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01 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

015 MAINE MILK COMMISSION

Chapter 27: RETAIL MARGINS

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SUMMARY: This rule establishes minimum retail margins for milk sold in Maine.

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## I. BACKGROUND AND STATUTORY FRAMEWORK

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

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

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

Table 1 shows, for comparison purposes, the retail margins for the previous four Orders established in 1990, 1994, 1999, 2002, 2007, 2014, and 2017 as well as the margins proposed in this Order.

Table 1. Minimum Retail Margins Established by the Maine Milk Commission

Container type	1990	1994	1999*	2002*	2007*	2012	2015**	2018**	2021**
Gallon	\$0.2000	\$0.1850	\$0.1850	\$0.1967	\$0.3619	\$0.3588	\$0.3825	\$0.4588	<b>\$0.4478</b>
Half gallon	\$0.1300	\$0.1370	\$0.1050	\$0.1107	\$0.1609	\$0.1944	\$0.2258	\$0.2635	<b>\$0.2453</b>
Quart	\$0.1070	\$0.1280	\$0.0750	\$0.0929	\$0.0905	\$0.1122	\$0.1474	\$0.1659	<b>\$0.1441</b>
10-Quart				\$0.3520	\$0.4660	\$0.8971	\$0.9563	\$1.1469	<b>\$1.0551</b>
3-Quart				\$0.2250	\$0.2980	\$0.3365	\$0.4422	\$0.4977	<b>\$0.3465</b>

\* Prices for 1999 and 2002 are carried forward from 1994 Retail Margin Order. In 2007, prices reflect inflation adjusted prices from 1994 for finished farm products.

\*\* 10-Quart and 3-Quart sized containers no longer sold in marketplace, but the Commission is still required to set a minimum retail price, so retail margins for those sizes are estimations.

## II. 2022 MILK RETAILING COST STUDY

The Commission contracted with Herbein & Co. to conduct the retail margin study (the Study). The Study used data collected from fourteen retail locations throughout Maine comprising seven retail stores (Market Basket Biddeford, Hannaford Old Town, Hannaford Portland, Hannaford Lewiston, Shaw's Ellsworth, Shaw's Augusta, and Shaw's Portland), two large general retailers (Wal-Mart Brewer and Wal-Mart Augusta), and five convenience store chain locations (Cumberland Farms Skowhegan, Cumberland Farms Portland, and Cumberland Farms Lewiston, and C.N. Brown's Big Apple in South Portland and C.N. Brown's Big Apple in Gardiner). Each store completed a nine page questionnaire that solicited information on the retailing costs of milk.

### *Cost Categories*

The Study used the Kirkland method to determine the retail margin rates. Information from the store surveys were combined with other data to develop the rates to arrive at the final per unit cost for each milk container. More specifically, the final per unit retailing cost for each type of milk container was derived by adding together all of the costs, both direct and indirect.

Direct costs are defined as those costs explicitly attributable to receipt, movement, and storage of a fluid milk product. This cost category includes labor, equipment, capital, and electrical expenses. Labor costs include time spent ordering and receiving milk, stocking the coolers and fringe benefits. Equipment costs include the amortized per unit cost for coolers. Capital costs include land and building expenses, apportioned to the milk coolers and display space based upon the square footage occupied. Lastly, electricity costs to run the coolers are included, which is again allocated to each type of container based on the space it occupies in the cooler.

Indirect costs are defined as accrued costs that are not explicitly attributable to the direct handling of one specific product. Indirect costs are typically allocated across all product categories. Similar to direct costs, indirect costs allocated to milk include labor, capital, equipment, and electrical expenses. This category also includes store-level miscellaneous and overhead costs as well as corporate and division costs borne by the store. Labor costs cover cashier, bagger, and front-end management. Equipment costs include amortized replacement costs for scanners, lanes, and registers. Capital and electrical costs include space and electricity expenses incurred by the store services area. Miscellaneous and overhead expenses account for costs incurred at the store-level such as uncollected (“bad”) checks, telephone fees, water, training, etc. Lastly, corporate and division costs, a second type of miscellaneous and overhead expense, consist largely of operation costs and are typically apportioned to each store based on the individual store’s share of total corporate and division sales.

These indirect store costs are allocated to each type of milk container based on the proportion of floor space that they occupy relative to the total direct sales floor space of the store. Thus, if gallons of white milk occupy 1% of the store’s total floor space they would be assigned 1% of the indirect costs.

Table 2 shows the results of the Study.

Table 2. Retailing Costs by Type of Milk Container

CONTAINER TYPE	TOTAL COSTS
Gallon	\$0.4478
Half Gallon	\$0.2453
Quart	\$0.1441

### III. LOWEST PRACTICABLE PRICE

To achieve the lowest practicable price at which milk can be retailed and based on the results of the Study, the Commission establishes the following retail margins:

Gallon	\$0.4478
Half Gallon	\$0.2453
Quart	\$0.1441
10 Quart	\$1.0551*
3 Quart	\$0.3465*

\* Containers no longer sold or used in the marketplace, but the Commission is still required to set a minimum retail price.

IV. EFFECTIVE DATE

This Rule becomes effective **June 13, 2023** and shall be used thereafter in preparing the Schedule of Minimum Prices issued by the Commission.

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STATUTORY AUTHORITY: 7 M.R.S.A. §2954

EFFECTIVE DATE

October , 2014

REPEALED AND REPLACED

August 21, 2014

EFFECTIVE DATE:

December 12, 1990

REPEALED AND REPLACED:

December 4, 1994

ELECTRONIC CONVERSION:

May 4, 1996

NON-SUBSTANTIVE CORRECTIONS:

February 5, 1998 - minor spelling, formatting, conversion to MS Word.

REPEALED AND REPLACED:

January 31, 1999

October 18, 2002 - filing 2002-370 accepted September 24, 2002

REPEALED AND REPLACED:

February 22, 2008

REPEALED AND REPLACED:

June 19, 2014

REPEALED AND REPLACED:

March 3, 2017

REPEALED AND REPLACED:

July 6, 2021

REPEALED AND REPLACED:

June 13, 2023