

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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: 32 MRS ch. 28 §§ 1861-1872
Chapter number/title: Ch. 360, The Returnable Beverage Container Law
Filing number: 2015-007
Effective date: 1/21/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Per legislative directive, clarification and updating of relevant sections of the Beverage Redemption rule including licensing, inspection, fees and count verification processes.

Basis statement:

During the First Regular session of the 126th Maine State Legislature, the Legislature adopted Ch. 275, LD 1080, "An Act To Improve Efficiency in the Collection of Beverage Containers", and Ch. 259, "An Act To Promote the Production of Maine Beverages".

The Department drafted updated rules in response to the directives during the fall of 2013 and conducted a public hearing on the rules on September 17, 2014. Notice of the rules and public hearing were posted on the Secretary of State website and in newspapers the week of August 27, 2014. In addition, a direct mailing to all licensed redemption centers and distributors and related stakeholders in the state was provided on August 27, 2014. Six (6) persons attended the September 17, 2014 hearing and 6 people testified. Comments were accepted through October 17, 2014.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry (*working with 01-015, Maine Milk Commission*)
Umbrella-Unit: 01-001
Statutory authority: 7 MRS §3154
Chapter number/title: Ch. 61, Maine Milk Pool – Cost of Administration
Filing number: 2015-118
Effective date: 8/1/2015
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 \$60,000 in 2014. Based on the last twelve months expenses, it is estimated that the Pool costs for similar expenses for 2015 will be about \$60,000.

The total pounds in the Pool for the last twelve months (January 2014 - December 2014) were 595,112,554. It is estimated that the total pounds in the Pool for 2015 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 2015 at \$0.01/cwt.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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: 32 MRS ch. 28 §§ 1861-1872
Chapter number/title: Ch. 360, The Returnable Beverage Container Law
Filing number: 2015-133
Effective date: 7/21/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Updating the rules governing *The Returnable Beverage Container Law* to add exemption from Universal Product Code (UPC) requirements for seasonally produced malt liquor products and variety packages of malt liquor products as defined by 28-A MRS §2 sub-§18.

Basis statement:

During the First Regular session of the 126th Maine State Legislature, the Legislature adopted Ch. 275, LD 1080, *An Act To Improve Efficiency in the Collection of Beverage Containers*, and Ch 259, *An Act To Promote the Production of Maine Beverages*.

The Department drafted updated rules in response to the directives during the fall of 2013 and conducted a public hearing on the rules on September 17, 2014. Those rules were adopted and subsequently DACF was informed of a conflict between the new rule and *Uniform Product Code* (UPC) requirements. Minor changes were proposed to correct this conflict. Notice of the updated UPC rules was posted on the Secretary of State and DACF website and in newspapers the week of May 13, 2015. In addition, an e-mail notification to interested parties was provided on May 13, 2015. Comments were accepted through June 15, 2015.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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: 2013 Public Law Ch. 403; 10 MRS Ch. 110 §1023-N; 7 MRS ch. 103 Article 1-A
Chapter number/title: Ch. 31, Rules for Potato Marketing Improvement Fund
Filing number: 2015-203
Effective date: 11/2/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule amendment implements revisions necessitated by 2013 Public Law Ch. 403 which amended 7 MRS Ch. 103, Article 1-A. This law change transferred administration of the Potato Marketing Improvement Fund from the Maine Department of Agriculture, Conservation and Forestry to the Maine Potato Board.

Basis statement / Summary:

This chapter establishes rules governing the expenditure of funds available from the sale of state bonds and loan repayments for the purposes of improved potato marketing systems, including the modernization, construction, and operation of storage, central packing facilities, and investment in industry infrastructure.

Fiscal impact of rule:

No fiscal impact anticipated.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #02-15**

Filing number: **2015-012**

Effective date: 2/1/2015

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 2015 minimum Class I price is \$19.49/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.43/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.58.

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 \$17.82/cwt. and a Class IV price of \$16.70/cwt. for December 2014.

The Class II price for December 2014 is \$19.09/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 \$19.49/cwt. plus \$1.35/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, 2015 and therefore should be passed on in minimum prices effective February 1, 2015. These prices also include a handling fee of \$1.86/cwt.

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

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #03-15**

Filing number: **2015-019**

Effective date: 3/1/2015

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 2015 minimum Class I price is \$18.81/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$2.33/cwt. handling fee for a total of \$24.22/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.55.

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 \$16.18/cwt. and a Class IV price of \$13.23/cwt. for January 2015.

The Class II price for January 2015 is \$16.18/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 \$18.81/cwt. plus \$1.35/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 20, 2015 and therefore should be passed on in minimum prices effective March 1, 2015. 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 Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #04-15**

Filing number: **2015-050**

Effective date: 4/29/2015

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 2015 minimum Class I price is \$18.75/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$2.33/cwt. handling fee for a total of \$24.16/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.55.

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 \$15.46/cwt. and a Class IV price of \$13.82/cwt. for February 2015.

The Class II price for February 2015 is \$14.88/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 \$18.75/cwt. plus \$1.35/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 19, 2015 and therefore should be passed on in minimum prices effective March 1, 2015. 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 Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #05-15**

Filing number: **2015-079**

Effective date: 5/3/2015

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 2015 minimum Class I price is \$19.08/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.02/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.54.

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 \$15.56/cwt. and a Class IV price of \$13.80/cwt. for March 2015.

The Class II price for March 2015 is \$14.50/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 \$19.08/cwt. plus \$1.35/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 23, 2015 and therefore should be passed on in minimum prices effective May 3, 2015. These prices also include a handling fee of \$1.86/cwt.

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

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #06-15**

Filing number: **2015-102**

Effective date: 5/31/2015

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 2015 minimum Class I price is \$19.39/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.33/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.57.

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 \$15.81/cwt. and a Class IV price of \$13.51/cwt. for April 2015.

The Class II price for April 2015 is \$14.98/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 \$19.39/cwt. plus \$1.35/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 31, 2015 and therefore should be passed on in minimum prices effective May 3, 2015. These prices also include a handling fee of \$1.86/cwt.

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

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #07-15**

Filing number: **2015-117**

Effective date: 6/28/2015

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 2015 minimum Class I price is \$19.78/cwt. plus \$1.35/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 \$24.26/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.56.

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 \$16.19/cwt. and a Class IV price of \$13.91/cwt. for May 2015.

The Class II price for May 2015 is \$14.91/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 \$19.78/cwt. plus \$1.35/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 18, 2015 and therefore should be passed on in minimum prices effective June 28, 2015. 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, 2015 to December 31, 2015
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 #08-15**

Filing number: **2015-137**

Effective date: 8/2/2015

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 2015 minimum Class I price is \$19.53/cwt. plus \$1.35/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 \$24.01/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.54.

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 \$16.72/cwt. and a Class IV price of \$13.90/cwt. for June 2015.

The Class II price for June 2015 is \$14.77/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 \$19.53/cwt. plus \$1.35/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 23, 2015 and therefore should be passed on in minimum prices effective August 2, 2015. 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, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-015**

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

Chapter number/title: **Ch. 3**, Schedule of Minimum Prices, **Order #09-15**

Filing number: **2015-157**

Effective date: 8/30/2015

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 2015 minimum Class I price is \$19.59/cwt. plus \$1.35/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 \$24.07/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.55.

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 \$16.33/cwt. and a Class IV price of \$13.15/cwt. for July 2015.

The Class II price for July 2015 is \$14.70/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 \$19.59/cwt. plus \$1.35/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 20, 2015 and therefore should be passed on in minimum prices effective August 30, 2015. 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, 2015 to December 31, 2015
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 #10-15**

Filing number: **2015-177**

Effective date: 10/4/2015

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 2015 minimum Class I price is \$19.09/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/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 \$3.55.

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 \$16.27/cwt. and a Class IV price of \$12.90/cwt. for August 2015.

The Class II price for August 2015 is \$14.54/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 \$19.09/cwt. plus \$1.35/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 24, 2015 and therefore should be passed on in minimum prices effective October 4, 2015. These prices also include a handling fee of \$1.86/cwt.

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

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #11-15**

Filing number: **2015-200**

Effective date: 11/1/2015

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 2015 minimum Class I price is \$19.73/cwt. plus \$1.35/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 \$24.21/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.58.

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 \$15.82/cwt. and a Class IV price of \$15.08/cwt. for September 2015.

The Class II price for September 2015 is \$15.36/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 \$19.73/cwt. plus \$1.35/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 27, 2015 and therefore should be passed on in minimum prices effective November 1, 2015. 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, 2015 to December 31, 2015
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 #12-15**

Filing number: **2015-229**

Effective date: 11/29/2015

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 2015 minimum Class I price is \$19.96/cwt. plus \$1.35/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 \$24.44/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.60.

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 \$15.46/cwt. and a Class IV price of \$16.43/cwt. for October 2015.

The Class II price for October 2015 is \$16.44/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 \$19.96/cwt. plus \$1.35/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 19, 2015 and therefore should be passed on in minimum prices effective November 29, 2015. 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, 2015 to December 31, 2015
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: 7 MRS §2954

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

Filing number: **2015-254**

Effective date: 12/26/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

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

Basis statement:

I. BACKGROUND AND STATUTORY FRAMEWORK

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

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

The procedure employed to arrive at the dealer margin includes both independent investigation and a public hearing. 7 MRS §2954(1); *Cumberland Farms Northern, Inc.*, 377 A.2d at 88. The Commission conducts a public hearing on the proposed dealer margin. After considering the input of processors, any other interested parties, and the public, the Commission adopts a rule establishing the dealer margin. This margin is the minimum return that processors are guaranteed until a new study is completed. Processors may obtain a higher price for a gallon of milk from retailers, but the price paid by retailers cannot be below the dealer margin. A new cost study is required every three years. 7 MRS §2952-A(3). In June of 2014, the Commission contracted with Herbein & Co. of Reading, Pennsylvania to conduct a new dairy processing cost study to be used as the basis for setting new dealer margins. This is the twelfth major pricing order the Commission has set, and embodies continued improvement and refinement over earlier orders. With each new order the data, and the information made available and reviewed by the Commission, has become more detailed and specific.

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

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

II. THE STUDY & PUBLIC HEARING

Herbein & Co., Inc. reviewed the relevant Maine statutes, evaluated prior cost studies, and considered the milk manufacturing landscape in Maine. (The procedures performed by Herbein & Co. staff were developed by Dave Stonesifer and all the work and analysis conducted was reviewed by Mr. Stonesifer.) A review of prior cost studies revealed that the model used to determine the lowest achievable price generated numbers that exceeded dealers' actual processing costs. Thus, basing the dealer margin on the lowest theoretical price was resulting in hidden profits that accrued to the processors and higher costs to retail consumers. After consideration, the Commission determined that using actual cost data based on a substantial and representative group of processors provides a more accurate depiction of the lowest achievable prices and therefore approved Herbein & Co.'s approach to calculating lowest achievable prices.

Herbein & Co. determined that Maine's two largest processing plants should be included in the study and gathered a significant volume of financial, manufacturing and distribution data from these operations. Accordingly, the Herbein & Co. study utilizes the actual costs for the two largest processing plants in Maine, along with 15 other plants that are comparable to those doing business in the state of Maine. The costs for the 17 plants were combined using a weighted average (based on volume) to arrive at the benchmarked averages. The costs used were extracted from the 2014 calendar year. Container costs also reflected average costs for 2014.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 #01-16**

Filing number: **2015-260**

Effective date: 1/3/2016

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 January 2016 minimum Class I price is \$19.29/cwt. plus \$1.35/cwt. for Producer margins and a \$1.53/cwt. that reflects premiums being offered and prevailing in Southern New England and \$1.86/cwt. handling fee for a total of \$24.23/cwt., which includes a processor assessment of \$0.20/cwt. Thus the minimum retail price of a gallon of whole milk is set at \$3.59.

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 \$15.30/cwt. and a Class IV price of \$16.89/cwt. for October 2015.

The Class II price for November 2015 is \$18.26/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 \$19.29/cwt. plus \$1.35/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 24, 2015 and therefore should be passed on in minimum prices effective January 1, 2016. These prices also include a handling fee of \$1.86/cwt.

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

Fiscal impact of rule:

None.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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, B
Chapter number/title: **Ch. 17**, Rule Violations; Penalties
Filing number: **2015-090**
Effective date: 5/18/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment to Ch. 17 will change the penalties imposed for violating the Commission rules. Further, the changes will replace level of penalties to categories. These changes will mirror what the Association of Racing Commission International (ARC I) recommends to all jurisdictions. Further, there are minor corrections to spelling and grammar throughout the chapter.

Basis statement:

The changes to this chapter were made to correct grammar and to bring the penalties for prohibited substance violations in line with standards developed by the Association of Racing Commissioners International. The Commission determined that these corrections and changes to the penalties for Prohibited Substance violations were in keeping with other industry jurisdictions.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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. 9**, Sire Stakes: Section 5, Purse Structure, Sub-section 2
Filing number: **2015-259**
Effective date: 12/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment updates Ch. 9 to account for the additional revenue stream arising from the new casino in Oxford and allow a portion of the revenues designated to the Sire Stakes Fund to be used to promote the Sire Stakes Program.

Basis statement:

The Commission proposed a relatively minor amendment to Section 5 of Ch. 9 in order to update the rule to reflect the additional revenue generated through the Oxford Casino. The amendment allows for a portion of the casino revenue dedicated to the sire stakes to be used for promotional purposes, similar to the other revenue dedicated to the sire stakes.

Fiscal impact of rule:

None

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-026**

Statutory authority: 7 MRS §610(2), 22 MRS §1471-M

Chapter number/title: **Ch. 22**, Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition

Filing number: **2015-075**

Effective date: 5/24/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

Improve the effectiveness of the rule by eliminating the requirement for identifying sensitive areas for biting fly and tick applications, and linear rights-of-way applications if the applicator implements a drift management plan and advance public notice is published in a newspaper of general circulation in the affected area. Given that all areas are “sensitive areas” by definition in a residential area, mapping them has little value, and signage would be of greater public benefit.

Basis statement:

The requirement to identify and map sensitive areas (which include areas likely to be occupied) serves little purpose in a residential area. Consequently the Board exempted common residential ornamental, turf, and outdoor structural general pest control applications when the rule was originally promulgated in 1987. Instead, the Board required applicators to post treated areas under Ch. 28. In recent years, the Board observed that there are now a couple of other types of common residential pesticide applications: biting fly and tick applications and certain types of application made under the industrial/commercial/municipal vegetation management category. Consequently, the Board proposed exempting these applications from the requirement to identify sensitive areas under Ch. 22 in exchange for a posting or notification requirement in Ch. 28. Applicators treating vegetation on trails and sidewalks would need to also implement a drift management plan

In addition, the Board saw little value in identifying sensitive areas for common right-of way (category 6A) spraying and proposed exempting this category from the requirement to identify sensitive areas in exchange for implementing a drift management plan and publishing notice of the application in the newspaper under Ch. 28.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-026**

Statutory authority: 22 MRS §1471-M(2)(D)

Chapter number/title: **Ch. 28**, Notification Provisions for Outdoor Pesticide Applications

Filing number: **2015-076**

Effective date: 5/24/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

Add to the list of categories that require posting: 1) applications for biting fly and other arthropod vectors and 2) applications for industrial/commercial/municipal vegetation management, except when making applications to sidewalks and trails, provided that an advance public notice of the proposed treatment is published. This aligns with the proposed amendments to Ch. 22, eliminating the requirement for mapping sensitive areas, in lieu of posting, which is of greater public benefit in these instances.

Basis statement:

Ch. 28 requires applicators to post certain types of treatments commonly made in residential areas instead of identifying sensitive areas under Ch. 22. In recent years, the Board observed that there are now a couple of other types of common residential applications: ticks and mosquitoes (licensing category 7E) and certain types of vegetation management applications made under licensing category 6B (except trails and sidewalks). Consequently, the Board proposed adding these types of applications to the list of licensing categories that require posting.

Applications for rights-of-way vegetation management are routinely given variances from the Ch. 22 requirement to map sensitive areas provided the applicator publishes notice in a newspaper and implements a drift management plan. The Board felt it made sense to put these requirements in rule, thus eliminating the necessity of applying for a variance every year. Consequently, the Board proposed adding to Ch. 28 the requirement for a newspaper notice for right-of-way spraying, including trails and sidewalks.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-026**

Statutory authority: 22 MRS §1471-D

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

Filing number: **2015-168**

Effective date: 9/23/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

All of the amendments are intended to simplify and standardize licensing and certification periods and/or to clarify ambiguous rule language.

Basis statement:

Four amendments are proposed:

1. Change the license period from two years to three; change the certification period from six years to three and align the licensing and certification periods.
2. Amend the description of Category 6B to clarify what types of applications are included.
3. Change the requirement for passing both the core and category exams within one year of each other to within five years.
4. Clarify that certified or licensed wastewater or drinking water operators are exempt from licensing only while applying pesticides to the wastewater or drinking water and not while performing other duties such as weed management.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Agriculture, Conservation and Forestry,
Board of Pesticides Control
Umbrella-Unit: **01-026**
Statutory authority: 22 MRS §1471-D
Chapter number/title: **Ch. 34**, Certification and Licensing Provisions / Pesticide Dealers
Filing number: **2015-169**
Effective date: 9/23/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

All of the amendments are intended to simplify and standardize licensing and certification periods and/or to clarify ambiguous rule language.

Basis statement:

Two amendments to Ch. 34 were proposed by the Board:

1. Shorten the time period a person must wait before re-taking an exam they have failed. This change would align Ch. 34 with other Board licensing rules.
2. Change the license period from one year to three; change the certification period from five years to three and align the licensing and certification periods to be consistent with other Board licenses.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

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

Umbrella-Unit: **01-026**

Statutory authority: 22 MRS §1471-D

Chapter number/title: **Ch. 35**, Certification and Licensing Provisions / Spray Contracting Firms

Filing number: **2015-170**

Effective date: 9/23/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

All of the amendments are intended to simplify and standardize licensing and certification periods and/or to clarify ambiguous rule language.

Basis statement:

Two amendments to Ch. 35 were proposed by the Board:

1. Remove the requirements for spotters and monitors for forest insect aerial spray programs.
2. Change the license period from two years to three.

Fiscal impact of rule:

The amendments should reduce the administrative burden on businesses.

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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: Sec.1 38 MRS §480-E-3 as enacted by PL 2011 ch. 599 and amended by PL 2014 ch. 570

Chapter number/title: **Ch. 31**, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas

Filing number: **2015-139**

Effective date: 8/30/2015

Type of rule: Major Substantive

Emergency rule: No

Principal reason or purpose for rule:

The Maine Department of Environmental Protection has delegated permitting authority under the *Natural Resource Protection Act* to the Maine Forest Service. Water crossing standards are currently different in Maine Forest Service Ch. 21 rules and Maine Department of Environmental Protection Ch. 305 rules. This rule-making amends water crossings standards in MFS Ch. 21 to be consistent with DEP Ch. 305.

Basis statement:

The law requires the Commissioner of Agriculture, Conservation and Forestry, through the Bureau of Forestry, aka the Maine Forest Service (MFS), "to establish performance standards for timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. The rules must provide the maximum opportunity for flexibility that achieves the goal of protecting the public resources while minimizing the impact on private resources." It also delegates permit granting authority under the *Natural Resources Protection Act* (NRPA) from the Department of Environmental Protection (DEP) to MFS. The 2013 amendments clarified that MFS's authority to grant permits extended statewide.

Fiscal impact of rule:

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

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 – Off-Road Recreational Vehicle Office**

Umbrella-Unit: **01-670**

Statutory authority: 12 MRS ch. 22 §1893-3

Chapter number/title: **Ch. 9**, Rules for Snowmobile Capital Equipment Grant-In-Aid Program

Filing number: **2015-155**

Effective date: 8/29/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule changes is to correct inconsistent/conflicting language, correct grammatical errors, and incorporate language to implement a grant scoring system.

Basis statement:

Title 12 MRS ch. 220 §1893-3 authorizes the Bureau's Off Road Recreational Vehicle Office to make grants-in-aid to political subdivisions. The purpose of the changes to the Capital Equipment Grant-In-Aid rule are to correct conflicting/inconsistent language, correct grammatical errors and to establish a grant scoring system, in an effort to distribute the grant money to the snowmobile clubs that are most in need. The Snowmobile Advisory Council voted unanimously to submit rule changes to implement a scoring system in order to prioritize grant applications.

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 – Off-Road Recreational
Vehicle Office**

Umbrella-Unit: **01-670**

Statutory authority: 12 MRS ch. 22 §1893-3

Chapter number/title: **Ch. 10**, Rules for Snowmobile Disaster Relief
Grant-In-Aid Program

Filing number: **2015-156**

Effective date: 8/29/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To identify the process and define the terms and conditions for making disaster relief grants-in-aid to snowmobile clubs and political subdivisions for the remediation of catastrophic events that significantly impact funded trail connectivity.

Basis statement:

Title 12 MRS ch. 220 §1893-3 authorizes the Bureau's Off Road Recreational Vehicle Office to make grants-in-aid to political subdivisions. The purpose of this rule is to establish the Bureau's Disaster Relief Grants-in-Aid Program, identify the process for qualified snowmobile clubs or political subdivisions to use to apply for Disaster Relief Grants, and to define the terms and conditions of the Grants.

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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), 680
Chapter number/title: **Ch. 10**, Land Use Guidance Maps (Amended Zoning Maps), Zoning Petition **ZP 751** (T9 R7 WELS – Aroostook County)
Filing number: **2015-082**
Effective date: 5/5/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This filing 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 751

**PETITIONER OR
COPETITIONER**

ME Inland Fisheries
and Wildlife

LOCATION

T9 R7 WELS - Aroostook County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 749**: (Hibberts Gore, Monhegan Island Plt., Muscongus
Bay Coastal Islands – Lincoln County; Perkins Twp., Swan Island –
Sagadahoc County)
Filing number: **2015-095**
Effective date: 5/21/2015
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 749

**PETITIONER OR
COPETITIONER**

Maine Land Use
Planning Commission

LOCATION

Hibberts Gore, Monhegan Island
Plt., Muscongus Bay Coastal
Islands – Lincoln County;
Perkins Twp., Swan Island –
Sagadahoc County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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: Designation of Areas of Cultural or Special Significance

Filing number: **2015-100**

Effective date: 5/29/2015

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*, that would allow the Commission to designate areas of cultural, historical, or other special significance. Within a designated area, applicants would be able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. In designating a proposed area, the Commission would consider the unique cultural or historic characteristics of the proposed area that may benefit the public by preserving the look and feel of the community, attracting visitors and new residents, and enhancing the quality of life for residents. Once an area is designated by the Commission, its purpose, specific geographic location, and other relevant information would be recorded in an Appendix to Ch. 10, *Land Use Districts and Standards*, and property owners within the designated area would then be able to apply for a permit to reconstruct in place or replace structures, so long as the proposed reconstruction project conforms with the purpose of the designation.

Basis statement:

The Maine Land Use Planning Commission adopts rule changes to its Ch. 10, *Land Use Districts and Standards*, that allow the Commission to designate areas of cultural, historical, or other special significance. Within a designated area, applicants will be able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. In designating a proposed area, the Commission will consider the unique cultural or historic characteristics of the proposed area that may benefit the public by preserving the look and feel of the community, attracting visitors and new residents, and enhancing the quality of life for residents. Once an area is designated by the Commission, its purpose, specific geographic location, and other relevant information will be recorded in an Appendix G to Ch. 10, *Land Use Districts and Standards*, and property owners within the designated area will be able to apply for a permit to reconstruct or replace structures in place, so long as the proposed reconstruction project conforms with the purpose of the designation.

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, 2015 to December 31, 2015
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: Recreational Lodging and Revegetation Standards

Filing number: **2015-101**

Effective date: 5/29/2015

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: i) recreational lodging, ii) revegetation standards, and iii) administrative corrections and clarifications. Specifically, the Commission expands clearing limits for recreational lodging facilities; adds procedures for exceeding those limits; establishes dimensional requirements for campsites and residential campsites; and corrects and simplifies the definition of Residential Campsite. The rule clarifies, in cases where recreational lodging facilities are converted to another use, which dimensional requirements apply in general and those that must be met in the aggregate. This rule replaces existing general revegetation provisions with standards that are consistent with those administered by the Maine Department of Environmental Protection. It also addresses several administrative corrections and clarifications, such as unifying terms used and the format of citations.

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in Ch. 10, *Land Use Districts and Standards*, regarding: i) recreational lodging, ii) revegetation standards, and iii) administrative corrections and clarifications. Specifically, the rule changes expand clearing limits for recreational lodging facilities; add procedures for exceeding those limits; establish dimensional requirements for campsites and residential campsites; and correct and simplify the definition of Residential Campsite. The amended rule clarifies, in cases where recreational lodging facilities are converted to another use, which dimensional requirements apply in general and those that must be met in the aggregate. This rule replaces existing general revegetation provisions with standards that are consistent with those administered by the Maine Department of Environmental Protection, as well as addresses several administrative corrections and clarifications, such as unifying terms used and the format of citations.

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, 2015 to December 31, 2015
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 750** (Shawtown Twp. and T1 R12 WELS – Piscataquis
County)
Filing number: **2015-119**
Effective date: 7/2/2015
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 750

**PETITIONER OR
COPETITIONER**

AMC Maine Woods Inc.

LOCATION

Shawtown Twp. and
T1 R12 WELS –
Piscataquis County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 §§ 684, 685-A(3), 685-C(5)(A); 38 MRS §480-E-1

Chapter number/title: **Ch. 10**, Land Use Districts and Standards (*Natural Resource Protection Act* and Recreational Gold Prospecting)

Filing number: **2015-129**

Effective date: 7/24/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The primary objective of this rule-making is to review and update the agency's standards regarding certain protected natural resources to be consistent with the goals of the *Natural Resources Protection Act* (NRPA). The NRPA consistency rule-making focuses on the permit requirements for activities in and around wetlands and water bodies. In addition, changes to Ch. 10 conform with recent legislative changes relating to improved consistency in the regulation of motorized recreational gold prospecting.

Basis statement:

The Maine Land Use Planning Commission's primary objective for this rule-making effort is to review and update its *Land Use Districts and Standards* (Ch. 10) regarding certain protected natural resources to be consistent with the goals of the *Natural Resources Protection Act* (NRPA, 38 MRS §§ 480-A - 480-HH). This NRPA consistency rule-making focuses on the permit requirements for activities in and around wetlands and water bodies. In addition, changes are included for Section 10.27,G, "Motorized Recreational Gold Prospecting", to conform with Public Law 2013 ch. 260 and Public Law 2013 ch. 536 (enacting LD 1135, "An Act to Provide Consistency in the Regulation of Motorized Recreational Gold Prospecting" and LD 1671, "An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats", respectively). Key changes to the rules include:

- **Coastal wetlands/tidal waters.** The Commission recommended using a single term "coastal wetland" for all tidal waters, tidal lands and subtidal lands. Removing a distinction between these terms results in a change in the application of standards, particularly those relating to vegetative clearing and building heights. Under the proposal, vegetative buffer strips may increase, vegetation clearing standards will apply, and building heights will be limited adjacent to coastal wetlands. Also, the P-SL1 zoning will apply adjacent to all coastal wetland areas. This will not affect mapping, as all coastal shorelines were mapped P-SL1. The use of a single term for coastal resources is intended to improve consistency with the way the Department of Environmental Protection (DEP) regulates coastal resources, and to provide the same level of protection for coastal wetlands with salt tolerant vegetation as those without salt tolerant vegetation.

In addition, the Commission recommended changing the definition of coastal wetland and the normal high water line of coastal wetland areas to reference the "highest astronomical tide (NOAA HAT)" instead of the "maximum spring high tide level" or the "mean high water level." Important considerations in choosing a relevant elevation for establishing the boundary of a coastal wetland included whether the referenced level is included as a NOAA tidal datum with a published elevation, and the frequency that the elevation will change. "Maximum spring tide" is not defined

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

by NOAA or included as a NOAA tidal datum, and the elevation changes on an annual basis. The predicted "highest astronomical tide" is published by NOAA and changes on a 19-year basis. Annual changes to data and maps depends on a substantial allocation of staff time. Also, setback distances that change on a year-to-year basis can be problematic in terms of the standards that apply to structures that do not conform with setback distances. According to the Maine Geological Survey, the vertical difference, in general, between the "maximum spring tide" and the "highest astronomical tide" is a matter of inches.

- **Flowing water.** The rule revisions change the definition of flowing water to the language used by NRPA to define a river, stream, or brook. With the revision, the term "stream channel" is no longer necessary, so virtually all references to stream channel were changed to flowing water. Some upper headwater channels in the LUPC service area will no longer be considered as regulated flowing waters with this revised definition. The intent is to improve consistency and simplify the application process for joint DEP/LUPC review projects.
- **Critically imperiled (S1) or imperiled natural communities (S2).** S1 and S2 resources have been added to P-WL1 wetlands of special significance, consistent with NRP A. Currently, S I and S2 communities are reviewed under the standards in Section 10.25,E, "Scenic Character, Natural and Historic Features". Adding these resources to the list of P-WL1 wetlands will ensure activities that require permits in S1 or S2 communities have to meet the same level of review, avoidance standard, and compensation requirements as required by NRPA.
- 10.25.P - **Protected Natural Resources.** To allow for potential future rule-making on significant wildlife habitat and sand dunes, the Wetland Alterations rule is being replaced with a Protected Natural Resources rule, and this rule has been reorganized with placeholders for wildlife habitat and sand dune sections. No substantive changes for wildlife habitat and sand dunes are proposed in the present rule-making.

In addition, the Commission's Wetland Compensation Guidelines have been incorporated into this rule, consistent with the level of authority provided for compensation in NRP A. Also to improve consistency with NRPA, the amount of freshwater wetlands not of special significance that triggers the need for a functional assessment and compensation has been reduced from 20,000 square feet to 15,000 square feet, language has been added to clarify what is meant by "no unreasonable impact" as it relates to wetlands of special significance, and language has been added to clarify certain terms and conditions that may be established for wetland compensation projects.

- 10.27.F - **Filling and Grading.** The revision includes changes to the standards for filling and grading activities. The prior standard required that filling and grading activities adjacent to wetlands and water bodies be set back certain distances based on the slope of the land. These setback distances conflicted, in some instances, with the distance used for vegetative buffer strips in Vegetation Clearing (Section 10.27,B). To address this conflict, the table of setbacks has been deleted, a new, consistent standard for setbacks has been added, and a requirement limiting filling and grading activities, allowed subject to standards and located within 250 feet of certain wetlands and water bodies, to slopes of 20% or less has been added.

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, 2015 to December 31, 2015
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 (Exceptions to Dimensional Requirements for Public Recreational Facilities)

Filing number: **2015-130**

Effective date: 7/24/2015

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in the Ch. 10, *Land Use Districts and Standards*, that provide an exception to dimensional lot standards for certain public recreational facilities. The exceptions would apply to boat launches and trailheads that are owned, leased, or operated by a public entity. Eligible public facilities would be those that are within or surrounded by land protected by a conservation easement or other legally binding provisions that prohibit incompatible land uses in locations that would be affected by the reductions. The exceptions would be a minimum lot size of 20,000 square feet, minimum shoreline frontage of 100 feet, and minimum road frontage of 100 feet. The exceptions would be allowed only if the facility is otherwise sufficiently sized to fulfill the use for which it is designed.

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, 2015 to December 31, 2015
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 (Treatment of Non-Conforming Lots)

Filing number: **2015-131**

Effective date: 7/24/2015

Type of rule: Routine Technical

Emergency rule: No

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

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in the Ch. 10, *Land Use Districts and Standards*, to remove the term "waiver" in Section 10.11, E.3 and 4, and clarify the dimensional requirements that apply to nonconforming lots. This change is not intended to alter the type or location of development that may occur on non-conforming lots.

The Maine Land Use Planning Commission also adopts rule changes in the Ch.10, *Land Use Districts and Standards*, to amend Section 10.11, E.3 to allow permanent structures for the storage of personal property on lots in excess of 15,000 square feet with a minimum of 100 feet of shore frontage and 75 feet of road frontage, provided such structures do not rest on a permanent foundation, and do not exceed 160 square feet in area or 16 feet in height. This change is a response to demand for personal property storage that is not part of a residential campsite or accessory to a residential dwelling on certain pre-Commission lots that are too small to be developed as a residential campsite or with a residential dwelling. The dimensional standards associated with this change are intended to ensure that there are no undue impacts on neighboring properties or waterbodies.

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, 2015 to December 31, 2015
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 755** (Garfield Plt. – Aroostook County)
Filing number: **2015-151**
Effective date: 8/18/2015
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 750

**PETITIONER OR
COPETITIONER**

Katahdin Forest

LOCATION

Garfield Plt. –
Aroostook County

Fiscal impact of rule:

N/A

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
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 (Designation of Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance)

Filing number: **2015-153**

Effective date: 8/24/2015

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*, that would designate the Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance (DACSS). Within a DACSS, applicants are able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. The proposed DACSS includes the boathouses and public boat launches located in Hatchery Cove near the outlet to West Grand Lake. Three of the boathouses in this area were destroyed by fire on May 14, 2014. The boathouses and waterfront area are an iconic location in the village that has been a familiar visual backdrop for residents and visitors for the last 100 years. The area provides public benefits for residents and visitors by 1) adding to the quality of life; and 2) stimulating economic activity by drawing tourists.

Basis statement:

The Maine Land Use Planning Commission adopts rule changes in its Ch. 10, *Land Use Districts and Standards*, to include designation of the Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance (DACSS).

CRITERIA FOR DESIGNATION OF AREA OF CULTURAL OR SPECIAL SIGNIFICANCE

1. The proposed area includes an iconic location containing features that convey a sense of time or place to residents or visitors, as required by Ch. 10, Appendix G, Section 1,a,(1).
2. The proposed area is a geographically definable area or neighborhood composed of a finite group of related features that have a special character, historical interest, or aesthetic value, as required by Ch. 10, Appendix G, Section 1,a,(2).
3. The proposed area provides significant public benefits as required by Ch. 10, Appendix G, Section 1,a,(3).

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, 2015 to December 31, 2015
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-C(5)(A)

Chapter number/title: **Ch. 10**, Land Use Districts and Standards, for Subdivision
Technical Issues

Filing number: **2015-237**

Effective date: 12/7/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The primary objective of this rule-making is to revise the Commission's rules regarding certain technical standards that apply to subdivision development in response to specific issues identified by stakeholders in a recent facilitated rule review process. The Subdivision Technical Issues rule-making focuses on the requirements for soil suitability, maximum road grade, steep slopes and phosphorus control. In addition, changes are proposed to Chapter 10 to conform with legislative changes removing the requirement that proposed land use districts satisfy a demonstrated need in the community or area.

Basis statement:

The primary objective of this rule-making is to revise the Commission's rules regarding certain technical standards that apply to subdivision development in response to specific issues identified by stakeholders in a recent facilitated rule review process. The Subdivision Technical Issues rule-making focuses on the requirements for soil suitability, maximum road grade, steep slopes and phosphorus control. These amendments improve consistency between LUPC rules and other state requirements and guidelines, and, in the Commission's professional judgment, provide the regulated community with more flexibility in satisfying Commission standards while ensuring the Commission receives sufficient information to process subdivision applications. In addition, the changes to Ch. 10 conform with legislative changes removing the requirement that proposed land use districts satisfy a demonstrated need in the community or area. Public Law 2011, c. 682, §13 revised 12 MRS §685-A(8-A) by removing the requirement that proposed land use districts satisfy a demonstrated need in the community or area. The Commission, in this rule-making, is updating its rules to conform to the statute. Concurrent with the update of its rules, the Commission also withdraws the official guidance document titled "Clarifying the Rezoning Criterion of 'Demonstrating Need', effective April 1, 2004.

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, 2015 to December 31, 2015
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 756** (Bancroft Twp. – Aroostook County) Zoning Petition
7P 758 (Big Moose Twp. – Piscataquis County)
Filing number: **2015-250**
Effective date: 12/22/2015
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 756	ME Land Use Planning Commission	Bancroft Twp. – Aroostook County
ZP 758	C & E Real Estate, LLC	Big Moose Twp. – Piscataquis County

Fiscal impact of rule:

N/A