

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: 01-001
Statutory authority: 7 MRS §3906-B, PL ch. 223 (LD 1023), 127th Maine State Legislature, *An Act To Revise the Animal Welfare Laws*
Chapter number/title: Ch. 701, Rules Governing Animal Welfare
Filing number: 2016-035
Effective date: 3/12/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Much needed updates to animal care in animal shelters.

Basis statement:

Over the past few years there have been changes to the way animals are kept in shelters. New advances in shelter medicine and animal behavior have changed how the different problems are solved within the shelter system. These rule changes reflect these improvements.

- Creates new definitions for: Housing facilities, impervious surfaces and Veterinarian of Reference
- Requires all facilities to use their license number on advertisements
- Improves record keeping for fostering agreements, pharmaceutical records and importation records
- Prevents dangerous animals that are a risk to public safety from being adopted out
- Changes a solid type of material to an impervious surface
- Improves controlled substances controls
- Ensures proper medical waste disposal
- Ensures isolation areas for imported animals
- Removes the veterinarian exemption for the rules of animal shelters and boarding kennels

Fiscal impact of rule:

None.

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Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: 01-001
Statutory authority: 7 MRS §3154
Chapter number/title: Ch. 61, Maine Milk Pool Cost of Administration
Filing number: 2016-046
Effective date: 4/11/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reason for this rule-making 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 \$59,000 in 2015. Based on the last twelve months expenses, it is estimated that the Pool costs for similar expenses for 2016 will be about \$59,000.

The total pounds in the Pool for the last twelve months (December 2015 - November 2015) were 591,242,002. It is estimated that the total pounds in the Pool for 2016 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 2016 at \$0.01/cwt.

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
Umbrella-Unit: 01-001
Statutory authority: 7 MRS §2231
Chapter number/title: Ch. 274 (*New*), Rules for Growing Industrial Hemp
Filing number: 2016-058
Effective date: 4/4/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The reason for this rule is that the Department of Agriculture, Conservation & Forestry was required to promulgate this rule based on amendments to 7 MRS ch. 406-A §2231 passed during the last legislative session. The amendment made it legal to grow hemp in Maine and required the Department to establish a program in rule.

Basis statement:

In June 2015 changes to Title 7 MRS ch. 406-A §2231, *Industrial Hemp*, instructed the Department to adopt rules establishing guidelines for monitoring the growth and harvest of industrial hemp and an application fee, license fee and per acre fees for monitoring, sampling and testing industrial hemp crops. The rule presented here was written to comply with this legislation.

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

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

Agency name: Department of Agriculture, Conservation and Forestry
Umbrella-Unit: 01-001
Statutory authority: 7 MRS ch. 401 §§ 2101-2105; ch. 1 §12; ch. 411 §2352
Chapter number/title: **Ch. 252**, Rules Governing Certification of Seed Potatoes in the State of Maine
Filing number: **2016-097**
Effective date: 5/29/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reasons for amending this rule are 1) decrease the Field Year eligibility of seed to be certified 2) to modify the potato seed certification program's visual field tolerances for blackleg 3) allow the state to do a lab test when conducting the post-harvest test. It will also decrease by one Field Year the eligibility of seed to be recertified, but will make it allowable for that year's seed to be sold for table stock or processing use. This change will also bring Maine's program more in line with other states' programs and improve the chances of removing from the system any possible high disease seed related to *Pectobacterium spp.* or *Dickeya spp.* One additional visual field inspection is proposed focusing on blackleg symptoms in an effort to flush out any blackleg diseases, including *Dickeya spp.*, from the system. One change would allow for lab testing of post-harvest samples as an alternative to the winter grow out in Florida.

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 in order to address crop losses from the potato disease blackleg in the 2014 and 2015 growing seasons in Maine and other states that import Maine seed potatoes for the commercial market.

The changes, including adding a tolerance and third field reading for Blackleg were added since the department did not have the authority to regulate this disease under the current Ch. 252 rules. Other changes including eliminating field year 6 (FY6) generation potatoes from recertification was done to flush out seed more quickly, as seed borne Blackleg tends to increase as the seed generations increase.

Potato disease Y or (PVY) continues to challenge seed growers and affect commercial potato production with reduced crop yields. Phasing out the Florida post-harvest test which is a visual field test used to identify seed lots for virus and replacing it with a laboratory test in the department's certification lab will produce better, more consistent results for the industry.

Fiscal impact of rule:

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

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

Agency name: Department of Agriculture, Conservation and Forestry, **Maine Milk Commission**
Umbrella-Unit: **01-015**
Statutory authority: 5 MRS §8054; 7 MRS §2954
Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #02-16**
Filing number: **2016-011**
Effective date: 1/31/2016
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 2016 minimum Class I price is \$16.89/cwt. plus \$1.45/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$4.19/cwt. handling fee for a total of \$24.26/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.75.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$15.52/cwt.** for **December 2015.**

The Class II price for **December 2015** is **\$16.71/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 **\$16.89/cwt. plus \$1.45/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on January 22, 2016 and therefore should be passed on in minimum prices effective January 31, 2016. 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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Rules Adopted January 1, 2016 to December 31, 2016
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A sub-§5

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #03-16**

Filing number: **2016-027**

Effective date: 2/28/2016

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 2016 minimum Class I price is \$17.03/cwt. plus \$1.45/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$3.72/cwt. handling fee for a total of \$23.93/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.70.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$13.72/cwt.** and a Class IV price of **\$13.31/cwt.** for **January 2016.**

The Class II price for **January 2016** is **\$14.19/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 **\$17.03/cwt. plus \$1.45/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on February 19, 2016 and therefore should be passed on in minimum prices effective February 28, 2016. 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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Rules Adopted January 1, 2016 to December 31, 2016
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A sub-§5

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #04-16**

Filing number: **2016-051**

Effective date: 4/3/2016

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 2016 minimum Class I price is \$16.99/cwt. plus \$1.45/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$4.19/cwt. handling fee for a total of \$24.36/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 rule-making 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 **\$13.80/cwt.** and a Class IV price of **\$13.49/cwt.** for **February 2016.**

The Class II price for **February 2016** is **\$14.30/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$16.99/cwt. plus \$1.45/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on March 24, 2016 and therefore should be passed on in minimum prices effective April 3, 2016. 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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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A sub-§5

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #05-16**

Filing number: **2016-071**

Effective date: 5/1/2016

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 2016** minimum Class I price is **\$16.95/cwt. plus \$1.45/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$4.19/cwt.** handling fee for a total of **\$24.32/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 rule-making 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 **\$13.74/cwt.** and a Class IV price of **\$12.74/cwt.** for **March 2016.**

The Class II price for **March 2016** is **\$13.57/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 **\$16.95/cwt. plus \$1.45/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on April 21, 2016 and therefore should be passed on in minimum prices effective May 1, 2016. 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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Rules Adopted January 1, 2016 to December 31, 2016
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 #06-16**

Filing number: **2016-096**

Effective date: 5/29/2016

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 2016** minimum Class I price is **\$16.39/cwt. plus \$1.58/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$4.65/cwt.** handling fee for a total of **\$24.35/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.74.**

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$13.63/cwt.** and a Class IV price of **\$12.68/cwt.** for **April 2016.**

The Class II price for **April 2016** is **\$13.54/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 **\$16.39/cwt. plus \$1.58/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on May 19, 2016 and therefore should be passed on in minimum prices effective May 29, 2016. These prices also include a handling fee of \$4.65/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 #07-16**

Filing number: **2016-111**

Effective date: 7/3/2016

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 2016** minimum Class I price is **\$16.95/cwt. plus \$1.58/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$4.19/cwt.** handling fee for a total of **\$24.45/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.75.**

Basis statement:

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

Federal Order One Northeast Market Administrator announced a Class III price of **\$12.76/cwt.** and a Class IV price of **\$13.09/cwt.** for **May 2016.**

The Class II price for **May 2016** is **\$13.53/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 **\$16.95/cwt. plus \$1.58/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on June 23, 2016 and therefore should be passed on in minimum prices effective July 3, 2016. 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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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 #08-16**

Filing number: **2016-127**

Effective date: 7/31/2016

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 2016** minimum Class I price is **\$18.32/cwt. plus \$1.58/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$2.79/cwt.** handling fee for a total of **\$24.42/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.75.**

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$13.22/cwt.** and a Class IV price of **\$13.77/cwt.** for **June 2016.**

The Class II price for **June 2016** is **\$14.12/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 **\$18.32/cwt. plus \$1.58/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on July 21, 2016 and therefore should be passed on in minimum prices effective July 31, 2016. 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 **\$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 #09-16**

Filing number: **2016-143**

Effective date: 9/4/2016

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 4, 2016** minimum Class I price is **\$19.81/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.40/cwt.** handling fee for a total of **\$24.47/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.77.**

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$15.24/cwt.** and a Class IV price of **\$14.84/cwt.** for **July 2016.**

The Class II price for **July 2016** is **\$15.16/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$19.81/cwt. plus \$1.53/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on August 18, 2016 and therefore should be passed on in minimum prices effective September 4, 2016. These prices also include a handling fee of \$1.40/cwt.**

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

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2016 to December 31, 2016
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A sub-§5

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #10-16**

Filing number: **2016-159**

Effective date: 10/2/2016

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 2016** minimum Class I price is **\$19.85/cwt. plus \$1.48/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$1.40/cwt.** handling fee for a total of **\$24.46/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.76.**

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$16.91/cwt.** and a Class IV price of **\$14.65/cwt.** for **August 2016.**

The Class II price for **August 2016** is **\$15.21/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 **\$19.85/cwt. plus \$1.48/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on September 22, 2016 and therefore should be passed on in minimum prices effective October 2, 2016. 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 Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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 #11-16**
Filing number: **2016-180**
Effective date: 10/29/2016
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 2016** minimum Class I price is **\$18.03/cwt. plus \$1.58/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$2.79/cwt.** handling fee for a total of **\$24.13/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 rule-making hearing to determine whether or not the minimum price payable to producers for milk should be immediately changed due to developments in milk pricing in southern New England.

Federal Order One Northeast Market Administrator announced a Class III price of **\$16.39/cwt.** and a Class IV price of **\$14.25/cwt.** for **September 2016**.

The Class II price for **September 2016** is **\$14.66/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 **\$18.03/cwt. plus \$1.58/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on October 20, 2016 and therefore should be passed on in minimum prices effective October 30, 2016. 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 **\$0.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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 #12-16**
Filing number: **2016-204**
Effective date: 12/4/2016
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 2016** minimum Class I price is **\$20.13/cwt. plus \$1.58/cwt.** for Producer margins and a **\$1.53/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 **\$3.74.**

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$14.82/cwt.** and a Class IV price of **\$13.66/cwt.** for **October 2016.**

The Class II price for **October 2016** is **\$14.09/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$20.13/cwt. plus \$1.58/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on November 23, 2016 and therefore should be passed on in minimum prices effective December 4, 2016. 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 **\$0.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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 #01-17**
Filing number: **2016-230**
Effective date: 12/17/2016
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 2017** minimum Class I price is **\$20.70/cwt. plus \$1.53/cwt.** for Producer margins and a **\$1.53/cwt.** that reflects premiums being offered and prevailing in Southern New England and **\$0.93/cwt.** handling fee for a total of **\$24.89/cwt.**, which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at **\$3.79**.

Basis statement:

Pursuant to 5 MRS §8054 and 7 MRS §2954 the Maine Milk Commission conducted an emergency rule-making 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 **\$16.76/cwt.** and a Class IV price of **\$13.76/cwt.** for **November 2016**.

The Class II price for **November 2016** is **\$14.60/cwt.** as announced by the Federal Order One Northeast Market Administrator.

The Commission, in setting their minimum prices, recognized the Federal Order Class I price of **\$20.70/cwt. plus \$1.58/cwt. for cost of production and an over-order premium of \$1.53/cwt. as being prevailing in southern New England based on the evidence presented at the Commission hearing on December 22, 2016 and therefore should be passed on in minimum prices effective January 1, 2017. 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 **\$0.20/cwt.** as authorized by Commission Order #93-MPF. Any change in prices at any level from last month reflects the action taken today by the Commission for Class I, Class II, Class III and Class IV and Butterfat prices.

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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, 268, 279-A, 279-B, 281

Chapter number/title: **Ch. 11**, Medication and Testing

Filing number: **2016-229**

Effective date: 12/26/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The amendment updates Ch. 11 to remove the responsibility of the Commission to prove that a substance was in excess of the normal concentration if it affects the performance of a horse. The amendment also clarifies that the substances listed in the *Uniform Guidelines for Foreign Substances* published by the Association of Racing Commissioners International are prohibited.

Basis statement:

The Commission amends Section 4, subsection 4 of Ch. 11 in order to update the rule to adopt by reference the Alphabetical Substance List contained in the April 8, 2016 *Uniform Classification Guidelines for Foreign Substances* published by the Association of Racing Commissioners International, Inc. Further, the amendment removes the responsibility for proving that a substance is performance enhancing from the Commission.

Fiscal impact of rule:

The amendment should not have a fiscal impact.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Agriculture, Conservation and Forestry, **Bureau of Forestry (Maine Forest Service)**
Umbrella-Unit: **01-669**
Statutory authority: 12 MRS ch. 805 sub-ch. 3-A, *as amended by* PL 2013 ch. 412; Resolves 2015 ch. 58
Chapter number/title: **Ch. 30**, Prior Approval Process and Stop Work Orders
Filing number: **2016-103**
Effective date: 7/15/2016
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

See §8057-A (l) (A) &(C)] Legislative direction. This rule establishes standards for Maine Forest Service approval of timber harvesting activities by any person who has been convicted of two or more violations of Title 17 §2510 sub-§1.

Basis statement:

The statutory authority for this rule is 12 MRS §8869-A, as enacted by PL 2013 ch. 412.

The law requires the Commissioner of Agriculture, Conservation and Forestry, through the Bureau of Forestry, aka the Maine Forest Service (MFS), "establish a prior approval process for harvesting trees by a person that has committed 2 violations of unlawful cutting of trees pursuant to Title 17, section 2510, subsection 1."

Process involved in developing this rule

Following enactment of the law, a MFS senior staff person drafted rule. Because the statutory direction was clear, the MFS determined that an extensive public process was not necessary. The MFS consulted with the Attorney General's Office prior to undertaking rule-making.

The MFS released the draft rule for public comment in July 2015. A public hearing was conducted in July 2015. No one attended. The MFS received two sets of comments on this proposal.

Economic impact of the rule

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

The 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. Only a small handful of loggers meet the criteria necessary to be regulated by this rule.

The MFS has lost several enforcement related positions in recent years due to budget reductions. The positions lost include ten Forest Ranger III positions in Forest Protection. The MFS may need to redirect staff priorities away from existing programs and initiatives to absorb additional enforcement work within existing resources.

Fiscal impact of rule:

None. MFS will reassign priorities as needed to accomplish with existing resources.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
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 757: Big Moose Twp. - Piscataquis County
Filing number: **2016-010**
Effective date: 1/19/2016
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. 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 757

**PETITIONER OR
COPETITIONER**

OFLC, Inc.

LOCATION

Big Moose Twp.
Piscataquis County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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

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: **10.02**, Definitions (“Rural Business”); **10.21(I)**, Rural Business Development Subdistrict (D-RB); **10.25(Q)(6)**, Subdivision and Lot Creation: Subdivision Filing with Registry of Deeds and Sale of Lots; **10.27(R)**, Rural Businesses

Filing number: **2016-073**

Effective date: 5/9/2016

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The Maine Land Use Planning Commission sought public comment on proposed amendments to Ch. 10, *Land Use Districts and Standards*, regarding a proposed new subdistrict developed for certain areas in Aroostook County in partnership with Northern Maine Development Commission (NMDC) through the Commission's Community Guided Planning and Zoning program. This regional planning effort implements the directive in PL 2011 ch. 682 §34, for the Commission to initiate prospective zoning in the unorganized and deorganized parts of the state. The purpose of the new 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 changes to its Ch. 10, *Land Use Districts and Standards*, regarding a new subdistrict developed for certain areas in Aroostook County in partnership with Northern Maine Development Commission (NMDC) through the Commission's Community Guided Planning and Zoning (CGPZ) program 1• This regional planning effort implements the directive in PL 2011 ch. 682 §34, for the Commission to initiate prospective zoning in the unorganized and deorganized parts of the state. The purpose of the new 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.

Fiscal impact of rule:

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

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §685-A(13), 350A MRS §3453-A(1), (3), (7)
Chapter number/title: **Ch. 10**, Land Use Districts and Standards: **Appendix F**, Expedited Wind Energy Development Area
Filing number: **2016-074**
Effective date: 5/9/2016
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The 123rd Legislature enacted, "An Act to Implement Recommendations of the Governor's Task Force on Wind Power Development," PL 2007 ch. 661, that became effective April 18, 2008. The Act established the expedited permitting area for wind energy development, encompassing all of the organized area of the State and a portion of the unorganized and deorganized areas now served by the Land Use Planning Commission (LUPC or Commission). As directed by that legislation, the Commission adopted through rule-making the description and map of the expedited permitting area located in the Commission's rules as Appendix F to Ch. 10, *Land Use Districts and Standards*.

In 2015, the legislature enacted "An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission," PL 2015 ch. 265, that became effective January 1, 2016. The statutory change creates a six month time window within which registered voters in a given town, township, or plantation within the Commission's jurisdiction may petition to have a place removed from the expedited area. Title 35-A §3453-A describes the mechanism by which the petition process is to take place, and provides the opportunity for any person to object to the removal of the specified place by requesting "substantive review" of the petition. Pursuant to the provisions of this section, when a valid petition is filed, the specified place automatically will be removed unless a person requests substantive review.

Each of the petitions comply with the requirements of Title 35-A §3453-A(l) and (5). Specifically each individual petition:

- Was received between January 1 and June 20, 2016;
- Clearly states that the persons signing the petition are requesting the removal of the specified place from the expedited permitting area;
- Is signed by at least 10% of the number of registered voters residing in the township, plantation, municipality or portion thereof that voted in the most recent gubernatorial election;
- Is on a form provided by the Maine Land Use Planning Commission; and
- Does not include any land area within:
 - the project boundary of an existing or proposed, legally permitted expedited wind energy development;
 - the project boundary of a proposed expedited wind energy development, as described in the development permit application, that has been accepted for processing by the Department of Environmental Protection; and
 - any specified place added by rule to the expedited permitting area in accordance with section 3453 prior to January 1, 2016.

Fiscal impact of rule:

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

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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
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 760**: Maine Land Use Planning Staff; Stacie
Beyer – Hancock and Knox Counties
Filing number: **2016-075**
Effective date: 4/29/2016
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. 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 760

**PETITIONER OR
COPETITIONER**

Maine Land Use
Planning Staff;
Stacie Beyer

LOCATION

Hancock and Knox Counties

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §§ 685-A(7-A)
Chapter number/title: **Ch. 10**, Land Use District and Standards: **Appendix E**, FEMA Maps for the LUPC Jurisdiction
Filing number: **2016-104**
Effective date: 5/9/2016
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The LUPC repeals and replaces Appendix E to facilitate a reorganization of the list by county and by minor civil division. Other changes to the appendix include adding references to new county-wide Flood Insurance Rate Maps for Knox and Hancock Counties, removing asterisks indicating that base flood elevation data is available, and improving consistency in formatting.

Fiscal impact of rule:
N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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
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 674A:** Michael Beaulieu, St. John Plt.,
N Aroostook County; **ZP 753:** ME Land Use Planning
Commission Staff, & Jason Bouchard Family Trust, T9 R8
WELS, S Aroostook County; **ZP 754:** Marianne McEnrue, T10
R11 WELS, Piscataquis County; **ZP 761:** Peter Lee, Freeman
Twp., Franklin County; **ZP 762:** ME Land Use Planning
Commission Staff, & Norvest LLC, T4 R8 & T5 R8 WELS,
Penobscot County
Filing number: **2016-110**
Effective date: 6/28/2016
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. 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 674A ZP 753	Michael Beaulieu ME Land Use Planning Commission Staff, & Jason Bouchard Family Trust	St. John Plt., N Aroostook County T9 R8 WELS, S Aroostook County
ZP 754 ZP 761 ZP 762	Marianne McEnrue Peter Lee ME Land Use Planning Commission Staff, & Norvest LLC	T10 R11 WELS, Piscataquis County Freeman Twp., Franklin County T4 R8 & T5 R8 WELS, Penobscot County

Fiscal impact of rule:
N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §685-A sub-§§ (3),(7-A), §685-C sub-§(5)(A)
Chapter number/title: **Ch. 10**, Land Use Districts and Standards: Road Setbacks and Accessory Structures
Filing number: **2016-134**
Effective date: 8/9/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Commission updates its rules to reduce the distance structures must be set back from the road to 30 feet in Residential Development (D-RS) and General Development (D-GN) subdistricts with corresponding reductions in vegetative buffers. The Commission also reduces the road setback requirement for residential structures on State and Federal Routes from 75 feet to either 50 or 30 feet, dependent on subdistrict. The Commission allows flexible road setbacks of no less than 20 feet from interior roads for non-residential development on a case by case basis according to performance criteria. The Commission also allows, under certain conditions, residential accessory structures to be placed on new or existing, nonconforming lots across the road from the residence. In addition, the Commission adopts edits to the accessory structure by standard use listing to clarify that accessory structures must be located in subdistricts which allow their associated principal use. Changes to the subdistrict use listings clarify that accessory structures may be allowed in LUPC jurisdiction by permit or special exception.

Basis statement:

The primary objective of this rule-making is to revise the Commission's rules regarding road setbacks and the placement of residential accessory buildings.

Often, in more densely developed areas, it is appropriate to permit structures closer to the road than has been allowed. This rule revision will reduce, for all structures, the required road setback and corresponding vegetative buffer to 30 feet in the more densely developed D-RS and D-GN subdistricts. This will allow property owners in those subdistricts more choices in where to place their structures. Because the D-RS and D-GN subdistricts are more densely developed and because historical development in many locations within these subdistricts is close to the road, this change will not adversely affect the character of most areas within those subdistricts.

Prior to this proposed rule revision, 75 foot road setbacks have been required for residential structures on Federal and State routes. While researching vehicular safety topics associated with road setbacks, Commission Staff found that there was not a public safety basis for this large setback requirement. Therefore, the proposed rule revisions would eliminate the road setback requirement specific to Federal and State routes. The effect of this will be to reduce the road setback requirement for residential structures on Federal and State routes to either 50 or 30 feet, dependent on subdistrict.

On some internal roads in commercial developments, the required road setbacks are excessive to meet the Commission's goals. The rule revisions would allow flexible road setbacks of no less than 20 feet from interior roads in non-residential developments on a case by case basis according to performance criteria. The performance criteria are intended to ensure that effects on the scenic character are confined to those visiting the facility.

In some locations the best place for a residential accessory structure is on a smaller sized lot across the road from the residence. In cases where the road is not owned by the applicant, it has been problematic to permit such accessory structures. The rule revision allows residential accessory structures to be permitted on new or existing nonconforming lots across the road from residences under certain conditions. These conditions include: that the residential and accessory

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A sub-§5

lots would be continuous except for the road between them; the residential and accessory lots are owned or leased in common; zoning and accessory use conditions are met; and the accessory lot and accessory structure meet certain dimensional requirements. The rule revision also requires an applicant to record the permit for such an accessory structure in the county registry of deeds along with the accessory lot deed. This provision is intended to help avoid future nonconforming uses or development of the accessory lot. The revision also spells out various options for when the accessory structure must be removed or when it may remain if the common ownership or lease of the two lots is terminated.

Since the prior rule revision that added a separate "Accessory Structure" use listing to the "Without a Permit Subject to Standards" sections of some subdistricts, there has been some ambiguity about whether accessory structures are allowed with a permit. These rule revisions clarify that accessory structures may be allowed in LUPC jurisdiction by permit or special exception. In addition, the rule edits the accessory structure by standard use listing to clarify that accessory structures must be located in subdistricts which allow their associated principal use.

Fiscal impact of rule:

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

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
Umbrella-Unit: **01-672**
Statutory authority: 12 MRS §685-C(5)(A); 35-A MRS §3453-A
Chapter number/title: **Ch. 10**, Land Use Districts and Standards: **Appendix F**, Expedited Wind Energy Development Area
Filing number: **2016-135**
Effective date: 8/9/2016
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The 123rd Legislature enacted, "An Act to Implement Recommendations of the Governor's Task Force on Wind Power Development," Public Law 2007, Ch. 661 that became effective April 18, 2008. The Act established the expedited permitting area for wind energy development, encompassing all of the organized' area of the State and a portion of the unorganized and deorganized areas now served by the Land Use Planning Commission (LUPC or Commission). As directed by that legislation, the Commission adopted through rule-making the description and map of the expedited permitting area located in the Commission's rules as Appendix F to Ch. 10, *Land Use Districts and Standards*.

In 2015, the legislature enacted "An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission," Public Law 2015, Ch. 265 that became effective January 1, 2016. The statutory change creates a six month time window within which registered voters in a given town, township, or plantation within the Commission's jurisdiction may petition to have a place removed from the expedited area. Title 35-A, section 3453-A describes the mechanism by which the petition process is to take place, and provides the opportunity for any person to object to the removal of the specified place by requesting "substantive review" of the petition. Pursuant to the provisions of this section, when a valid petition is filed, the specified place automatically will be removed unless a person requests substantive review.

Each of the petitions listed below comply with the requirements of Title 35-A, Section 3453-A(l) and (5). Specifically each individual petition:

- Was received between January 1 and June 20, 2016;
- Clearly states that the persons signing the petition are requesting the removal of the specified place from the expedited permitting area;
- Is signed by at least 10% of the number of registered voters residing in the township, plantation, municipality or portion thereof that voted in the most recent gubernatorial election;
- Is on a form provided by the Maine Land Use Planning Commission; and
- Does not include any land area within:
 - the project boundary of an existing or proposed, legally permitted expedited wind energy development;
 - the project boundary of a proposed expedited wind energy development, as described in the development permit application, that has been accepted for processing by the Department of Environmental Protection; and
 - any specified place added by rule to the expedited permitting area in accordance with section 3453 prior to January 1, 2016.

Fiscal impact of rule:
(No Fact Sheet included)

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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
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 265** (Wyman Twp., Franklin County) (petitioner
Maine LUPC staff) (*Supersedes 9-20-2016 filing (not accepted); later
superseded by 2016-203*)
Filing number: **2016-183**
Effective date: 10/19/2016
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. 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 265

**PETITIONER OR
COPETITIONER**

Maine Land Use
Planning Commission
Staff

LOCATION

Wyman Twp., Franklin County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
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 (Miscellaneous Rule Revisions)
Filing number: **2016-184**
Effective date: 11/18/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Commission adopted miscellaneous rule revisions to Ch. 10, *Land use Districts and Standards*, in order to ensure that the rules are up-to-date, accurate, and as clear as possible. The revisions cover numerous general housekeeping matters, such as correcting citation and typographical errors, updating references, and clarifying certain provisions.

Basis statement:

At its meeting on September 28th, 2016, the Commission adopted miscellaneous rule revisions to Ch. 10, *Land use Districts and Standards*, in order to ensure that the rules are up-to-date, accurate, and as clear as possible. The revisions cover numerous general housekeeping matters, such as correcting citation and typographical errors, updating references, and clarifying certain provisions.

Key changes to the rules include:

- Clarification of certain provisions by adding or removing words or phrases to better communicate the intent of the rule. Clarifications include:
 - Replacing "and" with "or";
 - Removing the phrase "this section", and replacing it with the appropriate legal reference;
 - Adding simple diagrams;
 - Adding specific subdistricts to existing tables, including adding the Rural Business Development Subdistrict (D-RB) to Table 10.25,F-1 in the Noise and Lighting Standards (Section 10.25,F);
 - Adding, removing, or correcting legal references; and
 - Adding clarifying language or cross-references to certain provisions.
- Correction of references to state and federal agencies, outside documents referred to in rule, and statutes. Corrections include:
 - Specific names of state and federal agencies;
 - Standardization of various references to outside documents referred to in rule; and
 - Standardization of statutory quotes and citations.
- Updates to lake and Minor Civil Division (MCD) place names and outside documents that are referred to in rule. Updates include:
 - References to natural features, waterbodies, and MCDs to reflect changed place names;
 - References to outside documents referred to in rule to reflect the most current versions. The documents include:
 - *Corps of Engineers Wetland Delineation Manual* and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual, North central and Northeast Region* (U.S. Army Corps of Engineers);
 - *Maine Stormwater Best Management Practices Manual, Volume II: Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development* (Maine Departments of Environmental Protection);

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- "Maine Erosion and Sediment Control Practices Field Guide for Contractors" (Maine Department of Environmental Protection);
 - "Dealing with Unnumbered A Zones in Maine Floodplain Management" (Maine Floodplain Management Program); and
 - *Coastal Construction Manual* (Federal Emergency Management Agency).
- Correction of typos and formatting. Corrections include misspelled words, punctuation, and holding section headings.

Fiscal impact of rule:

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

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
Umbrella-Unit: **01-672**
Statutory authority: 35 MRS §3453-A; 12 MRS §685-C(5)(A)
Chapter number/title: **Ch. 10**, Land Use Districts and Standards: **Appendix F**, Expedited Wind Energy Development Area (*re: nine petitions*)
Filing number: **2016-185**
Effective date: 11/18/2016
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The 123rd Legislature enacted *An Act to Implement Recommendations of the Governor's Task Force on Wind Power Development*, PL 2007 ch. 661 that became effective April 18, 2008. The Act established the expedited permitting area for wind energy development, encompassing all of the organized area of the State and a portion of the unorganized and deorganized areas now served by the Land Use Planning Commission (LUPC or Commission). As directed by that legislation, the Commission adopted through rule-making the description and map of the expedited permitting area located in the Commission's rules as Appendix F to Ch. 10, *Land Use Districts and Standards*.

In 2015, the legislature enacted *An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission*, PL 2015 ch. 265, that became effective January 1, 2016. The statutory change creates a six month time window within which registered voters in a given town, township, or plantation within the Commission's jurisdiction may petition to have a place removed from the expedited area. Title 35-A §3453-A describes the mechanism by which the petition process is to take place, and provides the opportunity for any person to object to the removal of the specified place by requesting "substantive review" of the petition. Pursuant to the provisions of this section, when a valid petition is filed, the specified place automatically will be removed unless a person requests substantive review.

This rule adoption deals with nine relevant petitions. Each of the petitions complies with the requirements of Title 35-A §3453-A(1) and (5). Specifically each individual petition:

- Was received between January 1 and June 20, 2016;
- Clearly states that the persons signing the petition are requesting the removal of the specified place from the expedited permitting area;
- Is signed by at least 10% of the number of registered voters residing in the township, plantation, municipality or portion thereof that voted in the most recent gubernatorial election;
- Is on a form provided by the Maine Land Use Planning Commission; and
- Does not include any land area within:
 - the project boundary of an existing or proposed, legally permitted expedited wind energy development;
 - the project boundary of a proposed expedited wind energy development, as described in the development permit application, that has been accepted for processing by the Department of Environmental Protection; and
 - any specified place added by rule to the expedited permitting area in accordance with §3453 prior to January 1, 2016.

Fiscal impact of rule:
(No Fact Sheet included)

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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**
Umbrella-Unit: **01-672**
Statutory authority: 35 MRS §3453-A; 12 MRS §685-C(5)(A)
Chapter number/title: **Ch. 10**, Land Use Districts and Standards: **Appendix F**, Expedited Wind Energy Development Area (*re: three petitions*)
Filing number: **2016-186**
Effective date: 11/18/2016
Type of rule: Routine Technical
Emergency rule: No

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

Basis statement:

The 123rd Legislature enacted *An Act to Implement Recommendations of the Governor's Task Force on Wind Power Development*, PL 2007 ch. 661 that became effective April 18, 2008. The Act established the expedited permitting area for wind energy development, encompassing all of the organized area of the State and a portion of the unorganized and deorganized areas now served by the Land Use Planning Commission (LUPC or Commission). As directed by that legislation, the Commission adopted through rule-making the description and map of the expedited permitting area located in the Commission's rules as Appendix F to Ch. 10, *Land Use Districts and Standards*.

In 2015, the legislature enacted *An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission*, PL 2015 ch. 265, that became effective January 1, 2016. The statutory change creates a six month time window within which registered voters in a given town, township, or plantation within the Commission's jurisdiction may petition to have a place removed from the expedited area. Title 35-A §3453-A describes the mechanism by which the petition process is to take place, and provides the opportunity for any person to object to the removal of the specified place by requesting "substantive review" of the petition. Pursuant to the provisions of this section, when a valid petition is filed, the specified place automatically will be removed unless a person requests substantive review.

This rule adoption deals with three relevant petitions. Each of the petitions complies with the requirements of Title 35-A §3453-A(1) and (5). Specifically each individual petition:

- Was received between January 1 and June 20, 2016;
- Clearly states that the persons signing the petition are requesting the removal of the specified place from the expedited permitting area;
- Is signed by at least 10% of the number of registered voters residing in the township, plantation, municipality or portion thereof that voted in the most recent gubernatorial election;
- Is on a form provided by the Maine Land Use Planning Commission; and
- Does not include any land area within:
 - the project boundary of an existing or proposed, legally permitted expedited wind energy development;
 - the project boundary of a proposed expedited wind energy development, as described in the development permit application, that has been accepted for processing by the Department of Environmental Protection; and
 - any specified place added by rule to the expedited permitting area in accordance with §3453 prior to January 1, 2016.

Fiscal impact of rule:
(No Fact Sheet included)

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
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
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 265** (Wyman Twp., Franklin County) (petitioner
Maine LUPC staff) (*Supersedes 9-20-2016 filing (not accepted) and
2016-183*)
Filing number: **2016-203**
Effective date: 11/29/2016
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. 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 265

**PETITIONER OR
COPETITIONER**

Maine Land Use
Planning Commission
Staff

LOCATION

Wyman Twp., Franklin County

Fiscal impact of rule:

N/A