for **November 2023 is \$21.21/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the **January 2024** Federal Order Class I price of **\$21.73/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 21, 2023 and therefore should be passed on in minimum prices effective December 31, 2023. 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, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

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

Umbrella-Unit: **01-015**

Statutory authority: 7 M.R.S., Section 2954

Chapter number/title: **Ch. 27**, Retail Margins

Filing number: **2023-085**

Effective date: 6/18/2023

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 M.R.S. Section 2954 using information from the latest Retail Margins study.

Basis statement:

Pursuant to 7 M.R.S.A., Section 2954 the Maine Milk Commission (the Commission) is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State of Maine. Further the law states that the minimum retail prices established for payment by consumers shall be based on the minimum wholesale price that retail stores must pay to dealers plus a rate of return to the retail store (retail margin) deemed just and reasonable by the Commission.

Retail stores are required by law to sell fluid milk at a price no lower than the minimum set by the Commission; they may, however, sell at a price higher than the minimum. The Commission issues a monthly Schedule of Minimum Retail Prices, which is based on the current price dealers (milk processors) must pay producers for their milk (which can fluctuate from month to month) plus the current dealer margin plus the current retail margin.

This Order establishes new minimum retail margins for milk sold in retail stores. The retail margin is the minimum amount that a retail store must add to the cost of a container of milk, purchased from a processor, in order to cover the store's direct costs and indirect costs (miscellaneous and overhead) associated with making the container available for final sale to the consumer. The Commission entered into a contractual agreement in 2019 with the Herbein & Co. to conduct a study to determine whether the minimum retail margins for milk currently in effect should be changed. This Order is the result of that study.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

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

Umbrella-Unit: **01-015**

Statutory authority: 7 M.R.S. §3154(2)

Chapter number/title: **Ch. 61**, Maine Milk Pool Administration

Filing number: **2023-115**

Effective date: 8/1/2023

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The principal reason for this rulemaking is to amend the cost of administering the Maine Milk Pool to recover current costs.

Basis statement:

Costs incurred for the Maine Milk Pool for personnel services and for operation were approximately \$60,000 annually from 2018 to 2022. Based on the last twelve months expenses (2022), it is estimated that the Pool costs for similar expenses for 2023 will be about \$65,000.

The total pounds in the Pool for the last twelve month (January 2022 – December 2022) were 550,151,781. It is estimated that the total pounds in the Pool for 2023 will be approximately the same.

Based on the above projected costs and pounds the Pool Administration sets the rate per hundredweight of milk for the cost of administering the Pool for the remainder of the calendar year 2023 at \$0.01/cwt. This represents no change from the previous rule set in 2018.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

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

Umbrella-Unit: **01-017**

Statutory authority: 8 M.R.S. §§ 263-A, 268, 275-C, 279-A, 279-B, and 281

Chapter number/title: **Ch. 1, Administration; Ch. 3, Officials and Racetrack Personnel**

Filing number: **2023-175, 2023-176**

Effective date: 9/25/2023

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

Chapter 1

- Definitions, Sec. 1. Adding and modifying definitions for Commission Veterinarian, Licensed Agricultural Fair, Trainer of Record, and Racing Officials.
- Rules of Construction, Sec. 2. Adding Situations not addressed by a Rule, which proposes that the Commission will reference the USTA rule book when MHRC rules do not address any situation.
- State Steward, Sec 4. Providing that the State Steward shall act as the Presiding judge at all races.
- Sulky Approval, Sec 9. Changing this section to the current USTA Sulky requirements.
- Judge Licensing Requirements, Sec. 10. Gives requirements for Associate Judge and Presiding Judge licensure and requires continuing education to stay current with that license.
- General Provisions, Sec. 13. Changes registration certificate to electronic eligibility.
- Eligibility To Race in Maine, Sec. 14. Allows horses 15 Years old eligible to race under certain conditions.
- Licensing a Commission Veterinarian, Sec 17. Requires all veterinarians to hold a valid MSHRC license to be considered a Commission Veterinarian and under the umbrella of the Commission.
- Postmortem Examination, Sec. 20. Gives the power to the Commission Veterinarian and the State Steward to decide whether a horse that has expired at a race track needs a postmortem examination.

Chapter 3

- Officials employed by associations, Sec 2. Removes Patrol Judge and adds Starter/Patrol Judge for this is one person. Presiding Judge is removed from this list as the State Steward will act as the Presiding Judge at race meets.
- Official's restrictions, Sec 4. Changes restrictions on officials to a specific race, and not an entire race day when there is a conflict of interest.
- Judge's Duties, Sec. 5. Adds Commission Veterinarian, Race Secretary, and Starter/Patrol Judge to the list of positions under the supervision of the Presiding Judge. It also eliminates 10 day Gate security and Patrol Judge.
Language has been added for an Associate Judge to act as the Presiding Judge if for any reason the Presiding Judge is unable to perform his duties.
- Track Conditions, Sec. 5. Allows a participant who wishes not to race on a questionable surface to be excused by the Presiding Judge.
- Presiding Judge and Associate Judges. Sec. 5. Changes the language for a No Contest to focus more on safety and extraordinary circumstances.
- Duties of the Race Secretary, Sec. 6. Makes the Race Secretary accountable to the Presiding Judge for his performance.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

- Starter/Patrol Judge, Sec. 8. Changes Starting Judge to Starter/Patrol Judge and also adds the responsibilities of the Patrol Judge to this section.
- Horse Identifier, Sec. 10. Adds language requiring the person to read a microchip to identify a horse and also requires identifying horses prior to entering the track for the post parade.
- Gate Security, Sec. 17. Adds language that requires persons seeking admission to the paddock present a valid license when necessary.

The proposed changes above will promote and ensure the efficiency and integrity of racing meets. The proposed changes will be beneficial to the Harness Racing Industry by means of referring to the United States Trotting Association rules when appropriate and changing language in the MSHRC rules to make the existing rules more definite for both the participants and the officials. The changes are to keep current with the more modern technology that is available such as microchipping and freeze branding. The proposed rules also give definition to official's positions and added responsibilities.

Basis statement:

The Commission proposed dozens of technical and substantive amendments and updates to Chapters 1 and 3. Chapter 1 provides for the administration of harness racing in Maine and includes definitions, rules of constructions, sulky standards, and licensing requirements for racing participants, racing officials, and others involved in the sport. Chapter 3 describes the duties and responsibilities of the various licensing officials who are responsible for enforcing the rules and also describes duties and responsibilities of other racing officials. The technical amendments are to make the rules clearer and more understandable for the regulated community and those enforcing the rules. The substantive amendments are intended to make the rules more definite for licensees participating in all aspects of racing.

Prior to the formal rulemaking process, the Commission invited public comment at meetings regarding suggested changes to the rules. The Commission took testimony at a public hearing held on May 16, 2023 and received written comments on the proposed rulemaking. The comments received and the Commission's responses to those comments are attached to this Basis Statement. Based on the comments received, the Commission made minor refinements to the proposed language in several sections of the rules. As a result of the comments received, the Commission made substantive changes to the proposed rules and republished them for a second comment period which ended on August 4, 2023. The Commission received no comment during the second comment period. The previously proposed rules required that State Stewards act as the Presiding Judge at all licensed race meets. As reflected in the republished rules, the proposed rules no longer require State Stewards act as Presiding judge at all meets. Instead, they permit associations to request that a State Steward act as a Presiding Judge for a race season. The proposed rules outline how a licensee-association may make such a request.

The proposed rule changes will benefit the licensees and others involved in harness racing by permitting licensee-associations to request that State Stewards act as a Presiding Judge for a race season. This will allow associations that make such a request to save costs. Additionally, State Stewards will receive thorough education and training regarding harness racing rules and procedures to ensure high quality racing for those involved and for the betting public.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Fiscal impact of rule:

Minimal. There will be a small fee to obtain licensure as a Commission Veterinarian. There are approximately four (4) contracted employees the proposed rule would affect. Combining other officials' duties will reduce licensure fees for those positions.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

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

Umbrella-Unit: **01-017**

Statutory authority: 8 MRS §§ 263-A, 268 and 279-A

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

Filing number: **2023-039**

Effective date: 3/11/2023

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

- Steward's List, Sec. 7. Allowing a horse not to have to qualify after making a break off a qualifier.
- Claiming Procedure, Sec. 17. Eliminates claiming authorizations and allows for a claimant to withdraw a claim 10 minutes prior to the start of the race, and provides it is a level 2 violation if a person associated with the owner or trainer of a claimed horse to disrupt the process of the claim exchange.
- Conditioned races, Sec. 18. Allows for a Track Master Classification to be part of writing classes.
- Declaration Requirements, Sec. 23. Encourages entering a horse online to promote this type of entry. Provides that it is a level 2 violation if the owners of a horse are not fully licensed by the Commission prior to declaration.
- Draw, Sec 30 - Adds Random Draw by USTA as a method to Draw for post positions and provides that if necessary to reopen a race, notice of the same will be made at least once by text message alert.
- Falling or Unseating Driver, Sec. 45. Adds language that any horse that falls on the Track will be scratched regardless of the approval of a State Veterinarian.
- Driving Violations, Sec. 53 - Adds unnecessary conversation among drivers on the track and failure to wear helmets with fastened chinstraps as conduct detrimental to the sport.
- Racing Objections Sec. 55 - Extends the time to object or complain about a driving violation or other misconduct to a judge to before the race is declared official.
- Minor changes and clarifications to the following Sections: 6 - Race Meet Standards and Eligibility; 12 - Condition Sheets; 18-A- Maine Owned or Bred Races; 46- Duties of Trainer; 52 - Admission to the Paddock; 57 - Contested Races and Unsatisfactory Drives; 58 - Placing Offending Horses

The proposed changes above will promote and ensure the efficiency and integrity of racing meets.

The proposed changes will be beneficial to the Harness Racing Industry by means of using the United States Trotting Association rules and changing language in the MSHRC rules to make the existing rules more definite for both the participants, as well as the officials. The changes are to keep current with the more modern technology that is available such as microchipping, freeze branding, changes to the Draw process, trainer electronic eligibility documentation.

Basis statement:

The Commission proposed dozens of technical amendments and updates to Chapter 7, which provides the rules of racing meets, in order to make it clearer and more readable. The Commission also proposed additional substantive amendments so that rules are more definite for licensees participating in all aspects of racing. The Commission took testimony at a public

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

hearing and received written comments on the proposed rulemaking. Additionally, it invited public comment at meetings prior to the formal public hearing and deliberated the merits of the amendments at three separate meetings during this 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 Sections 7, 17, 18, 23, 30, 45, 52, 55, and finally settled on the language which the Commission determined best suited the Harness Racing industry.

After review and deliberation, the Commission voted to finally adopt the Chapter 7 as contained herein on January 18, 2023 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, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Department of Agriculture, Conservation and Forestry, Division of Forest Health and Monitoring
Umbrella-Unit: **01-669**
Statutory authority: 12 MRS § 8321
Chapter number/title: **Ch. 35**, Browntail Moth Mitigation Fund
Filing number: **2022-053**
Effective date: 4/9/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is proposed to outline the details for the administration of the browntail moth mitigation fund.

Basis statement:

Introduction

The statutory authority for this rule is 12 M.R.S. §8321 as enacted by Public Law 2021, chapter 727. The law requires the Commissioner of Agriculture, Conservation and Forestry, through the Bureau of Forestry, aka the Maine Forest Service (MFS), to draft routine technical rules to administer browntail moth funds appropriated to be distributed in support of browntail moth mitigation using mechanical, cultural, or chemical control methods; education campaigns; and other activities.

Process involved in developing this rule

Division director worked with browntail moth program lead, bureau Resource Administrator, and Commissioner's office to draft the rule. The MFS released the draft rule for public comment on November 2, 2022. One public hearing was conducted on November 22, 2022. Three university students attended to observe the process but did not provide comment. No one was in attendance to provide comments. The MFS received four sets of comments on this proposal in the first round of comments. After AAG review it was determined that the notification standards were not met. The MFS elected to withdraw the proposed rule and begin a new rulemaking process to correct this deficiency. The rule was advertised for comment again on February 8, 2023. Comments closed on March 10, 2023. Three responses were received. Because the substance of this rule is essentially identical to the draft rule released on November 2, 2022, the comments submitted during that process are relevant and are addressed in this basis statement.

Economic impact of the rule

The law governing state rulemaking (5 M.R.S, Chapter 375, subchapter 2) requires 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 MFS has determined that the operation of this rule will not have a fiscal impact on the state treasury, municipalities, or counties. Further, the MFS has determined that this rule will have no discernible impact on small businesses or the regulated community.

Fiscal impact of rule:

Up to \$150,000 in general funds to be distributed to successful applicants through reimbursement for activities that will reduce the impact of browntail moth.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

State government: The MFS will administer this rule using existing resources.

Municipal and county government: This rule will not have a minor fiscal impact on municipalities or counties as the fund is designed to provide financial support to communities.

Impact on small businesses: This rule may have minor fiscal impact on small businesses as funds may be used to contract their services.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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); and 685-C(5)

Chapter number/title: **Ch. 2, Definitions**

Filing number: **2023-117**

Effective date: 8/11/2023

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission is proposing revisions to Chapter 2. The proposed revisions include clerical edits and clarifications. All proposed revisions are routine in nature.

Basis statement:

Revisions to Chapter 2 clarify which factors are considered when contemplating the compatibility of a use, to match the approach used in companion definitions but not change outcomes, add a term and related definition for consistency with the Maine Department of Environmental Protection, and achieve several clerical edits and clarifications.

Revisions to Chapter 10 include updates to terms and township names to maintain consistency with Maine laws, updates to match revised statutory language, the removal of an automatic hearing requirement for zoning petitions involving a D-PD subdistrict, the addition of parking space requirements for non-residential development, clerical edits and clarifications, and the removal of Appendix E. Removal of the automatic hearing requirement for rezoning to a D-PD subdistrict is based on experience in applying the Commission's rules. Hearings for certain small proposals for and amendments to existing D-PD subdistricts have not involved complex technical issues and have not been particularly helpful to the Commission in deciding on the proposals. This change does not prevent any interested party from requesting or the Commission from deciding to hold a hearing for these types of rezoning requests. The list of adopted FEMA maps in Chapter 1's Appendix E was included for reader convenience. However, requiring a rulemaking process to adopt changes has delayed updates to the list. The list currently included in Appendix E will be maintained and posted on the LUPC's website as a stand-alone document.

All revisions are routine in nature. Revisions to Chapter 10 also incorporate by reference the *2010 Americans with Disabilities Act {ADA} Standards for Accessible Design*; U.S. Department of Justice.

Fiscal impact of rule:

Not applicable per 12 M.R.S. 5685-A(7-A)(B)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

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

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 684, 685-A{3}, and 685-C(5); and 5 MRS § 8051

Chapter number/title: **Ch. 4**, Rules of Practice

Filing number: **2023-118**

Effective date: 8/11/2023

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission adopted revisions to Chapter 4 to identify two specific types of applications as being 'routine' and therefore authorize staff to act on those applications. The two types of applications include, i) applications to amend wetland subdistrict boundaries when supported by on-site wetland delineations, and ii) applications for the adoption of official Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps produced by the Federal Emergency Management Agency. All other revisions represent typical rule maintenance.

Basis statement:

The primary objective of this rulemaking is to identify two specific types of zoning applications as being 'routine' and therefore authorize staff to act on those applications. All other revisions represent typical clerical edits.

Fiscal impact of rule:

Not applicable pursuant to 12 M.R.S. §685-A(7-A)(B)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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 155E** (USDA Forest Service, White Mountain
National Forest)
Filing number: **2023-074**
Effective date: 05/19/2023
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 155E

**PETITIONER OR
COPETITIONER**

USDA Forest Service,
National Forest

LOCATION

Albany Twp., Batchelders
Grant Twp., Mason Twp;
Oxford County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(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); and 685-C(5)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards

Filing number: **2023-119**

Effective date: 8/11/2023

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission is proposing revisions to Chapter 10. The proposed revisions include updates to terms and township names to maintain consistency with Maine laws, updates to match revised statutory language, the removal of an automatic hearing requirement for zoning petitions involving a D-PD subdistrict, the addition of parking space requirements for non-residential development, clerical edits and clarifications, and the removal of Appendix E. All proposed revisions are routine in nature.

Basis statement:

Revisions to Chapter 2 clarify which factors are considered when contemplating the compatibility of a use, to match the approach used in companion definitions but not change outcomes, add a term and related definition for consistency with the Maine Department of Environmental Protection, and achieve several clerical edits and clarifications.

Revisions to Chapter 10 include updates to terms and township names to maintain consistency with Maine laws, updates to match revised statutory language, the removal of an automatic hearing requirement for zoning petitions involving a D-PD subdistrict, the addition of parking space requirements for non-residential development, clerical edits and clarifications, and the removal of Appendix E. Removal of the automatic hearing requirement for rezoning to a D-PD subdistrict is based on experience in applying the Commission's rules. Hearings for certain small proposals for and amendments to existing D-PD subdistricts have not involved complex technical issues and have not been particularly helpful to the Commission in deciding on the proposals. This change does not prevent any interested party from requesting or the Commission from deciding to hold a hearing for these types of rezoning requests. The list of adopted FEMA maps in Chapter 10's Appendix E was included for reader convenience. However, requiring a rule making process to adopt changes has delayed updates to the list. The list currently included in Appendix E will be maintained and posted on the LUPC's website as a stand-alone document.

All revisions are routine in nature. Revisions to Chapter 10 also incorporate by reference the *2010 Americans with Disabilities Act (ADA) Standards for Accessible Design*. U.S. Department of Justice.

Fiscal impact of rule:

Not applicable pursuant to 12 M.R.S. § 685-A(7-A)(B)