

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry (General)
Umbrella-Unit: 01-001
Statutory authority: 7 MRS §3154
Chapter number/title: Ch. 61, Maine Milk Pool Cost of Administration
Filing number: 2018-041
Effective date: 4/12/2018
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 was approximately \$60,000 in 2017. Based on the last twelve months expenses, it is estimated that the Pool costs for similar expenses for 2018 will be about \$60,000.

The total pounds in the Pool for the last twelve months (December 2016 - November 2017) were 626,473,188. It is estimated that the total pounds in the Pool for 2018 will be approximately the same.

Based on the above projected costs and pounds the Pool Administrator sets the rate per hundredweight of milk for the cost of administering the Pool for calendar year 2018 at \$0.01/cwt.

Fiscal impact of rule:

None.

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Agency name: Department of Agriculture, Conservation and Forestry (General)
Umbrella-Unit: 01-001
Statutory authority: 7 MRS ch. 747
Chapter number/title: Ch. 565, Nutrient Management Rules
Filing number: 2018-117
Effective date: 7/3/2018
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These rules establish procedures for the storage, management, and utilization of farm nutrients on farms and farming operations under the *Maine Nutrient Management Act*, 7 MRS ch. 747, and clarify some provisions of the nutrient management rules.

Basis statement:

These rules establish the standards for nutrient management plans required under 7 MRS §4204 for Maine farms, the process for certifying persons to write and approve nutrient management plans, the requirements for obtaining a livestock operations permit, and the procedures for implementing the requirements of the *Nutrient Management Act*. These rules establish the standards for compost management plans and the requirements for persons writing compost management plans.

Fiscal impact of rule:

None.

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Agency name: Department of Agriculture, Conservation and Forestry (General)
Umbrella-Unit: 01-001
Statutory authority: 7 MRS ch. 401 §§ 2101-2105; 7 MRS ch. 1 §12; 7 MRS. ch. 411 §2352
Chapter number/title: Ch. 252, Rules Governing Certification of Seed Potatoes in the State of Maine
Filing number: 2018-177
Effective date: 9/2/2018
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reasons for amending this rule are to allow for full laboratory testing of post-harvest samples as an alternative to the winter grow out in Florida as this will reduce cost to the Department and provide a better more consistent virus testing result for the growers. The second change to rule will be to amend the elimination of blackleg lots which are over tolerance for the generation, it is proposed that any lot exceeding the blackleg tolerance for that generation will be downgraded to the next generation in which it meets that blackleg tolerance. This is proposed to better maintain seed markets and stabilize supply.

Basis statement:

This rule change for Ch. 252, 7 MRS ch. 401, §§ 2101-2105; 7 MRS ch. 1 §12; and 7 MRS ch. 411 §2352, came about from input from the Executive Seed Council of the Maine Potato Board and other industry members to address concerns related to post-harvest virus testing. The rule eliminates the Florida grow-out in favor of post-harvest laboratory virus testing which is more cost effective and consistent. The second part is to change the blackleg tolerances so that any lot exceeding the blackleg tolerance for that generation will be downgraded to the next generation in which it meets that blackleg tolerance. This was proposed to better maintain seed markets and stabilize supply.

Fiscal impact of rule:

The Department does not anticipate any significant fiscal impact from the adoption of this amendment.

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Agency name: Department of Agriculture, Conservation and Forestry (General)
Umbrella-Unit: 01-001
Statutory authority: 2017 PL ch. 6; 7 MRS ch. 103 Article 1-A; 10 MRS §1023-N
Chapter number/title: **Ch. 31**, Rules Governing Certification of Seed Potatoes in the State of Maine
Filing number: **2018-213**
Effective date: 10/1/2018
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

This rule amendment implements revisions made by 2017 Public Law ch. 6, which amended 7 MRS ch. 103 Article 1-A §974-A. The law now states that for any project for which the total cost exceeds \$150,000 (rather than the previous \$50,000), no state loan may exceed 45% of the project cost. The law also now states that for any project for which the total cost is \$150,000 or less (rather than the previous \$50,000 or less), no state loan may exceed 55% of the project cost. This rule amendment also changes what activities can be undertaken with Potato Marking Improvement funds, by creating the Support Facilities Loan Program and the Value Added Loan Program.

Fiscal impact of rule:

No fiscal impact, other than funds being made more readily available for qualified projects.

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 #02-18**
Filing number: **2018-013**
Effective date: 1/28/2018
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 2018** minimum Class I price is **\$17.50/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 **\$3.26/cwt.** handling fee for a total of **\$23.63/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.73.**

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

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

producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$15.44/cwt.** and a Class IV price of **\$13.51/cwt.** for **December 2017.**

The Class II price for **December 2017** is **\$14.49/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 **\$17.50/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 18, 2018 and therefore should be passed on in minimum prices effective January 28, 2018. These prices also include a handling fee of \$3.26/cwt.**

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

Fiscal impact of rule:

None.

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #03-18**

Filing number: **2018-032**

Effective date: 2/27/2018

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 2018** minimum Class I price is **\$16.61/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 **\$4.19/cwt.** handling fee for a total of **\$23.67/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.71.**

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 **\$14.00/cwt.** and a Class IV price of **\$13.13/cwt.** for **January 2018.**

The Class II price for **January 2018** is **\$14.11/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 **\$16.63/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 22, 2018 and therefore should be passed on in minimum prices effective February 27, 2018. These prices also include a handling fee of \$4.19/cwt.**

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

Fiscal impact of rule:

None.

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #04-18**

Filing number: **2018-047**

Effective date: 4/1/2018

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 2018** minimum Class I price is **\$17.35/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 **\$3.72/cwt.** handling fee for a total of **\$23.94/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.73.**

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 **\$13.40/cwt.** and a Class IV price of **\$12.87/cwt.** for **February 2018.**

The Class II price for **February 2018** is **\$13.44/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 **\$17.35/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 22, 2018 and therefore should be passed on in minimum prices effective April 1, 2018. These prices also include a handling fee of \$3.72/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.

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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 #05-18**

Filing number: **2018-068**

Effective date: 4/28/2018

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 2018** minimum Class I price is **\$17.69/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 **\$3.26/cwt.** handling fee for a total of **\$23.82/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.73.**

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 **\$14.22/cwt.** and a Class IV price of **\$13.04/cwt.** for **March 2018.**

The Class II price for **March 2018** is **\$13.88/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 **\$17.69/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 April 19, 2018 and therefore should be passed on in minimum prices effective April 29, 2018. These prices also include a handling fee of \$3.26/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 #06-18**

Filing number: **2018-090**

Effective date: 6/3/2018

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 2018** minimum Class I price is **\$18.50/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$2.33/cwt.** handling fee for a total of **\$23.70/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.71**.

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 **\$14.47/cwt.** and a Class IV price of **\$13.48/cwt.** for **April 2018**.

The Class II price for **April 2018** is **\$14.03/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 **\$18.50/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 24, 2018 and therefore should be passed on in minimum prices effective June 3, 2018. These prices also include a handling fee of \$2.33/cwt.**

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

Fiscal impact of rule:

None.

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3, Schedule of Minimum Prices, Order #07-18**

Filing number: **2018-114**

Effective date: 7/1/2018

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 2018** minimum Class I price is **\$18.61/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$2.33/cwt.** handling fee for a total of **\$23.81/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.73.**

Basis statement:

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

Federal Order One Northeast Market Administrator announced a Class III price of **\$15.18/cwt.** and a Class IV price of **\$14.57/cwt.** for **May 2018.**

The Class II price for **May 2018** is **\$14.47/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 **\$18.61/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 21, 2018 and therefore should be passed on in minimum prices effective July 1, 2018. These prices also include a handling fee of \$2.33/cwt.**

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

Fiscal impact of rule:

None.

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #08-18**

Filing number: **2018-144**

Effective date: 7/29/2018

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 2018** minimum Class I price is **\$17.40/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 **\$3.72/cwt.** handling fee for a total of **\$23.99/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.74.**

Basis statement:

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

Federal Order One Northeast Market Administrator announced a Class III price of **\$15.21/cwt.** and a Class IV price of **\$14.91/cwt.** for **June 2018.**

The Class II price for **June 2018** is **\$15.48/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$17.40/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 19, 2018 and therefore should be passed on in minimum prices effective July 29, 2018. These prices also include a handling fee of \$3.72/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 #09-18**

Filing number: **2018-176**

Effective date: 9/2/2018

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 2018** minimum Class I price is **\$18.10/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 **\$2.79/cwt.** handling fee for a total of **\$23.76/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.72.**

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 **\$14.10/cwt.** and a Class IV price of **\$14.14/cwt.** for **July 2018.**

The Class II price for **July 2018** is **\$15.20/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 **\$18.10/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 August 23, 2018 and therefore should be passed on in minimum prices effective September 2, 2018. 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.

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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 #10-18**

Filing number: **2018-207**

Effective date: 9/30/2018

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 2018** minimum Class I price is **\$19.58/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.40/cwt.** handling fee for a total of **\$23.85/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.73**.

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 **\$14.95/cwt.** and a Class IV price of **\$14.63/cwt.** for **August 2018**.

The Class II price for **August 2018** is **\$15.07/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 **\$19.58/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 20, 2018 and therefore should be passed on in minimum prices effective September 30, 2018. 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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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 #11-18**

Filing number: **2018-229**

Effective date: 10/28/2018

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 2018** minimum Class I price is **\$18.77/cwt. plus \$1.63/cwt.** for Producer margins and a **\$1.04/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$2.33/cwt.** handling fee for a total of **\$23.97/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.74.**

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 **\$16.09/cwt.** and a Class IV price of **\$14.81/cwt.** for **September 2018.**

The Class II price for **September 2018** is **\$15.13/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$18.77/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 18, 2018 and therefore should be passed on in minimum prices effective October 28, 2018. These prices also include a handling fee of \$2.33/cwt.**

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

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
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 #12-18**
Filing number: **2018-259**
Effective date: 11/27/2018
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 2018** minimum Class I price is **\$18.30/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 **\$23.96/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.74.**

Basis statement:

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

Federal Order One Northeast Market Administrator announced a Class III price of **\$15.53/cwt.** and a Class IV price of **\$15.01/cwt.** for **October 2018.**

The Class II price for **October 2018** is **\$15.13/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$18.30/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 21, 2018 and therefore should be passed on in minimum prices effective December 2, 2018. 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, 2018 to December 31, 2018
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 #01-19**
Filing number: **2018-275**
Effective date: 12/30/2018
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 2019** minimum Class I price is **\$18.37/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 **\$24.03/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.74.**

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 **\$14.44/cwt.** and a Class IV price of **\$15.06/cwt.** for **November 2018.**

The Class II price for **November 2018** is **\$15.63/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 **\$18.37/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 20, 2018 and therefore should be passed on in minimum prices effective December 30, 2018. 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, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-017**

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

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

Filing number: **2018-024**

Effective date: 2/21/2018

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The amendments move some grounds for suspension, revocation and denial of licenses from Ch. 17 (Penalties) to Ch. 1 where the licensing provisions are contained.

Basis statement:

The Commission adopted an amendment to Section 10 subsection 1-A of Ch. 1, to consolidate and strengthen the grounds for which a license can be suspended, revoked, refused or denied. The Commission also clarified the criteria necessary for obtaining a driver's or trainer's license under Section 10 subsection 2, since a poorly drafted "or" clause lent itself to misinterpretation.

Fiscal impact of rule:

(Not addressed.)

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Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-017**

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

Chapter number/title: **Ch. 3, Officials and Race Track Personnel**

Filing number: **2018-025**

Effective date: 2/21/2018

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The amendments update the process for licensing and assigning judges to the tracks, and update the education requirements.

Basis statement:

The Commission amends Section 1 subsection 1 and 1-A of 3, to update the section to align with current practice. The Commission does not appoint judges to specific associations as described in the existing rule. Instead, the Department licenses judges provided that they are qualified.

The Commission had proposed to add a new section to Ch. 7 outlining the duties of the Race Secretary. The new section was intended to ensure that Race Secretaries place special emphasis on constructing race programs that offer equivalent opportunities for all classes of horses to compete for purses. The Department later recognized that Ch. 3 already contained a section relating to the duties of the Race Secretary, and it submitted a comment suggesting that the new section proposed for Ch. 7 be moved to and merged with the existing Section in Ch. 3.

The Commission agreed that Ch. 3 was the more logical location for such standards, and that adding the additional standards from the proposed amendments to the existing duties would be beneficial. Consequently, the Commission elected to merge and combine the two set of duties into Ch. 3.

Finally, the Commission received a comment observing that Section 8.13 of Ch. 3 conflicts with a similar standard in Section 37-G of Ch. 7 relative recalling a start. The Commissioners determined that Judges need to ability to recall a start when the horses are out of position. Consequently, they elected to amend the language in Ch. 3 Section 37-G.

Fiscal impact of rule:

(Not addressed.)

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-017**

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

Chapter number/title: **Ch. 13**, Pari-Mutuel

Filing number: **2018-026**

Effective date: 2/21/2018

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The amendments allow for wagering the trifecta bet on a five-horse field.

Basis statement:

The Commission adopted an amendment to Section 47 subsection 8 of Ch. 13, to allow trifectas be programmed for races with no less than five separate betting interests, instead of six as contained in the existing rule.

Fiscal impact of rule:

The amendment to Ch. 13 should improve revenue for licensed venues.

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Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-017**

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

Chapter number/title: **Ch. 15**, Off-Track Betting

Filing number: **2018-027**

Effective date: 2/21/2018

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The amendments include just one minor change to this chapter to require licensed off-track betting facilities to remain open while live Maine racing is occurring.

Basis statement:

The Commission adopted an amendment to Section 7 subsection 5 of Ch. 15, requiring that off-track betting facilities remain open if the signal is being sent out for instate live racing until the final race is declared official.

Fiscal impact of rule:

The amendment to Ch. 15 would theoretically increase operating costs slightly for the four licensed off-track betting facilities. However, all four facilities have publicly stated that they are generally open during these periods and it would not present a hardship.

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Rules Adopted January 1, 2018 to December 31, 2018
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** (*New*), Logging and Forestry Education Grant Program
Filing number: **2018-273**
Effective date: 1/2/2019
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 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.

Fiscal impact of rule:
None.

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Rules Adopted January 1, 2018 to December 31, 2018
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
Chapter number/title: **Ch. 10**, Land Use Districts and Standards (Grid-scale Solar Energy Systems)
Filing number: **2018-030**
Effective date: 3/5/2018
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Land Use Planning Commission sought public comment on a petition to amend Ch. 10, *Land Use Districts and Standards*, to allow development of grid-scale solar energy generation facilities with a permit in the Commercial Industrial Development Subdistrict (D-CI). The changes include a set of criteria that help identify eligible locations for redistricting to D-CI for the purpose of developing a grid-scale solar energy generation facility. AD-CI subdistrict designated for the purpose of developing a grid-scale solar energy generation facility would automatically revert to the prior subdistrict designation if the facility is not developed within a reasonable period of time, or if built, upon decommissioning of the facility.

Basis statement:

The purpose of these rule revisions is to allow development of grid-scale solar energy generation facilities with a permit in the Commercial Industrial Development Subdistrict (D-CI).

They include a set of criteria that help identify eligible locations for redistricting to D-CI for the purpose of developing a grid-scale solar energy generation facility. By meeting the proposed criteria in Section 10.21,A,2,b,(2), a petitioner would demonstrate that the area proposed for redistricting is consistent with the portions of the Comprehensive Land Use Plan (CLUP) related to the location of development. The locational criteria include the following:

- Accessibility from a public road by a legal right of access that would allow construction, operation, maintenance, and decommissioning of the facility;
- Located within one mile of the proposed point of interconnection with the existing transmission grid and no other area suitable for the facility and closer to a point of interconnection is reasonably available to the petitioner, unless the petitioner demonstrates that redistricting an area no more than three miles from the point of interconnection would result in a project location that is compatible with current land uses and does not expand the pattern of development beyond already developed areas; and
- Located a reasonable distance from emergency service providers to allow for adequate response in the event of an emergency.

New D-CI subdistricts proposed for the purpose of developing a grid-scale solar energy generation facility may be established in areas with soils recognized by the U.S. Department of Agriculture as prime agricultural soils, provided that upon decommissioning of the facility all structures and materials associated with the development are removed, and that affected soils will be replaced or restored to a state such that they could be utilized for active agricultural production.

A D-CI subdistrict established for the purpose of developing a grid-scale solar energy generation facility would automatically revert to the prior subdistrict designation if the facility is not developed within a reasonable period of time, or if built, upon decommissioning of the facility. Additionally, areas that are redistricted to D-CI for this purpose shall not provide the basis for subsequent redistricting of the area to another development subdistrict, nor shall it

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Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

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Rules Adopted January 1, 2018 to December 31, 2018
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)
Chapter number/title: **Ch. 10**, Land Use Districts and Standards (Rural Business Development Subdistrict in Washington County)
Filing number: **2018-031**
Effective date: 3/5/2018
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission adopts amendments to Ch. 10, *Land Use Districts and Standards*, regarding extending the opportunity for Rural Business Development subdistricts into Washington County in partnership with the Washington County Commissioners through the Commission's Community Guided Planning and Zoning program. This regional planning effort implements the directive in Public Law 2011 ch. 68, section 34, for the Commission to initiate prospective zoning in the unorganized and deorganized parts of the state. The purpose of the Rural Business Development Subdistrict (D-RB) is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. The locations for the D-RB are selected to maintain the rural character of the region and avoid significant visual, natural resource, and fiscal impacts of unplanned growth. The D-RB subdistrict would include areas to accommodate a range of small commercial, light manufacturing, and institutional facilities and businesses that are generally compatible with, and complementary to, natural resource-based land uses; but may create some adverse impacts to residential uses, recreation uses, or resource protection.

Basis statement:

The Maine Land Use Planning Commission (LUPC) adopts rule revisions to its Ch. 10, *Land Use Districts and Standards*, regarding extension of eligible areas for the Rural Business Development subdistrict to certain minor civil divisions (MCDs) in Washington County and the addition of a height limitation for Route 191 in Trescott Twp. The rulemaking was initiated in partnership with the Washington County Commissioners through the Commission's Community Guided Planning and Zoning (CGPZ) program. This regional planning effort implements the directive in Public Law 2011 ch. 682 section 34, for the Commission to initiate prospective zoning in the unorganized and deorganized parts of the state. The purpose of the Rural Business Development Subdistrict (D-RB) is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors.

According to the report, "A Regional Plan for the Washington County Unorganized Territories" (Regional Plan), prepared by the Washington County Council of Governments and dated July 2017, Washington County chose to specifically engage in a CGPZ process to streamline permitting processes and identify areas for residential and commercial development. The report states "When the Washington County Commissioners approved the use of TIF funds from the Unorganized Territories, they did so with the observation and belief that this planning activity would support economic development in parts of Washington County." The public process was challenged by equally important yet conflicting goals, so the Washington County CGPZ Planning Committee looked to find a tool or tools that offered economic opportunity and regulatory flexibility, while allowing for future adjustments to

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Rules Adopted January 1, 2018 to December 31, 2018
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address any resulting adverse impacts. The recommendations of the Planning Committee to achieve that opportunity and flexibility included in part a recommendation to extend eligibility for D-RB subdistricts to certain areas in Washington County they deemed suitable. The recommendations also included a proposed height limitation on Route 191 in Trescott to minimize the visual impact of any new development along that roadway, protecting the highway's scenic qualities.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

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Rules Adopted January 1, 2018 to December 31, 2018
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 770 (T1 R11 WELS — Piscataquis County) (petitioner
Maine Bureau of Parks and Lands)
Filing number: **2018-067**
Effective date: 4/13/2018
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 770

**PETITIONER OR
COPETITIONER**

Maine Bureau of
Parks and Lands

LOCATION

T1 R11 WELS
Piscataquis County

Fiscal impact of rule:

N/A

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Rules Adopted January 1, 2018 to December 31, 2018
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 769 (Coplin Plt. — Franklin County) (petitioner Russell
Stewart)
Filing number: **2018-120**
Effective date: 7/3/2018
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 769

**PETITIONER OR
COPETITIONER**

Russell Stewart

LOCATION

Coplin Plt.
Franklin County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(7-A), 689

Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps):
Zoning Petitions:
ZP 771 (Moosehead Junction Twp. — Piscataquis County)
(petitioner Maine Bureau of Parks and Lands, James Vogel);
ZP 772 (T16 MD BPP — Hancock County) (petitioner Next Phase
Energy Services, LLC, Elliott Jordan and Son, Inc.)

Filing number: **2018-168**

Effective date: 8/13/2018

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 771	Maine Bureau of Parks and Lands, James Vogel	Moosehead Junction Twp. Piscataquis County
ZP 772	Next Phase Energy Services, LLC Elliott Jordan and Son, Inc.	T16 MD BPP Hancock County

Fiscal impact of rule:

N/A

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
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: 38 MRS §490-NN(2); 12 MRS §§ 685-A(3), C(5)(A); PL 2017
ch. 142 §12

Chapter numbers/titles: **Ch. 13**, Metallic Mineral Exploration, and Mining Certifications
(filed with parts of Ch. 10)
Ch. 10, Land Use Districts and Standards *(filed with Ch. 13)*

Filing number: **2018-171, 172**

Effective date: 9/20/2018

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

Ch. 13 of the Commission's rules, originally adopted pursuant to 38 MRS §349-A, contains rules for metallic mineral exploration, advanced exploration, and mining, including requirements for permitting advanced exploration and mining. Ch. 10 of the Commission's Rules, adopted in accordance with 12 MRS ch. 206-A, contains definitions, requirements for development and management subdistricts, and activity-specific standards related to mining.

Prior to 2012, the Commission and the Department of Environmental Protection (Department or DEP) separately regulated exploration and mining within their respective service areas. The Commission did so primarily through application of its Ch. 10, *Land Use Districts and Standards*, as well as through its Ch. 13, *Rules for Metallic Mineral Exploration, Advanced Exploration and Mining*. The Commission's Ch. 13 rule was originally adopted jointly with DEP's Ch. 200, *Metallic Mineral Exploration, Advanced Exploration and Mining* rule.

In 2012, reform legislation went into effect and shifted permitting authority for projects qualifying for review under the *Site Location of Development Act* (Site Law) from the Commission to the Department. That changed the regulation of metallic mineral mining activities in that, at the time, metallic mineral mining was regulated under the Site Law. From the reform legislation, the Commission was tasked with certifying whether metallic mineral mining and advanced exploration are an allowed use in the subdistrict in which they are proposed and whether they satisfy the Commission's land use standards not addressed by the DEP in its permit application review. The Commission's responsibilities for metallic mineral exploration were not changed by the reform legislation and the Commission continues to have regulatory authority over exploration under its Ch. 10 and Ch. 13 rules.

The *Maine Metallic Mineral Mining Act*, 38 MRS §§ 490-LL *et seq.*, (the Mining Act) also was enacted in 2012, but did not become effective until June of 2014 (Public Law 2011 ch. 653, "An Act to Improve Environmental Oversight and Streamline Permitting for Metallic Mineral Mining in Maine.") The mining legislation retained the same general permitting framework. DEP is responsible for permitting metallic mineral mining and advanced exploration, and the Commission is tasked with certifying those activities. The Commission retains its responsibilities to regulate exploration under its rules.

In the last few years, there have been several significant legislative actions relating to DEP and Commission rulemaking for mining activities. The 2012 mining legislation, in addition to enacting the Mining Act, directed the Commission to remove any provisions related to permitting from its rezoning procedures for metallic mineral mining. The Commission revised its Ch. 12, *Land Use District Requirements for Metallic Mineral Mining and Level C*

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Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

Mineral Exploration Activities rule, effective May 27, 2013, in response to the legislation. That legislation also directed the Commission to adopt rules regarding LUPC certification of metallic mineral mining projects reviewed by the DEP as major substantive rules, and mining exploration and advanced exploration as routine technical rules. At the same time, the legislation required the DEP to adopt major substantive rules related to the Mining Act, including standards to protect public health and safety and the environment, language referencing the requirement for LUPC certification in the permitting process, and amendments for exploration and advanced exploration activities. Both agencies proceeded with rulemaking initiatives in response to the legislation.

The Commission provisionally adopted a repeal and replacement of its Ch. 13 rule, as a major substantive rulemaking in January of 2014. The revisions created, within Ch. 13, a new sub Ch. 3 with standards for Commission certification of metallic mineral mining and advanced exploration projects in the Commission's service area. In addition, at the same January 2014 meeting, routine technical revisions to Ch. 13 relating primarily to exploration activities and updating sub-ch. 1 and 2 were posted to public comment. This routine technical rulemaking also included related changes to Ch. 10. Together, the major substantive rulemaking and routine technical rulemaking were intended to completely overhaul Ch. 13, making the Commission's rule consistent with the new Mining Act. Corresponding changes to Ch. 10 were intended to ensure consistency.

Major substantive rules must be approved by the Legislature before final adoption at the agency level. In March of 2014, the Legislature rejected the major substantive mining rules provisionally adopted by both the Commission and DEP. At the same time, the Legislature directed the Commission and DEP to undertake new mining rulemaking. The Governor vetoed this action and the veto was sustained. (See LD 1771, 126th Legislature.) This meant the major substantive rules developed by the Commission and DEP did not go into effect and there was no directive to write new or revised rules. The Commission's routine technical rulemaking did not require legislative approval and was not addressed in LD 1771. As a practical matter, however, that rulemaking was designed to dovetail with the major substantive changes. When the major substantive changes were rejected by the Legislature, the Commission ceased the companion routine technical rulemaking. As a result, the Mining Act remained in place, but without updated rules. Since 2014, further action by the Commission has been on hold as it awaited clarity.

In 2017, the Legislature enacted PL 2017 ch. 142. This legislation revised certain provisions of the Mining Act, and approved final adoption of the Department's revised Ch. 200 rule, provided certain changes were made to the rule. The legislation contains a new directive for the Commission to complete rulemaking on certifications of mining permit applications. It also provides the Commission must include in the rulemaking any additional provisions necessary to ensure consistency with the Mining Act and rules adopted by the Department related to that act. This rulemaking complies with the Legislative directive in PL 2017 ch. 142.

Fiscal impact of rule:

These rule changes implement legislative directives. The rule is not expected to have a fiscal impact.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(3), (7-A), 685-C(5)(A); 38 MRS §480-E-1; PL 2017
ch. 89 and ch. 236

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

Filing number: **2018-173**

Effective date: 9/20/2018

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Land Use Planning Commission is proposing routine maintenance of Ch.10, *Land Use Districts and Standards*. For organizational purposes, the proposal has been divided into three parts: **Part 1** includes responses to two laws in 2017 that affect the Commission, as well as other revisions that cover general housekeeping matters, update references, and clarify existing provisions.

Part 2 of this rulemaking updates the Commission's standards relating to protected natural resources to ensure consistency, as required in statute, with the goals of the Natural Resources Protection Act (NRPA). The NRPA-related updates clarify the existing practice for rezoning areas that include wetlands, ensure consistent application of existing standards to wetland alterations in all zoning subdistricts, establish that filling and grading an acre or more in the General Management Subdistrict (M-GN) requires a permit, and contain other miscellaneous revisions to improve clarity and consistency with other related statutes and rules.

Part 3 includes revisions that correct errors and update references in Appendix (-Alphabetical List of Lakes Showing Wildlands Lake Assessment Findings: Revisions include updating minor civil division and waterbody names, as well as correcting certain management classifications and resource values for some waterbodies.

Basis statement:

This rulemaking by the Maine Land Use Planning Commission generally involves routine maintenance of its Ch. 10 rules, *Land Use Districts and Standards*. For organizational purposes, the revisions have been divided into three parts: Part 1 includes responses to two laws in 2017 that affect the Commission, as well as other revisions that cover general housekeeping matters, update references, and clarify existing provisions. Part 2 of this rulemaking updates the Commission's standards relating to protected natural resources to ensure consistency, as required in statute, with the goals of the *Natural Resources Protection Act* (NRPA). Part 3 includes revisions that correct errors and update references in Appendix C, Alphabetical List of Lakes Showing Wildlands Lake Assessment Findings.

Fiscal impact of rule:

There will be no measurable fiscal impact of these rule changes.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2018 to December 31, 2018
Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-672**

Statutory authority: 12 MRS §§ 685-A(7-A), 689

Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps):
Zoning Petitions:
ZP 710A (T1 R8 WELS — Penobscot County) (petitioner Hammond Ridge Development Co., LLC)
ZP 773 (Albany Twp. — Oxford County) (petitioner Timothy and Anita Remington)

Filing number: **2018-262**

Effective date: 11/14/2018

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 710A	Hammond Ridge Development Co., LLC	T1 R8 WELS Penobscot County
ZP 773	Timothy and Anita Remington	Albany Twp., Oxford County

Fiscal impact of rule:

N/A