

# MAINE STATE LEGISLATURE

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EMERGENCY  
SECOND REGULAR SESSION

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 2145**

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H. P. 2107

House of Representatives, February 14, 1978

Referred to the Committee on State Government. Sent up for concurrence.

EDWIN H. PERT, Clerk

Presented by Mrs. Kany of Waterville.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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**AN ACT to Conform State Statutes to the Maine Administrative Procedure Act.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not elapse until after July 1, 1978; and

Whereas, the Maine Administrative Procedure Act is scheduled to become effective on July 1, 1978; and

Whereas, unless state statutes are conformed to the Maine Administrative Procedure Act, effective implementation and application of that Act will not be possible; and

Whereas, it is therefore essential that these state statutes be conformed to the Maine Administrative Procedure Act at the time it goes into effect; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 4 MRSA § 801, 1st ¶, as last amended by PL 1977, c. 3, § 1, is further amended by adding at the end a new sentence to read:

**All rules and regulations adopted by the board shall be promulgated in the manner provided by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.**

Sec. 2. 4 MRSA § 955-A, 1st sentence, as amended by PL 1975, c. 771, § 22, is further amended to read:

Whenever the ~~Administrative Court Secretary of State~~, upon complaint, after due notice and hearing, shall find that a notary public or justice of the peace has performed any duty imposed upon him by law in an improper manner, or has performed acts not authorized by law, the ~~Administrative Court Secretary of State~~ may remove such notary public or justice of the peace from office.

Sec. 3. 4 MRSA § 955-A, last sentence, as enacted by PL 1965, c. 74, is repealed.

Sec. 4. 4 MRSA § 1151, sub-§ 2, as enacted by PL 1977, c. 551, § 1, is amended to read:

**2. Licensing jurisdiction.** Except as provided in Title 5, section 10004 and Title 29, chapter 17, the Administrative Court shall have exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency, **and shall have original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused.**

**Notwithstanding any other provisions of law, no licensing agency shall have the authority to reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.**

Sec. 5. 4 MRSA § 1151, sub-§ 3, ¶ E, 4th ¶, as enacted by PL 1977, c. 551, § 1, is amended to read:

The moving party shall, within 10 days thereafter, commence an action by filing or refiling his complaint in the ~~District Superior~~ Court. Jurisdiction is granted to the ~~District Superior~~ Court to hear and determine such matters and to enter such rulings and orders as the nature of the case may require. The case shall be heard in the ~~District Superior~~ Court in accordance with procedures governing the Administrative Court. The court reporter from the Administrative Court shall transcribe the testimony as in cases before a judge of the Administrative Court. An aggrieved party may appeal from the decision of the ~~District Superior~~ Court ~~Judge Justice~~ to the ~~Superior~~ Supreme Judicial Court sitting as the law court in the same manner as from a decision of the Administrative Court.

**Sec. 6.** 4 MRSA § 1152, 1st ¶, as enacted by PL 1977, c. 551, § 1, is amended to read:

In any ~~contested~~ case, all parties shall be afforded an opportunity for hearing after reasonable notice.

**Sec. 7.** 4 MRSA § 1152, sub-§ 1, 1st sentence, as enacted by PL 1977, c. 551, § 1, is amended to read:

On commencement of any ~~contested~~ case, a written complaint shall be filed with the Administrative Court Judge.

**Sec. 8.** 4 MRSA § 1152, sub-§ 3, 1st sentence, as enacted by PL 1977, c. 551, § 1, is amended to read:

The presiding judge shall prepare an official record, including testimony and exhibits, in each ~~contested~~ case, but he need not have a transcript of the testimony prepared unless required for rehearing or appeal.

**Sec. 9.** 4 MRSA § 1152, sub-§ 4, as enacted by PL 1977, c. 551, § 1, is amended to read:

**4. Disposition by agreement.** On approval of the presiding judge, disposition of any ~~contested~~ case may be made by agreement or consent decree.

**Sec. 10.** 4 MRSA § 1154, sub-§ 1, as enacted by PL 1977, c. 551, § 1, is amended to read:

**1. Failure to obey subpoena.** A person who fails to obey the subpoena of a judge of the Administrative Court may be punished ~~as for contempt of court on application to the Superior Court~~ by the Administrative Court ~~or by the party requesting issuance of the subpoena.~~

**Sec. 11.** 4 MRSA § 1157, as enacted by PL 1977, c. 551, § 1, is amended to read:  
**§ 1157. Judicial review**

Judicial review of an Administrative Court decision may be had in the ~~Superior Court~~ **Supreme Judicial Court sitting as the law court** in the manner provided by rules adopted for this purpose by the Supreme Judicial Court.

**Sec. 12.** 5 MRSA § 593, first ¶, 3rd sentence, as enacted by PL 1975, c. 686, § 3, is amended to read:

Such employee or appointing authority, or his representative, shall be afforded a public hearing before the board ~~with an opportunity to present facts and arguments in support of or in relation to such appeal at a time and place and in such manner as may be prescribed by the board.~~

Sec. 13. 5 MRSA § 593, as last amended by PL 1977, c. 427, is further amended by inserting after the 3rd sentence the following new sentence to read:

**Such a hearing is an adjudicatory proceeding under the Maine Administrative Procedure Act, chapter 375, and shall be held in accordance with subchapter IV, section 9051 et seq.**

Sec. 14. 5 MRSA § 631, sub-§ 1, first sentence, as enacted by PL 1975, c. 686, § 4, is amended to read:

**After a public hearing, and in accordance with the Maine Administrative Procedure Act, chapter 375, subchapter II, and subject to the requirements of chapters 51 to 67, to prescribe or amend rules and regulations relative to:**

Sec. 15. 5 MRSA § 631, sub-§ 2, as enacted by PL 1975, c. 686, § 4, is amended to read:

**2. Investigations. To make investigation either at the direction of the Governor or the Legislature, or upon the petition of an employee or a citizen, or on his own motion concerning the enforcement and effect of chapters 51 to 67, which investigations are not adjudicatory proceedings under the Maine Administrative Procedure Act, chapter 375;**

Sec. 16. 5 MRSA § 631, sub-§ 5, as enacted by PL 1975, c. 686, § 4, is repealed and the following enacted in its place:

**5. Records. To keep a full and complete record of adjudicatory proceedings, including hearings on matters of classification, reclassification or allocation, in accordance with the Maine Administrative Procedure Act, sections 9059 and 9061, and to keep a record of votes taken in rule-making proceedings in accordance with the Maine Administrative Procedure Act, section 8056 and to keep full and complete minutes of investigatory hearings. These records and minutes shall be open to public inspection unless otherwise provided by statute.**

Sec. 17. 5 MRSA § 631, sub-§ 6, first sentence, as enacted by PL 1975, c. 686, § 4, is repealed and the following enacted in its place:

**In the course of any investigations under chapters 51 to 67, to hold hearings for the purpose of gathering information. The hearings are not adjudicatory proceedings under the Maine Administrative Procedure Act, chapter 375. In conjunction with the hearings, he shall have the power to administer oaths and to subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to the investigation.**

Sec. 18. 5 MRSA § 724, as enacted by PL 1973, c. 500, is amended by adding at the end the following new sentence to read:

**All rules and regulations of the board shall be adopted in accordance with the Maine Administrative Procedure Act, chapter 375, subchapter II.**

**Sec. 19. 5 MRSA § 1031, sub-§ 5 is amended to read:**

**5. Rules and regulations.** Subject to the limitations of this chapter and, insofar as they are applicable, to the requirements of chapter 375, subchapter II, the board of trustees shall, from time to time, establish rules and regulations for the administration of the funds created by this chapter and for the transaction of its business.

**Sec. 20. 5 MRSA § 1031, sub-§ 9, 1st sentence, is amended to read:**

The board of trustees shall keep a record of all its proceedings, **which, insofar as they are applicable, shall comply with the requirements of section 8056, subsection 5 and sections 9059 and 9061 and which shall be open to public inspection.**

**Sec. 21. 5 MRSA § 1032, 1st sentence, is amended to read:**

It is the intent and meaning of this chapter that all rights, credits and privileges enumerated herein shall be available to and shared in by all members of the system whether employees of the State or local participating districts and it is expressly provided that the board of trustees shall in all cases make the final and determining **administrative** decision in all matters affecting the rights, credits and privileges of all members of the system, whether in participating local districts or in the state service.

**Sec. 22. 5 MRSA § 1032, 1st ¶, as amended by PL 1971, c. 17, § 8, is further amended by adding at the end the following new sentences:**

**Where the decision is related to or results in rules and regulations, such shall be adopted as provided in section 1030. Where the decision determines the rights, credits or privileges of an individual member or group of members, the determination shall be considered an adjudicatory proceeding under chapter 375, subchapter IV and shall be made only after the giving of notice as required therein and after hearing if a hearing is requested by a person whose rights, credits or privileges are to be determined. Any hearing shall be conducted in accordance with the provisions of the statute.**

**Sec. 23. 5 MRSA § 1061, sub-§ 2 is amended to read:**

**2. Rate of interest.** The board of trustees from time to time shall by order set the rate of regular interest at such per cent rate compounded annually as shall be determined by the board to be equitable in its judgment, both to members and to the taxpayers of the State.

**Sec. 24.** 5 MRSA § 1151, sub-§ 1, as amended by PL 1967, c. 189, § 2, is further amended by adding at the end a new paragraph to read:

**Rules and regulations regarding eligibility for group life insurance coverage, whether basic, additional or paid-up coverage, are rules within the meaning of chapter 375, subchapter II.**

**Sec. 25.** 5 MRSA § 1151, sub-§ 2, last ¶, last sentence, as amended by PL 1971, c. 589, § 2, is further amended to read:

The board of trustees shall by regulation prescribe the conditions of eligibility for and **by order prescribe** the annual level amount of this additional paid-up life insurance.

**Sec. 26.** 5 MRSA § 1151, sub-§ 7, 2nd ¶, as amended by PL 1971, c. 589, § 3, is further amended to read:

Anything to the contrary notwithstanding, and dividends, premium rate adjustments or accumulations developed for any reason shall be used either to reduce or eliminate any contribution otherwise required from the Unappropriated Surplus of the General Fund or to increase benefits to state employees and teachers and Justices of the Supreme Judicial Court and Justices of the Superior Court and Judges of the District Court, as the board of trustees shall order ~~by means of uniform regulations~~ necessary to implement such usage or usages.

**Sec. 27.** 5 MRSA § 1152, sub-§ 1 is amended to read:

**1. Board of trustees; regulations.** The board of trustees shall administer this group life insurance program and except as otherwise provided is authorized to promulgate and publish, **in accordance with the procedures of chapter 375, subshapter II insofar as they are applicable**, such regulations as may be necessary and proper to give effect to the intent, purposes and provisions of this section.

**Sec. 28.** 5 MRSA § 1181, as last amended by PL 1975, c. 622, §§ 64 and 65, is repealed and the following enacted in its place:

**§ 1181. Procedure**

**Any person aggrieved by any decision or ruling of the executive director shall have the right to have the decision of ruling redetermined by the board of trustees, upon written application within 30 days after written notice of the decision or ruling. The board of trustees may investigate and consider all issues of fact or law, including the reasons for the decision or ruling of the executive director, in any such reconsideration. The reconsideration is an adjudicatory proceeding within the meaning of chapter 375, subchapter IV. The board shall complete the consideration within 90 days of receiving the written application.**

Any person aggrieved by a decision or ruling of the board of trustees in an adjudicatory proceeding shall be entitled to judicial review thereof in accordance with chapter 375, subchapter VII.

Sec. 29. 5 MRSA § 4566, sub-§ 7, as enacted by Pl 1971, c. 501, § 1, is amended to read:

7. **Rules and regulations.** To adopt, amend and rescind rules and regulations to effectuate this Act, such adoption, amendment and rescission to be made in the manner provided by ~~section 2951~~ **chapter 375, subchapter II.**

Sec. 30. 5 MRSA § 8002, sub-§ 9, ¶ A, as enacted by PL 1977, c. 551, § 3, is amended to read:

A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy, or other agency statement of general applicability, including the amendment, suspension or repeal of any prior rule, that has the force of law, or the violation of which may result in the imposition of **judicial** sanctions, and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency.

Sec. 31. 5 MRSA § 8002, sub-§ 9, ¶ B, sub-¶ (1), as enacted by PL 1977, c. 551, § 3, is amended to read:

(1) Policies or memoranda concerning only the internal management of an agency or the State Government and not affecting the rights of or procedures available to any person;

Sec. 32. 5 MRSA § 8002, sub-§ 9, ¶ B, sub-¶ (4), as enacted by PL 1977, c. 551, § 3, is amended to read:

(4) Any form, instruction or explanatory statement of policy which in itself does not have force of law, or the violation of which is not punishable by any **judicial** sanction, and which is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges.

Sec. 33. 5 MRSA § 8003 is enacted to read:

**§ 8003. Inconsistent provisions**

Except where expressly authorized by statute, any statutory provision now existing or hereafter adopted which is inconsistent with the express provisions of the Maine Administrative Procedure Act shall yield and the applicable provisions of this Act shall govern in its stead.

Sec. 34. 5 MRSA § 8004 is enacted to read:

**§ 8004. Matters pending not affected**

The Maine Administrative Procedure Act shall not apply to:



1. **Adjudicatory proceedings.** Adjudicatory proceedings commenced by filing of an application, request for a hearing, agency notice of a hearing or otherwise in accordance with preexisting law, prior to July 1, 1978;

2. **Licensing proceedings.** Licensing proceedings commenced by filing an application for a license, or renewal or reissuance thereof, or by notice of agency proceedings affecting an existing license, prior to July 1, 1978; or

3. **Judicial review.** Judicial review of any of the foregoing.

Sec. 35. 5 MRSA § 8057, sub-§ 1, as enacted by PL 1977, c. 551, § 3, is amended by adding at the end the following new sentence:

**Rules in effect prior to July 1, 1978, will become void and of no legal effect on that date unless adopted after notice published in a newspaper of general circulation in some area of the State and opportunity for hearing.**

Sec. 36. 5 MRSA § 9060, sub-§ 1, ¶ D, as enacted by PL 1977, c. 551, § 3, is amended to read:

D. Failure to comply with a subpoena lawfully issued in the name of the agency and not revoked or modified by the agency as provided in this section shall be punishable ~~by a fine of not less than \$500 and not more than \$5,000, or by imprisonment not to exceed 30 days, or both as for contempt of court.~~

Sec. 37. 5 MRSA § 10003, sub-§ 1, 1st sentence, as enacted by PL 1977, c. 551, § 3, is amended to read:

Subject to the provisions of section 10004, an agency shall not amend or modify ~~or refuse to renew~~ any license unless it has afforded the licensee an opportunity for hearing in conformity with subchapter IV, ~~nor shall it refuse to renew any license unless it has afforded the licensee either an opportunity for an agency hearing in conformity with subchapter IV or an opportunity for a hearing in the Administrative Court.~~

Sec. 38. 5 MRSA § 10004, as enacted by PL 1977, c. 551, § 3, is repealed and the following enacted in its place:

**§ 10004. Action without hearing**

Notwithstanding the provisions of sections 10003 and 10051, an agency may revoke, suspend or refuse to renew any license without proceedings in conformity with subchapters IV or VI, when:

1. **Judicial action.** The decision to take that action rests solely upon a finding or conviction in court of any violation which by statute is expressly made grounds for revocation;

2. **Reciprocal license.** The Maine license has been issued upon the basis of a

reciprocal agreement with another government, and the Maine action is based upon evidence, in the form of a certified copy, that the authority issuing the license which provided the basis for reciprocal licensing in Maine has revoked or suspended their license;

3. **Health or safety hazard.** The health or physical safety of a person or persons is in immediate jeopardy at the time of the agency's action, and acting in accordance with subchapter IV or VI would fail to adequately respond to a known risk, provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days; or

4. **Certified inspector.** The action is based solely upon the physical test, examination or inspection by a state-certified inspector of any product, material or equipment, from which the agency concludes that action in accordance with subchapter IV or VI would not adequately protect public health or safety, provided that action under this subsection shall not be effective for a period of more than 30 days.

Sec. 39. 5 MRSA § 10051, sub-§ 1, as enacted by PL 1977, c. 551, § 3, is amended to read:

1. **Jurisdiction.** Except as provided in section 10004 and Title 29, chapter 17, the Administrative Court shall have exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by such agency and shall have original jurisdiction upon complaint of an agency to determine whether renewal or reissuance of a license of that agency may be refused.

Sec. 40. 5 MRSA § 11001, sub-§ 1, 1st sentence, as enacted by P L 1977, c. 551, § 3, is amended to read:

Except where a statute provides for direct review by the Supreme Judicial Court or ~~to the extent~~ where judicial review is specifically **precluded or the issues therein** limited by statute, any person who is aggrieved by final agency action shall be entitled to judicial review thereof in the Superior Court in the manner provided by this subchapter.

Sec. 41. 7 MRSA § 12, 1st sentence, as amended by PL 1973, c. 598, § 3, is further amended to read:

The commissioner shall ~~make uniform~~ **adopt, consistent with the Maine Administrative Procedure Act,** rules and regulations for carrying out this Title, Title 10, chapter 309, Title 17, chapter 43 and Title 32, chapter 61.

Sec. 42. 7 MRSA § 14, 1st sentence, as amended by PL 1973, c. 598, § 5, is further amended to read:

When the commissioner becomes cognizant of the violation of any provision of this Title, Title 10, chapter 309, Title 17, chapter 43, Title 22, sections 2151 to 2162 and Title 32, chapters 27 and 61, he shall **provide opportunity for hearing in a manner consistent with the Maine Administrative Procedure Act and shall, in any case, cause notice of such fact, stating the date, hour and place of hearing, with a copy of the finding or, in case of a packer of food, a copy of the charge to be preferred, to be given to that person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, if a resident of the State** ~~who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner.~~

**Sec. 43. 7 MRSA § 65, last sentence**, as repealed and replaced by PL 1975, c. 465, § 4, is amended to read:

If the commissioner is satisfied that the requirements of this chapter and the rules and regulations prescribed by the commissioner have been and will be complied with by the applicant, he may issue a license for such purpose, which shall expire on December 31st each year, **or in a manner consistent with the Maine Administrative Procedure Act, whichever is later.**

**Sec. 44. 7 MRSA § 74, last ¶**, as repealed and replaced by PL 1971, ch. 595, § 1, is amended to read:

The ~~Commissioner of Agriculture~~ **commissioner** may promulgate rules and regulations ~~in order in a manner consistent with the Maine Administrative Procedure Act~~ to carry out this section.

**Sec. 45. 7 MRSA § 402, 1st sentence**, as amended by PL 1971, c. 608, § 1, is further amended to read:

The commissioner may investigate and furnish statements to shippers and other interested parties as to the quality and condition of fruits, vegetables, dairy and other perishable farm products when received within the State for intrastate or interstate commerce, under such rules and regulations as he may prescribe **in a manner consistent with the Maine Administrative Procedure Act**, including payment of such fees as will be reasonable and to be determined by him.

**Sec. 46. 7 MRSA § 441** is amended to read:

#### § 441. Rules and regulations

The commissioner may prescribe **in a manner consistent with the Maine Administrative Procedure Act** rules and regulations for carrying out the purposes of this subchapter, including the fixing of fees as provided in section 402.

**Sec. 47. 7 MRSA § 442, last sentence**, is amended to read:

Notice of such hearings shall be ~~advertised for 3 successive weeks prior thereto~~

provided in the manner specified in the Maine Administrative Procedure Act and shall further be provided in a newspaper or newspapers of general circulation within the county where the hearing is to be held ~~and shall specify the date and place of each hearing and that it is to be held for the purpose of obtaining information with a view to establishing grades or standards for farm products.~~

Sec. 48. 7 MRSA § 443, last sentence, is amended to read:

The ~~said commissioner may revoke or suspend the right to use such brands, labels or trademarks may be suspended or revoked in a manner consistent with the Maine Administrative Procedure Act~~ whenever it appears on investigation that they have been used to identify farm products and sardines not in fact conforming to the grade indicated.

Sec. 49. 7 MRSA § 504, sub-§ 3, last sentence, as enacted by PL 1965, c. 65, is amended to read:

The rules and regulations so promulgated **shall be adopted in a manner consistent with the Maine Administrative Procedure Act** and shall conform so far as practicable to rules and regulations promulgated under authority of the Federal Act.

Sec. 50. 7 MRSA § 506, sub-§ 1, as enacted by PL 1965, c. 65, is amended by adding after the first sentence a new sentence to read:

**The issuance of such an order shall not be considered licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.**

Sec. 51. 7 MRSA § 527, 1st ¶, as enacted by PL 1969, c. 325, is amended to read:

The authority to promulgate regulations for the enforcement of this subchapter is vested in the State Sealer of Weights and Measures. ~~Before promulgating any regulations the sealer shall give appropriate notice of the proposal and the time and place of a hearing.~~ **Regulations shall be adopted in a manner consistent with the Maine Administrative Procedure Act.** The regulation or regulations so promulgated shall become effective on a date fixed by the sealer which date shall not be prior to 30 days after ~~its promulgation~~ **filing with the Secretary of State.** Such promulgation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of repealing any such regulation, the sealer, to such an extent as he deems necessary in order to prevent undue hardships may disregard notice, hearing or effective date **in the case of emergency rulemaking rules shall become effective as provided in the Maine Administrative Procedure Act.** In the promulgation of regulations, the sealer shall, in the interest of promoting uniformity, give consideration to regulations promulgated under the Fair Packaging and Labeling Act of November 3, 1966, Public Law 89-755. ~~Promulgation of regulations shall follow the procedure and be~~

~~subject to Title 5, sections 2351 to 2354.~~ The sealer, among other things, may give consideration to:

Sec. 52. 7 MRSA § 607, sub-§ 5, as enacted by PL 1975, c. 382, § 3, is amended to read:

5. **Power to require other information.** The commissioner may prescribe other necessary information by regulation **adopted in a manner consistent with the Maine Administrative Procedure Act.**

Sec. 53. 7 MRSA § 607, sub-§ 6, last sentence, as enacted by PL 1975, c. 382, § 3, is amended to read:

All such registrations shall expire on December 31st of any one year **or in a manner consistent with the Maine Administrative Procedure Act as to license expiration, Title 5, section 10002, whichever is later.**

Sec. 54. 7 MRSA § 607, sub-§ 7, 1st sentence, as enacted by PL 1975, c. 382, § 3, is repealed.

Sec. 55. 7 MRSA § 607, sub-§ 8, ¶ C, as enacted by PL 1975, c. 382, § 3, is amended to read:

C. The commissioner may develop and promulgate such other requirements by regulation, **adopted in a manner consistent with the Maine Administrative Procedure Act**, as are necessary for the state plan to receive certification from EPA.

Sec. 56. 7 MRSA § 608, sub-§ 1, ¶ C, as enacted by PL 1975, c. 382, § 3, is amended to read:

C. ~~Revoke or modify~~ **Modify** any experimental use permit ~~at any time~~ **in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings**, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment. **These permits may be revoked by the Administrative Court if the terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.**

Sec. 57. 7 MRSA § 608, sub-§ 2, as enacted by PL 1975, c. 382, § 3, is amended to read:

2. **Development and promulgation of other requirements.** The commissioner may develop and promulgate such other requirements by regulation, **adopted in a manner consistent with the Maine Administrative Procedure Act**, as are necessary for the state plan to receive such authorization from EPA.

Sec. 58. 7 MRSA § 608, sub-§ 3, as enacted by PL 1975, c. 382, § 3, is amended to read:

**3. Limitation or prohibition of experimental use pesticides.** The commissioner may, by regulation adopted in a manner consistent with the Maine Administrative Procedure Act, limit or prohibit the use of any pesticide for which an experimental use permit has been issued by EPA pursuant to Section 5 (a) of FIFRA, and which the commissioner finds may cause unreasonable adverse effects on the environment.

Sec. 59. 7 MRSA § 609, sub-§ 1, 1st ¶ and ¶ A, as enacted by PL 1975, c. 382, § 3, are amended to read:

**1. Procedure.** Provided the State is certified by the Administrator of EPA to register pesticides formulated to meet special local needs, the commissioner shall consider the following for refusal to register; for cancellation; for suspension; or for legal recourse for such pesticides. **This registration, cancellation and suspension shall be considered rule-making as that term is defined in the Maine Administrative Procedure Act and notice shall be provided in a manner consistent with the Maine Administrative Procedure Act.**

A. If it does not appear to the commissioner that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this subchapter or regulations adopted thereunder, he shall notify the applicant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this subchapter so as to afford the applicant an opportunity to make the necessary corrections and shall notify, in a manner consistent with the Maine Administrative Procedure Act, the applicant of the opportunity for hearing prior to refusal to register. ~~If, upon receipt of such notice, the applicant does not make the required changes, the commissioner may refuse to register the pesticide. The applicant may petition the commissioner for a hearing and must file within 10 days after notice of refusal to register is received;~~

Sec. 60. 7 MRSA § 609, sub-§ 1, ¶ B, as enacted by PL 1975, c. 382, § 3, is amended to read:

B. When the commissioner determines that a pesticide or its labeling does not comply with the provisions of this subchapter or the regulations adopted thereunder, he may cancel the registration of a pesticide or change its classification, after a ~~hearing has been conducted~~ notice and opportunity for hearing has been provided in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act.

Sec. 61. 7 MRSA § 609, sub-§ 1, ¶ C, as enacted by PL 1975, c. 382, § 3, is amended to read:

C. When the commissioner determines that there is an imminent hazard, he

may, on his own motion, suspend the registration of a pesticide in a manner consistent with the Maine Administrative Procedure Act, Title 5, section 8054, as to emergency rule-making pending decisions reached at after notice and opportunity for a hearing. Hearings shall be held with the utmost possible expedition;

Sec. 62. 7 MRSA § 610, sub-§ 1, 1st sentence, as enacted by PL 1975, c. 382, § 3, is amended to read:

The commissioner is authorized, after due notice and an opportunity for a hearing in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act:

Sec. 63. 7 MRSA § 610, sub-§ 2, 1st sentence, as enacted by PL 1975, c. 382, § 3, is amended to read:

The commissioner is authorized, after due notice and a public hearing, in a manner consistent with the Maine Administrative Procedure Act, to make appropriate regulations for carrying out the provisions of this subchapter, including but not limited to regulations providing for:

Sec. 64. 7 MRSA § 611, sub-§ 1, 3rd and 4th sentences, as enacted by PL 1975, c. 382, § 3, are amended to read:

If it appears from such examination that a pesticide or device fails to comply with the provisions of this subchapter or regulations adopted thereunder, and the commissioner contemplates instituting criminal proceedings against any person, the commissioner shall cause appropriate notice to be given to such person in a manner consistent with the Maine Administrative Procedure Act. Any person so notified shall be given an opportunity ~~within a reasonable time to present his views, either orally or in writing, with regard to the contemplated proceedings~~ for a hearing in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings.

Sec. 65. 7 MRSA § 612, as enacted by PL 1975, c. 382, § 3, is amended by adding at the end a new sentence to read:

The issuance of such an order shall not be considered licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

Sec. 66. 7 MRSA § 614, as enacted by PL 1975, c. 382, § 3, is amended to read:  
§ 614. Denial, suspension, revocation of license

~~The~~ Upon notice and opportunity for a hearing as provided in sections 608 and 609, the commissioner is authorized to deny, ~~suspend or revoke~~ or refuse to renew, any license, registration or permit provided for in this subchapter, subject to a hearing in any case in which he finds there has been a failure or refusal to comply

with the provisions of this subchapter or regulations adopted thereunder. **When he finds any failure or refusal to comply, the commissioner is further authorized to cancel or suspend registration of a pesticide, as provided in section 609, or to file a complaint for suspension or revocation of any other permit or license with the Administrative Court.**

Sec. 67. 7 MRSA § 631-A, 1st ¶, as enacted by PL 1973, c. 48, § 2, is amended to read:

The commissioner is authorized, after holding public hearing, to establish and promulgate, **in a manner consistent with the rule-making procedures of the Maine Administrative Procedure Act**, official definitions and standards and sizes for grading or classifying, packaging and labeling eggs and to change such official standards and sizes from time to time.

Sec. 68. 7 MRSA § 637, 1st sentence, is amended to read:

The commissioner shall have authority to administer sections 631 to 639 and to ~~make adopt~~, **in a manner consistent with the Maine Administrative Procedure Act**, uniform rules and regulations for such administration.

Sec. 69. 7 MRSA § 714, sub-§ 3 last sentence, as enacted by PL 1971, c. 77, § 1, is amended to read:

No Registration, refusal and cancellation shall be considered rule-making as that term is defined in the Maine Administrative Procedure Act and notice and opportunity for a hearing shall be provided prior to refusal or cancellation in a manner consistent with the Maine Administrative Procedure Act. In any case, no registration shall be refused or canceled, unless the registrant shall have been given an opportunity ~~to be heard before the commissioner and~~ to amend his application in order to comply with the requirements of this subchapter.

Sec. 70. 7 MRSA § 719, sub-§ 1, 1st sentence, as enacted by PL 1971, c. 77, § 1, is amended to read:

The commissioner is authorized to promulgate, **in a manner consistent with the Maine Administrative Procedure Act**, such rules and regulations for commercial feeds and pet foods as are specifically authorized in this subchapter and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this subchapter.

Sec. 71. 7 MRSA § 719, sub-§ 2, as enacted by PL 1971, c. 77, § 1, is repealed and the following enacted in its place:

2. Publication. Before the issuance, amendment or repeal of any rule or regulation authorized by this subchapter, notice and opportunity for a hearing shall be provided in a manner consistent with the rule-making provisions of the



**Maine Administrative Procedure Act. Notwithstanding this paragraph, if the commissioner, pursuant to the authority of this subchapter, adopts the official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act, any amendment or modification adopted by the association or by the Secretary of Health, Education and Welfare in the case of regulations promulgated pursuant to the Federal Food, Drug and Cosmetic Act, shall be adopted automatically under this subchapter without regard to the publication of the notice required by this subsection unless the commissioner by rule specifically determines that the amendment or modification shall not be adopted.**

**Sec. 72. 7 MRSA § 721, sub-§ 1, as enacted by PL 1971, c. 77, § 1, is amended by adding after the 2nd sentence a new sentence to read:**

**The issuance of such an order shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act.**

**Sec. 73. 7 MRSA § 743, 1st ¶, next to last sentence, is amended to read:**

**All registrations expire on December 31st of each year or in a manner consistent with the provisions as to license expiration of the Maine Administrative Procedure Act, Title 5, section 10002, whichever is later.**

**Sec. 74. 7 MRSA § 743, 1st ¶, is amended by adding before the last sentence the following new sentences:**

**The commissioner may refuse to renew, suspend or cancel registration for failure to comply with this subchapter or with regulations adopted pursuant hereto. This refusal, suspension or cancellation shall be considered rulemaking as that term is defined in the Maine Administrative Procedure Act and notice and opportunity for a hearing shall be provided in a manner consistent with the Maine Administrative Procedure Act.**

**Sec. 75. 7 MRSA § 748, 1st sentence, is amended to read:**

**The commissioner is charged with the enforcement of this subchapter, and ~~after due public hearing~~ is empowered to promulgate and adopt, in a manner consistent with the Maine Administrative Procedure Act, such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this subchapter.**

**Sec. 76. 7 MRSA § 748, sub-§ 1, is amended by adding before the last sentence a new sentence to read:**

**The issuance of such an order shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act.**

Sec. 77. 7 MRSA § 794, 1st ¶, is amended to read:

The commissioner is charged with the duty of enforcing this subchapter, and he is authorized and directed to make, amend or rescind rules, regulations and orders, in a manner consistent with the Maine Administrative Procedure Act, for the efficient enforcement of said subchapter.

Sec. 78. 7 MRSA § 794, 3rd and 4th ¶¶, are amended to read:

In the event of findings by the commissioner that there is an existing or imminent shortage of any ingredient required by sections 792 or 793, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this subchapter, the commissioner shall issue an order, ~~to be effective immediately upon issuance~~ in a manner consistent with the emergency rule-making procedures of the Maine Administrative Procedure Act, permitting the omission of such ingredient from flour or white bread or rolls; and if he finds it necessary or appropriate, excepting such foods from labeling requirements until he issues a further order relative thereto. This order shall remain effective for no longer than 90 days unless the commissioner, in a manner consistent with the rule-making procedures of the Maine Administrative Procedure Act, adopts the order as a rule or regulation. ~~Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer.~~ The commissioner on his own motion may and, upon receiving the sworn statements of 10 or more persons subject to this subchapter that they believe such a shortage exists or is imminent, shall ~~within 20 days thereafter~~ hold a public hearing with respect thereto, at which any interested person may present evidence, and shall make findings based upon the evidence presented. ~~The commissioner shall publish notice of any such hearing at least 10 days prior thereto.~~

Whenever the commissioner has reason to believe that such shortage no longer exists, he shall hold a public hearing, ~~after at least 10 days' notice shall have been given, at which any interested person may present evidence~~ in a manner consistent with the rule-making procedures of the Maine Administrative Procedure Act, and he shall make findings based upon the evidence so presented. If his findings be that such shortage no longer exists, he shall issue an order to become effective not less than 30 days after the ~~publication~~ filing thereof with the Secretary of State, revoking such previous order. Undisposed floor stocks of flour on hand at the effective date of such revocation order, or flour manufactured prior to such effective date for sale in this State, may thereafter be lawfully sold or disposed of.

Sec. 79. 7 MRSA § 794, 5th and 6th ¶¶, are repealed.

Sec. 80. 7 MRSA § 833, 1st sentence, is amended to read:

The commissioner shall, after investigation and public hearing **and in a manner consistent with the Maine Administrative Procedure Act**, adopt and promulgate rules and regulations to supplement and give full effect to this subchapter.

Sec. 81. 7 MRSA § 833, last sentence, is amended to read:

~~Such rules and regulations shall be filed and open for public inspection at the office of the commissioner and shall have the force of law.~~

Sec. 82. 7 MRSA § 834, 1st ¶, 3rd sentence, is amended to read:

~~The license shall be for 12 months, beginning July 1st expire on June 30th or in a manner consistent with the Maine Administrative Procedure Act, whichever is later.~~

Sec. 83. 7 MRSA § 835, 2nd sentence, is amended to read:

~~No license shall be issued~~ **The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, refuse to issue, refuse to renew or modify a license if any statement in the application shall be false or misleading, or if the brand name or label or advertisement of the frozen dairy product and forzen dairy product mix involved in the application shall give a false indication of origin, character, composition or place of manufacture or shall be otherwise false or misleading in any particular.**

Sec. 84. 7 MRSA § 837, 1st ¶, is amended to read:

~~The commissioner shall have the power to revoke or suspend any license issued under this subchapter, when it appears that any statement upon which it a license was issued was false or misleading or that any frozen dairy product manufactured, sold, offered or exposed for sale, or held for sale by the licensee is adulterated or misbranded or is manufactured in a plant or transported in a vehicle or stored in equipment not maintained in accordance with the standards of sanitation prescribed by the rules and regulations promulgated by the commissioner or that brand name or any label or advertising of any frozen dairy product manufactured, sold, offered or exposed for sale or held for sale with the licensee gives a false indication of origin, character, composition or place of manufacture or is otherwise false or misleading in any particular, file a complaint with the Administrative Court in a manner consistent with the Maine Administrative Procedure Act for suspension or revocation of the license.~~

Sec. 85. 7 MRSA § 837, 2nd ¶, last sentence, is amended to read:

~~Before revoking or suspending~~ **filing a complaint seeking the revocation or suspension of any license, the commissioner shall give written notice to the licensee affected, stating that he contemplates the revocation or suspension of the same and giving his reasons therefor and appointing a time for hearing.**

Sec. 86. 7 MRSA § 837, 3rd ¶, is repealed.

Sec. 87. 7 MRSA § 892, 1st ¶, as enacted by PL 1967, c. 104, is amended to read:

The commissioner is authorized and empowered, after holding public hearing **and in a manner consistent with the Maine Administrative Procedure Act**, to establish and promulgate official definitions and standards for grading, or classifying, packing and labeling maple products, and to change such official standards from time to time.

Sec. 88. 7 MRSA § 897, last ¶, as enacted by PL 1967, c. 104, is amended to read:

The commissioner shall, **in a manner consistent with the Maine Administrative Procedure Act**, establish such rules and regulations as may be needed for the proper enforcement of sections 891 to 898.

Sec. 89. 7 MRSA § 951, 1st ¶, as repealed and replaced by PL 1965, c. 219, § 2, is amended to read:

The ~~commissioner~~ **Commissioner of Agriculture** is authorized and empowered, after holding public ~~hearing~~ **hearings in a manner consistent with the Maine Administrative Procedure Act**, to establish and promulgate official definitions and standards for grading, or classifying, packing and labeling potatoes and to change such official standards from time to time.

Sec. 90. 7 MRSA § 956, last sentence, is amended to read:

The commissioner shall, **in a manner consistent with the Maine Administrative Procedure Act**, establish such rules and regulations as may be needed for the proper enforcement of sections 951 to 957.

Sec. 91. 7 MRSA § 994, 2nd ¶, is amended to read:

Whenever the commissioner has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of sections 991 to 1006, he shall, **in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act**, either upon his own motion or upon application of any producer or handler of potatoes, give due notice of and an opportunity for a public hearing upon a proposed marketing order.

Sec. 92. 7 MRSA § 997, sub-§ 3, ¶ A, 1st sentence, is amended to read:

The commissioner shall, **upon notification of the committee and reasonable notice to handlers and in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act**, regulate the preparation for market of potatoes, whenever he finds from the recommendations and informations submitted by the committee or from other available information, that it would tend to effectuate the declared policy of sections 991 to 1006:

Sec. 93. 7 MRSA § 997, sub-§ 3, ¶ B, is repealed.

Sec. 94. 7 MRSA § 997, sub-§ 5, ¶ A, is amended to read:

A. The committee may adopt, **in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act** and subject to approval of the commissioner, the procedures pursuant to which certificates of exemption will be issued to producers or handlers.

Sec. 95. 7 MRSA § 997, sub-§ 5, ¶ E, 2nd, 3rd and 4th sentences, are repealed and the following enacted in their place:

**Such an appeal shall be considered as an adjudicatory proceeding as that term is defined by the Maine Administrative Procedure Act and shall be handled in a manner consistent with the Maine Administrative Procedure Act. In these proceedings the burden of proof shall be upon the applicant.**

Sec. 96. 7 MRSA § 997, sub-§ 5, ¶ F is repealed and the following enacted in its place:

F. **The commissioner shall, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, have the right to modify, change, alter or rescind any procedure adopted pursuant to this section and shall have the right to modify, change, alter or rescind any exemptions granted pursuant to this section based on his review of the record established before the committee pursuant to paragraph E.**

Sec. 97. 7 MRSA § 998, sub-§ 2, 1st sentence, is amended to read:

Whenever the commissioner finds from the recommendations and information submitted by the committee or from other available information that the control and disposition of surplus potatoes will tend to effectuate the declared policy of sections 991 to 1006, he shall, **in a manner consistent with the Maine Administrative Procedure Act, adopt regulations to control and dispose of such surplus potatoes and shall further provide for equalizing the burden of such surplus elimination or control among producers and handlers thereof.**

Sec. 98. 7 MRSA § 999 is amended to read:

#### § 999. Change of regulations

The commissioner, upon the basis of recommendations of the committee or upon the basis of other available information, may, **in a manner consistent with the Maine Administrative Procedure Act**, modify, suspend or terminate regulations issued pursuant hereto in order to facilitate preparation for the market of potatoes for certain specified purposes, whenever he finds that such actions tend to effectuate the declared policy of sections 991 to 1006, and that

adequate safeguards may be established to prevent such shipments from entering channels of trade for other than the specified purposes.

Sec. 99. 7 MRSA § 1002, 1st ¶, is amended to read:

The commissioner may, **in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act**, terminate, suspend or amend the operation of any or all of the provisions of any marketing order, whenever he finds that such provisions do not tend to effectuate declared policy of sections 991 to 1006.

Sec. 100. 7 MRSA § 1013, as enacted by PL 1971, c. 366, is amended to read:

### § 1013. Rules and Regulations

The commissioner shall, **in a manner consistent with the Maine Administrative Procedure Act**, make uniform rules and regulations for carrying out this Article.

Sec. 101. 7 MRSA § 1015, 2nd ¶, as enacted by PL 1971, c. 366, is amended to read:

Upon receipt of such applications, the commissioner immediately shall cause notice thereof to be provided in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings and shall, in any case, cause a copy thereof to be served upon the Maine Potato Council. ~~Service of such notice shall be sufficient if sent by registered mail to the address of the principal office of the Maine Potato Council.~~ Any interested person shall have 30 days in which to file comments as to the applicant's qualifications, to request a hearing, or to file a verified complaint with the commissioner as provided by this Article.

Sec. 102. 7 MRSA § 1015, 3rd ¶, 2nd sentence, as enacted by PL 1971, c. 366, is amended to read:

The commissioner shall, after notice and **opportunity for a hearing as provided has been provided in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings**, issue a license to such applicant if he is satisfied as to the applicant's qualifications, such license entitling the applicant to act in the capacity described in the license for a period of one year from the date of issuance thereof.

Sec. 103. 7 MRSA § 1017, sub-§ 1, 1st sentence, is repealed and the following enacted in its place:

**The commissioner or his duly authorized agent may refuse to grant a license, after notice and opportunity for a hearing is provided in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, upon a**

**finding that any of the following acts have existed within 2 years of the date of the filing of an application for license:**

**Sec. 104. 7 MRSA § 1017, sub-§ 1**, as amended by PL 1975, c. 555, §§ 4 and 5, is amended by adding at the end the following new paragraph to read:

**The Administrative Court may, in a manner consistent with the Maine Administrative Procedure Act, suspend or revoke a license upon finding any of the enumerated violations within 2 years of the date of the filing of a complaint.**

**Sec. 105. 7 MRSA § 1017, sub-§ 2**, as enacted by PL 1971, c. 366, is amended to read:

**2. Conditional.** Any order revoking or suspending a license may, within the discretion of the ~~commissioner~~ **Administrative Court** be made conditional upon the settlement, adjustment or satisfaction of the consequence of the violation or violations as specified, and the operation of such an order may be deferred for such purpose. Any such order may contain provisions for modification or dismissal thereof upon presentation to the ~~commissioner~~ **Administrative Court** of evidence that the matter of complaint has been settled, adjusted or withdrawn at any time before such order becomes final.

**Sec. 106. 7 MRSA § 1017, sub-§ 4, ¶ A, 1st sentence**, as enacted by PL 1975, c. 713, § 2, is amended to read:

The Commissioner of Agriculture or his agent, upon notification by producers of insufficient or no payment shall immediately investigate the complaint and shall, **in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings** hold a hearing ~~within 10 days from the date the complaint was filed~~, unless such hearing is waived by the processor against whom the charge has been made.

**Sec. 107. 7 MRSA § 1017, sub-§ 4, ¶ A, sub-¶ (3)**, as enacted by PL 1975, c. 713, § 2, is amended to read:

**(3)** The commissioner shall **file a complaint with the Administrative Court seeking to suspend the license of any licensee who fails to conform to the payment schedule established in this section until the producer is paid the total claim to which the producer is entitled.**

**Sec. 108. 7 MRSA § 1017, sub-§ 4, ¶ A, sub-¶ (4)**, as enacted by PL 1975, c. 713, § 2, is repealed and the following enacted in its place:

**(4)** **Upon the filing of a complaint by the commissioner in the Administrative Court, the licensee shall post a bond sufficient to cover the total claim owed the producer on the date on which the complaint is filed. The bond required for an appeal procedure may be waived by the Administrative**

Court in the event that the bond required in paragraph A is valid and sufficient to cover the total claim owed the producer.

Sec. 109. 7 MRSA § 1018, as enacted by PL 1971, c. 366, is repealed and the following enacted in its place:

§ 1018. Hearings

The commissioner shall conduct hearings pursuant to this Article in a manner consistent with the Maine Administrative Procedure Act and has full power to subpoena such witnesses and documents as he deems necessary. The Superior Court, on the petition of the commissioner, may issue summary process to enforce the lawful orders of the commissioner in these actions.

Sec. 110. 7 MRSA § 1019, as amended by PL 1973, c. 303, § 3, is repealed.

Sec. 111. 7 MRSA § 1020, as enacted by PL 1971, c. 366, is repealed.

Sec. 112. 7 MRSA § 1021, as amended by PL 1973, c. 303, § 3, is repealed.

Sec. 113. 7 MRSA § 1046, sub-§ 2, as amended by PL 1969, c. 42, § 8, is further amended to read:

2. **Rules and regulations.** To prescribe and, ~~after public hearing following due public notice in a manner consistent with the Maine Administrative Procedure Act,~~ to adopt rules and regulations governing the methods of sampling, inspecting, analysis, test and examination of agricultural, vegetable or tree and shrub seeds, and the tolerances to be followed, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of this subchapter.

Sec. 114. 7 MRSA § 1047, sub-§ 1, as amended by PL 1969, c. 42, § 9, is further amended by adding after the first sentence a new sentence to read:

**The issuance of such an order shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act.**

Sec. 115. 7 MRSA § 1303, as amended by PL 1967, c. 227, § 1, is further amended to read:

§ 1303. Rules and regulations

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make uniform rules and regulations for carrying out this chapter, which shall be consistent with the rules and regulations for livestock and poultry disease control provided for under this Title.

Sec. 116. 7 MRSA § 1306 is repealed and the following enacted in its place:



**§ 1306. Revocation and suspension of licenses**

Any license issued under this chapter may be suspended or revoked by the Administrative Court in a manner consistent with the Maine Administrative Procedure Act.

Sec. 117. 7 MRSA § 1453 is amended to read:

**§ 1453. Rules and regulations**

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make rules and regulations necessary to protect the health of animals going through such sales rings, which shall have the power of law as outlined under section 1752.

Sec. 118. 7 MRSA § 1456 is repealed and the following enacted in its place:

**§ 1456. Cancellation of permit**

The permit to operate the sales rings may be canceled by the Administrative Court pursuant to Title 4, chapter 25.

Sec. 119. 7 MRSA § 1752, as last amended by PL 1977, c. 78, § 30, is repealed and the following enacted in its place:

**§ 1752. Rules and regulations**

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make all needful rules and regulations which may in his judgment be deemed requisite to the full and due execution of chapters 201, 207, 301, 303 and 305. These rules and regulations shall have the force and effect of law, so far as the same are not inconsistent with the laws of this State or of the United States.

Sec. 120. 7 MRSA § 1755, 1st ¶, is amended by adding at the end a new sentence to read:

**This quarantine shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act.**

Sec. 121. 7 MRSA § 1756, 1st sentence, as repealed and replaced by PL 1977, c. 36, is amended to read:

Upon discovery of any contagious or infectious disease among domestic animals, the commissioner may cause the affected or exposed animals to be appraised and destroyed, and a proper disposition of the carcasses made in accordance with rules and regulations ~~made by him as authorized and provided adopted by him in a manner consistent with the Maine Administrative Procedure Act.~~

Sec. 122. 7 MRSA § 1801, 1st ¶, as amended by PL 1971, c. 594, § 7, is further amended to read:

The commissioner shall, **by rule or regulation adopted in a manner consistent with the Maine Administrative Procedure Act**, determine which diseases shall be classified as “reportable diseases” of domestic animals. It shall be illegal for any owner, agent or any owner, veterinarian or other person having knowledge of their existence or exposure thereto not to properly report the existence of such disease or exposure thereto to the department immediately after knowledge of or exposure to such disease.

Sec. 123. 7 MRSA § 1802 is amended by adding at the end a new sentence to read:

**This condemnation shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act.**

Sec. 124. 7 MRSA § 1808, 4th ¶, is amended to read:

The commissioner shall, **in a manner consistent with the Maine Administrative Procedure Act**, promulgate rules and regulations as to refrigeration, handling, shipping, disposing of outdated material, and sale of such products.

Sec. 125. 7 MRSA § 1808, last ¶, is repealed and the following enacted in its place:

**Failure to comply with this section or section 1807, or the regulations adopted pursuant thereto, shall be grounds for revocation by the Administrative Court of any permit granted pursuant to these sections.**

Sec. 126. 7 MRSA § 1809, sub-§ 1, as enacted by PL 1975, c. 236, § 2, is amended to read:

1. **Rules and regulations.** The Commissioner of Agriculture shall, **in a manner consistent with the Maine Administrative Procedure Act**, promulgate all rules and regulations that he deems proper and necessary to maintain the health of all dogs and cats imported into the State or offered for sale within the State.

Sec. 127. 7 MRSA § 1812, 1st ¶, is amended to read:

The commissioner shall, **in a manner consistent with the Maine Administrative Procedure Act**, formulate and implement rules, regulations and methods of procedure generally adopted for the prevention, control and eradication of brucellosis.

Sec. 128. 7 MRSA § 1812-A, 1st ¶, as enacted by PL 1967, c. 182, is amended to read:

The commissioner shall, **in a manner consistent with the Maine Administrative**

**Procedure Act**, formulate and implement rules, regulations and methods of procedure generally adopted for the prevention, control and eradication of brucellosis in swine.

**Sec. 129. 7 MRSA § 1818, 1st ¶, last sentence**, is amended to read:

Such facilities shall be constructed and maintained in accordance with standards and regulations to be promulgated by the commissioner **in a manner consistent with the Maine Administrative Procedure Act.**

**Sec. 130. 7 MRSA § 2101, last sentence**, is amended to read:

Authority to make, **in a manner consistent with the Maine Administrative Procedure Act**, all reasonable rules and regulations is given the said commissioner.

**Sec. 131. 7 MRSA § 2102, last sentence**, is amended to read:

Authority to make, **in a manner consistent with the Maine Administrative Procedure Act**, all reasonable rules and regulations is given the commissioner.

**Sec. 132. 7 MRSA § 2154, 2nd ¶**, is amended to read:

The board shall have the full power and authority to make, **in a manner consistent with the Maine Administrative Procedure Act**, rules and regulations not inconsistent with law pertaining to its program of production, distribution and sales of foundation seed potatoes to the potato growers of Maine, as it may from time to time determine, and to exercise any other power which may be conferred upon the board by law.

**Sec. 133. 7 MRSA § 2203, 2nd sentence**, is amended to read:

The State Horticulturist may, **after notice and opportunity for a hearing is provided in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings**, in writing order the owner, occupant or person in charge thereof to properly spray or give other suitable treatment, or to cut and destroy any such diseased trees or shrubs, if in the opinion of the State Horticulturist such action is necessary.

**Sec. 134. 7 MRSA § 2204**, as amended by PL 1975, c. 156, is further amended by adding at the end a new sentence to read:

**The decision of the State Horticulturist to require destruction or return of infested stock shall not be considered licensing or an adjudicatory proceeding as those terms are defined by the Maine Administrative Procedure Act.**

**Sec. 135. 7 MRSA § 2301** is amended to read:

**§ 2301. Authority**

The commissioner, when he shall find that there exists in any other state,

territory, district or part thereof any dangerous plant disease or insect infestation with reference to which the Secretary of Agriculture of the United States has not determined that a quarantine is necessary and has not established such quarantine, is authorized to promulgate and to enforce by appropriate rules and regulations, **adopted in a manner consistent with the Maine Administrative Procedure Act**, a quarantine prohibiting or restricting the transportation into or through the State, or any portion thereof, from such other state, foreign country, territory or district, of any class of nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying such plant disease or insect infestation. The commissioner is authorized to make, **in a manner consistent with the Maine Administrative Procedure Act**, rules and regulations for the seizure, inspection, disinfection, destruction or other disposition of any nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying any other plant disease or insect infestation, a quarantine with respect to which shall have been established by the Secretary of Agriculture of the United States or the commissioner, and which has been transported to, into or through this State in violation of such quarantine.

Sec. 136. 7 MRSA § 2302 is repealed.

Sec. 137. 7 MRSA § 2902, 4th ¶, is amended to read:

The ~~commissioner~~ **Administrative Court** shall ~~have the power, after due hearing, to~~ **upon complaint of the commissioner or the Attorney General** revoke or suspend any license issued under sections 2901 to 2904 and 3101 to 3103, when it appears that any statement upon which it was issued was false or misleading, or that any of the provisions of sections 2901 to 2904 and 3101 to 3103 and the rules and regulations issued thereunder, have been violated.

Sec. 138. 7 MRSA § 2902, last ¶, is amended to read:

The commissioner shall, ~~after investigation and public hearing,~~ **in a manner consistent with the Maine Administrative Procedure Act**, adopt and promulgate rules and regulations, and standards of definition and quality for the production, pasteurization and distribution of grade A milk.

Sec. 139. 7 MRSA § 2904, 1st and last sentences, as amended by PL 1969, c. 41, § 2, are further amended to read:

The commissioner shall ~~after investigation and public hearing,~~ **in a manner consistent with the Maine Administrative Procedure Act**, adopt and promulgate rules, regulations and standards of identity and quality to supplement and give full effect to sections 2901 to 2904 and 3101 to 3103.

Such rules, regulations and standards of identity and quality ~~shall be filed and open for public inspection at the office of the commissioner and~~ have the force of law.

**Sec. 140.** 7 MRSA § 2954, sub-§ 1, 4th sentence, as repealed and replaced by PL 1975, c. 517, § 3, is amended to read:

Due notice of such public hearing shall be given by publishing such notice ~~at least 7 days prior to the hearing in appropriate newspapers as provided in Title 5, chapter 375.~~

**Sec. 141.** 7 MRSA § 2955, 4th ¶, 1st sentence, as amended by PL 1973, c. 303, § 3, is further amended to read:

The Administrative Court ~~Judge as designated in Title 5, chapters 301 to 307 as designated by Title 4, chapter 25~~ may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing.

**Sec. 142.** 7 MRSA § 3451, 10th ¶, last sentence, as enacted by PL 1971, c. 546, § 2, is amended to read:

Any person, firm or corporation maintaining a pet shop shall obtain from the ~~Commissioner of Agriculture~~ commissioner a license therefor, which license shall expire December 31st annually **or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later**, and the fee for such license shall be \$50.

**Sec. 143.** 7 MRSA § 3451, 11th ¶, last sentence, as enacted by PL 1971, c. 546, § 2, is amended to read:

Any person, firm or corporation maintaining a boarding kennel shall obtain from the ~~Commissioner of Agriculture~~ commissioner a license therefor, which license shall expire December 31st annually **or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later**, and the fee for such license shall be \$25.

**Sec. 144.** 7 MRSA § 3451, 12th ¶, as amended by PL 1975, c. 236, § 3, is further amended by adding at the end a new sentence to read:

**The decision and order for this quarantine shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act.**

**Sec. 145.** 7 MRSA § 3451, 13th ¶, as amended by PL 1975, c. 236, § 3, is further amended to read:

The ~~commissioner~~ Administrative Court, upon complaint of the commissioner or the Attorney General, may revoke or suspend a pet shop, kennel and boarding kennel license providing any person, firm or corporation maintaining such pet shop, kennel and boarding kennel violates any quarantine or maintains animals or birds contrary to the rules and regulations promulgated by the commissioner or fails to keep records required by the commissioner.

**Sec. 146.** 7 MRSA § 3451, 14th ¶, as enacted by PL 1971, c. 453, is repealed.

**Sec. 147.** 8 MRSA § 106, 1st ¶, as last amended by PL 1975, c. 115, § 4, is further amended to read:

The commission shall have the sole direction, control and jurisdiction over all boxing contests or exhibitions and, following a public hearing, is empowered to promulgate, adopt and amend, **pursuant to the applicable provisions of the Maine Administrative Procedure Act, Title 5, section 8051 et seq.**, all rules and regulations as follows.

**Sec. 148.** 8 MRSA § 107, sub-§ 4, as repealed and replaced by PL 1975, c. 115, § 5, is repealed and the following enacted in its place:

**4. Revocation of license.** Any license issued under this section may be revoked or suspended by the Administrative Court if the holder of that license has violated any of the provisions of this chapter or of any rule, regulation or order of the commission.

**Sec. 149.** 8 MRSA § 134, 1st sentence, as enacted by PL 1977, c. 13, is amended to read:

The commission shall have the sole direction, control and jurisdiction over all professional wrestling matches, shows or exhibitions and, following a public hearing, is empowered to promulgate and adopt, **pursuant to the applicable provisions of the Maine Administrative Procedure Act, Title 5, section 8051 et seq.**, all rules and regulations necessary therefor.

**Sec. 150.** 8 MRSA § 135, 1st ¶, 1st sentence, as enacted by PL 1977, c. 13, is amended to read:

**Sec. 151.** 8 MRSA § 271, 1st ¶, next to the last sentence, as amended by PL 1973, c. 303, § 3, is further amended to read:

The Administrative Court Judge, as designated in ~~Title 5, chapters 301 to 307~~ **Title 4, chapter 25**, shall have power to revoke any license issued at any time for ~~good cause~~ **violation of the commission's rules, regulations or licensing provisions** upon notice and hearing.

**Sec. 152.** 8 MRSA § 271, 1st ¶, last sentence, is amended to read:

The license of any corporation shall ~~automatically cease to be~~ **automatically revoked, subject to the provisions of Title 5, chapter 375** upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation and the corporation shall not hold a harness horse race or meet for public exhibition without a new license.

**Sec. 153.** 8 MRSA § 279-B, as last amended by PL 1975, c. 623, § 5-C, is repealed and the following enacted in its place:

**§ 279-B. Fines, suspensions and revocations**

In order to enforce the rules and regulations referred to in section 279-A, the commission is authorized to establish a schedule of fines not to exceed \$100 for each violation of the rules and regulations. The commission is authorized to levy a fine, after notice and hearing, for each violation of the rules and regulations.

The commission is further authorized to establish a schedule of suspensions of licenses for each violation of the rules and regulations. The Administrative Court Judge is authorized to levy suspensions, after notice and hearing, for each violation of the rules and regulations.

Any person aggrieved by any fine imposed by the commission or any suspension imposed by the Administrative Court may seek judicial review pursuant to the Maine Administrative Procedure Act.

Sec. 154. 8 MRSA § 353, 1st ¶, as enacted by PL 1973, c. 570, § 1, is amended by adding at the end a new sentence to read:

**Rules adopted by the commission shall be adopted in a manner consistent with the Maine Administrative Procedure Act.**

Sec. 155. 8 MRSA § 354, sub-§ 1, ¶ F, as enacted by PL 1973, c. 570, § 1, is amended to read:

**F. Recommend to the commission that it seek to suspend or revoke in a manner consistent with the Maine Administrative Procedure Act any license issued pursuant to this chapter or the rules and regulations promulgated thereunder;**

Sec. 156. 9-B MRSA § 232, sub-§ 2, ¶ A, as enacted by PL 1975, c. 500, § 1, is repealed and the following enacted in its place:

**A. The written notice required in subsection 1 shall be in the form prescribed by the Maine Administrative Procedure Act, Title 5, section 9052, subsection 4.**

Sec. 157. 9-B MRSA § 233, sub-§ 1, as enacted by PL 1975, c. 500, § 1, is repealed and the following enacted in its place:

**1. Appeal of order. Any person aggrieved and directly affected by an order of the superintendent issued pursuant to sections 231 and 232 shall be entitled to judicial review of the order pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.**

Sec. 158. 9-B MRSA § 251, as amended by PL 1975, c. 666, §§ 7-A and 8, is repealed and the following enacted in its place:

**§ 258. Rulemaking**

**Promulgation of rules or regulations of the bureau, and amendments thereto,**

shall conform to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. Within 5 days of promulgation, notice of the rule, regulation or amendment adopted by the superintendent setting forth a concise, general statement of the content, purpose and origin of the rule, regulation or amendment, together with a statement that copies of the rule, regulation or amendment are available to the public at cost, shall be published by the superintendent in those newspapers in which the notice of rulemaking required by the Maine Administrative Procedure Act was published. Unless the superintendent shall specify a later date in the final notice relating thereto, the effective date of any rule, regulation or amendment shall be 30 days after its promulgation, provided the requirements of Title 5, section 8056 have been met. The superintendent may waive all or part of the 30-day waiting period following promulgation of any rule, regulation or amendment, if the superintendent determines that extraordinary or unusual conditions exist which warrant that action. The superintendent shall set forth in writing the circumstances and reasons for his waiving all or part of the 30-day waiting period.

Sec. 159. 9-B MRSA § 252, sub-§ 2, as amended by PL 1975, c. 666, §§ 9-A and 10, is repealed and the following enacted in its place:

**2. Application and notice.**

A. Upon receipt of an application subject to this section, the superintendent shall determine whether the application is complete. The superintendent shall have the power to request modifications in, and additional information relating to, any application prior to certifying its completeness.

B. As soon as the superintendent determines that the application is complete, he shall instruct the applicant to provide notice of the application in the manner and form prescribed in Title 5, section 9052.

C. The superintendent may suspend or postpone action on an application after the first publication of notice pursuant to paragraph B, upon written request of the applicant or on his own initiative for good cause shown. The superintendent shall promptly provide notice of any suspension or postponement in the same manner and in the same publications in which the original notice of application was provided. If and when action is resumed on the application, the superintendent shall again provide notice in the same manner and in the same publications in which the preceding notices were provided.

Sec. 160. 9-B MRSA § 252, sub-§ 5, as enacted by PL 1975, c. 500, § 1, is repealed and the following enacted in its place:

**5. Hearing.** Requests for a hearing and the procedures for notice and conducting the hearings on applications subject to this section shall be governed by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.



Sec. 161. 9-B MRSA § 252, sub-§ 6, as amended by PL 1975, c. 666, § 11, is repealed and the following enacted in its place:

6. **Decision.** After consideration of all relevant matters presented in the application, in any written comments, and at the hearing, if any, the superintendent shall promulgate, in accordance with the Maine Administrative Procedure Act, the final order. Within 5 days of promulgation, notice of the final order setting forth the name of the applicant, the nature of the application and the superintendent's action thereon, together with a statement that copies of the order are available to the public at cost, shall be published by the superintendent in those newspapers in which the notice required by subsection 2 was published. Unless the superintendent shall specify a later date in the final notice relating thereto, the effective date of the final order shall be 30 days after its promulgation. The superintendent may waive all or part of the 30-day waiting period following promulgation of the final order, if the superintendent determines that extraordinary or unusual conditions exist which warrant that action. The superintendent shall set forth in writing the circumstances and reasons for his waiving all or part of the 30-day waiting period.

Sec. 162. 9-B MRSA § 252, sub-§ 7, as repealed and replaced by PL 1975, c. 666, § 12, is repealed.

Sec. 163. 9-B MRSA § 254, as amended by PL 1975, c. 666, § 13, is repealed and the following enacted in its place:

**§ 254. Hearings by superintendent**

All hearings shall be governed by the Maine Administrative Procedure Act, Title 5, section 9051 et seq. Unless the superintendent shall specify a later date in the final notice relating thereto, the effective date of the decision shall be 30 days after its promulgation. The superintendent may waive all or part of the 30-day waiting period following promulgation of the decision, if the superintendent determines that extraordinary or unusual conditions exist which warrant the action. The superintendent shall set forth in writing the circumstances and reasons for his waiving all or part of the 30-day waiting period.

Sec. 164. 9-B MRSA § 255, sub-§ 4, as enacted by PL 1975, c. 500, § 1, is amended by adding at the end the following new sentence to read:

**If the request is a petition for rulemaking, within 60 days after receipt of the petition, the superintendent shall either notify the petitioner in writing of its denial and the reasons therefor, or initiate appropriate rule-making proceedings.**

Sec. 165. 9-B MRSA § 256, as enacted by PL 1975, c. 500, § 1, is repealed and the following enacted in its place:

**§ 256. Judicial review of superintendent's action**

**Any person or organization affected adversely by a rule, regulation,**

amendment, order or decision on an application promulgated by the superintendent, or affected adversely by the denial of a request for a hearing, may appeal from that action. Judicial review of any final action of the superintendent shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

Sec. 166. 10 MRSA § 1602, 1st sentence, is amended to read:

After ~~notice of the~~ establishment by regulation adopted in a manner consistent with the Maine Administrative Procedure Act of a trademark by the commission, it shall be unlawful to use said trademark without first securing a permit or license from the Maine Potato Commission.

Sec. 167. 10 MRSA § 1701, 1st sentence, is amended to read:

In order to carry out better the objectives of the Maine Sardine Tax Law, the Maine Sardine Council may, by regulation adopted in a manner consistent with the Maine Administrative Procedure Act, develop and register trademarks.

Sec. 168. 10 MRSA § 1702, 1st sentence, is amended to read:

After ~~notice of~~ establishment of a trademark by the council, as provided in section 1701, it shall be unlawful to use such trademark without first securing a permit or license from the Maine Sardine Council.

Sec. 169. 10 MRSA § 1704, 1st and last sentences, are amended to read:

The Maine Sardine Council may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for carrying out the purposes of this chapter, and may issue licenses to processors who request authority to use the trademark and who shall abide by such rules and regulations.

The ~~council~~ Administrative Court, upon application of the commissioner, the Maine Sardine Council or the Attorney General, shall have the right to cancel any license ~~for a period of time to be determined by the council~~ for failure to abide by the rules and regulations prescribed by the council; and the council shall have the right, after notice and opportunity for a hearing and in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, to cancel all outstanding licenses at any time that the council deems such action necessary to the best interest of the sardine industry as a whole.

Sec. 170. 10 MRSA § 2206, sub-§ 1, 5th and 6th sentences, as amended, are further amended to read:

Following the hearing, the commissioner shall notify the applicant of its decision by ~~registered~~ certified mail within the required 20 days of hearing. Any person aggrieved by the decision of the board may appeal as provided in ~~section 2214~~ Title 5, chapter 375, subchapter VII.

**Sec. 171.** 10 MRSA § 2206, sub-§ 4, as amended by PL 1971, c. 618, § 13, is further amended to read:

**4. Revocation and suspension.** The ~~board~~ Administrative Court may, upon complaint of the board and after notice and hearing, suspend or revoke its approval of a mining plan for noncompliance by the operator with the terms thereof or for violation by the operator of regulations in force when the plan was approved.

**Sec. 172.** 10 MRSA § 2212, as last amended by PL 1973, c. 537, § 12, is repealed.

**Sec. 173.** 10 MRSA § 2213, as amended by PL 1973, c. 537, § 13, is repealed.

**Sec. 174.** 10 MRSA § 2363, sub-§ 1, 1st sentence, as repealed and replaced by PL 1977, c. 537, § 3, is amended to read:

The State Sealer of Weights and Measures ~~shall after a public hearing preceded by at least 2 weeks notice in the state paper,~~ in a manner consistent with the Maine Administrative Procedure Act, establish standard procedures and promulgate regulations for the purchase of all weight scaled wood on a green weight basis only.

**Sec. 175.** 10 MRSA § 2366, sub-§ 2, as enacted by PL 1977, c. 537, § 5, is repealed.

**Sec. 176.** 10 MRSA § 2402, sub-§ 3, as enacted by PL 1973, c. 91, § 5, is amended to read:

**3. Regulations.** Issue, in a manner consistent with the Maine Administrative Procedure Act, reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law;

**Sec. 177.** 10 MRSA § 2402, sub-§ 12, as enacted by PL 1973, c. 91, § 5, is amended by adding at the end a new sentence to read:

**This approval, rejection, specification or condemnation shall not be considered to be licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act;**

**Sec. 178.** 10 MRSA § 2402, sub-§ 14, as enacted by PL 1971, c. 91, § 5, is amended to read:

**14. Appropriate measure.** Prescribe, by regulation adopted in a manner consistent with the Maine Administrative Procedure Act, the appropriate term or unit of weight or measure to be used, whenever he determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion;

**Sec. 179.** 10 MRSA § 2403, sub-§ 2, as enacted by PL 1973, c. 91, § 5, is amended to read:

**2. Orders.** Empowered to issue stop-use, hold and removal orders with respect to any weights and measures commercially used and stop-sale, hold and removal orders with respect to any packaged commodities or bulk commodities kept, offered or exposed for sale. **These stop-use, hold and removal orders shall not be considered to be licensing or an adjudicatory proceeding, and those terms are defined by the Maine Administrative Procedure Act;**

**Sec. 180.** 10 MRSA § 2406, 2nd sentence, as reenacted by PL 1973, c. 654, § 1, is amended to read:

When such packages or amounts of commodities are found not to contain the amounts represented or are found to be kept, offered or exposed for sale in violation of law, the state sealer may order them off sale and may mark or stamp them as "illegal," **these orders shall not be considered to be licensing or any adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act.**

**Sec. 181,** 10 MRSA § 2501, 3rd sentence, is amended to read:

Each license shall expire on December 31st of each year **or in a manner consistent with the Maine Administrative Procedure Act, whichever is later,** unless sooner revoked or suspended under section 2506.

**Sec. 182.** 10 MRSA § 2506 is repealed and the following enacted in its place:

§ 2506. **Suspension or revocation of license**

**The state sealer is authorized, in a manner consistent with the Maine Administrative Procedure Act, to refuse to renew, and the Administrative Court is authorized, on complaint of the state sealer or the Attorney General, to suspend or revoke the license of any licensed public weighmaster when the licensee has violated any provision of this chapter or of any valid regulation of the state sealer affecting a licensed public weighmaster.**

**Sec. 183.** 10 MRSA § 2623, last sentence, as enacted by PL 1973, c. 91, § 10, is amended to read:

Notwithstanding anything to the contrary contained anywhere in this chapter, wrapped paper rolls, paper rolls on nonreturnable cores and wrapped bundles of paper may be marked and sold on a gross weight basis and sheeted paper may be marked and sold on a specified ream weight basis and all contracts and documents relating to the marking or sale of any of such commodities shall be construed accordingly unless a contrary intent clearly appears, except that none of such commodities shall be so sold at retail, or so marked for sale at retail, if

such sale or marking is contrary to such reasonable regulations consistent with trade practices in the paper industry as the state sealer may from time to time issue, **in a manner consistent with the Maine Administrative Procedure Act.**

**Sec. 184. 10 MRSA § 2651, last sentence, is amended to read:**

Upon approval by the state sealer, he shall issue to the applicant a registration certificate which shall expire on December 31st, **or in the manner provided in the Maine Administrative Procedure Act, whichever is later,** unless sooner suspended or revoked under section 2655.

**Sec. 185. 10 MRSA § 2655 is repealed and the following enacted in its place:**

**§ 2655. Suspension or revocation of registration of dealers or repairmen**

**The state sealer is authorized to refuse to renew the certificate of any registered dealer or repairman when he is satisfied, after providing notice and opportunity for a hearing in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory hearings, that the registrant has violated this subchapter or is found to be an incompetent, inefficient, unscrupulous or unsuitable person to be engaged as a dealer or repairman. The Administrative Court, upon complaint of the state sealer or the Attorney General, is authorized to suspend or revoke the certificate of any registered dealer or repairman on the same grounds.**

**Sec. 186. 10 MRSA § 2701, 2nd ¶, as enacted by PL 1969, c. 332, is amended to read:**

Promulgation and establishment of fees shall follow the procedure and be subject to the requirements ~~imposed by Title 5, sections 2351 to 2354~~ **as the rulemaking of the Maine Administrative Procedure Act.**

**Sec. 187. 10 MRSA § 2901, is amended to read:**

**The commissioner shall promulgate, in a manner consistent with the Maine Administrative Procedure Act, such uniform rules and regulations concerning the weighing, measuring, sampling, care of samples and the making of tests as he deems proper. No person shall credit any producer with a lesser percentage of milkfat than is actually contained in the milk or cream received from the producer.**

**Sec. 188. 10 MRSA § 2905, last ¶, is repealed and the following enacted in its place:**

**The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make rules and regulations governing the application for and the granting of the certificate. The Administrative Court may revoke the certificate for cause. The fee for issuing a certificate shall be \$1 and shall be deposited in the State Treasury.**

**Sec. 189.** 10 MRSA § 2952, 4th and 5th sentences, are amended to read:

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, prescribe regulations governing the sealing of such cans or containers by the manufacturer and may authorize such sealing by any manufacturer upon his agreement to conform to said regulations. The ~~commissioner~~ Administrative Court, upon complaint filed by the commissioner or the Attorney General, may at any time, for cause, revoke the authority so given ~~by him~~ to any manufacturer.

**Sec. 190.** 10 MRSA § 3323, last 2 sentences, as enacted by PL 1975, c. 725, are amended to read:

If there is no agreed price or a method for determining it which is agreed upon, the extent of the lien shall be the full value of the raw product as of the date of delivery and shall be determined by the commissioner ~~after a hearing~~, upon notice and opportunity for a hearing, provided in a manner consistent with the provisions as to adjudicatory proceedings of the Maine Administrative Procedure Act. ~~Anyone aggrieved by this decision may appeal the decision to Superior Court.~~

**Sec. 191.** 10 MRSA § 9005, sub-§ 2, as enacted by PL 1977, c. 550, § 1, is repealed and the following enacted in its place:

2. Rules and regulations. Rules and regulations of the board shall be adopted, amended or repealed in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

**Sec. 192.** 10 MRSA § 9005, sub-§ 3, as enacted by PL 1977, c. 550, § 1, is amended by adding at the end the following new sentence to read:

A copy of any rules and regulations adopted by the board, and any amendments thereto, shall be mailed to each licensee.

**Sec. 193.** 10 MRSA § 9005, sub-§ 4, as enacted by PL 1977, c. 550, § 1, is repealed.

**Sec. 194.** 10 MRSA § 9007, sub-§ 2, as enacted by PL 1977, c. 550, § 1, is repealed and the following enacted in its place:

2. Suspension or revocation. The board may file a complaint with the Administrative Court to suspend or revoke the board's acceptance or certification, or both, of manufactured housing certified under the reciprocal provisions of this section, for the following causes:

A. If the board determines that the standards for the manufacture and inspection of the manufactured housing of another state or governmental agency do not meet the objectives of this chapter and the rules and regulations promulgated pursuant hereto;

**B. The board determines that the standards for manufacture and inspection are not being enforced to the satisfaction of the board; or**

**C. The other state or governmental agency suspends or revokes its approval or certification.**

**Sec. 195. 10 MRSA § 9007, sub-§ 3, as enacted by PL 1977, c. 550, § 1 is repealed.**

**Sec. 196. 10 MRSA § 9009, sub-§ 2, as enacted by PL 1977, c. 550, § 1, is repealed and the following enacted in its place:**

**2. Investigation of complaints; revocation or suspension of licenses. The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. If the board finds reason to believe that the manufacturer, dealer or mechanic has violated this chapter, or the rules and regulations promulgated pursuant to this chapter, it may file a complaint with the Administrative Court to revoke or suspend the license or approval of the manufacturer, dealer or mechanic. The board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked, providing 3 or more members of the board vote in favor of this reissuance.**

**Sec. 197. 10 MRSA § 9010, as enacted by PL 1977, c. 550, § 1, is repealed and the following enacted in its place:**

**§ 9010. Appeals**

**Judicial review of any final action of the board shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.**

**Sec. 198. 12 MRSA § 304, sub-§ 2, 2nd sentence, as enacted by PL 1975, c. 542, is amended to read:**

**Such written notice shall be made by ~~registered mail and shall identify the time and place of the hearing and the purpose for which it shall be conducted~~ regular mail and shall conform to Title 5, section 9052, subsection 4.**

**Sec. 199. 12 MRSA § 304, sub-§ 3, 1st sentence, as enacted by PL 1975, c. 542, is amended to read:**

**At such hearing the commission shall solicit and receive testimony, as provided by Title 5, section 9057, for the purpose of establishing a normal water level for such body of water, including but not limited to:**

**Sec. 200. 12 MRSA § 304, sub-§ 3, ¶ I, is enacted to read:**

**I. The commission may take official notice as provided by Title 5, section 9058.**

**Sec. 201, 12 MRSA § 304, Sub-§ 4, 1st sentence, as enacted by PL 1975, c. 542, is amended to read:**

Based on the evidence solicited at such hearing the commission shall, within 60 days after adjournment, ~~make written findings and issue an order~~ **issue a decision and order that conform with Title 5, section 9061** to the owner of any dam thereon establishing a normal water level for the body of water impounded by such dam.

Sec. 202. 12 MRSA § 304, sub-§ 4, last sentence, as enacted by PL 1975, c. 542, is amended to read:

The commission shall cause a copy of such order to be ~~delivered~~ **mailed** to the dam owner and each petitioner, if any, and shall cause the same to be filed in the appropriate registry of deeds.

Sec. 203. 12 MRSA § 304, sub-§§ 5-10, are enacted to read:

5. **Public participation. Public participation shall conform to Title 5, section 9054.**

6. **Ex parte communications, separation functions. Ex parte communications and separation of powers shall conform to Title 5, section 9055.**

7. **Opportunity to be heard. Opportunity to be heard shall conform to Title 5, section 9056.**

8. **Subpoenas and discovery. Subpoenas and discovery shall conform to Title 5, section 9060.**

9. **Record. The record shall conform with Title 5, section 9059.**

10. **Presiding officers. Presiding officers shall conform to Title 5, sections 9062 and 9063.**

Sec. 204. 12 MRSA § 306, 1st ¶, as enacted by PL 1975, c. 542, is amended by adding at the end a new sentence to read:

**The commission may enforce the order by any other appropriate remedy.**

Sec. 205. 12 MRSA § 307, as enacted by PL 1975, c. 542, is amended to read:  
**§ 307. Appeal**

Any person aggrieved by an order of the commission may appeal to the Superior Court ~~within 30 days of notice thereof~~ **pursuant to Title 5, chapter 375, subchapter VII.**

Sec. 206. 12 MRSA § 512, last sentence, as amended by PL 1973, c. 460, § 18, is further amended to read:

On natural areas of Type 1, 2 or 3 all land uses and practices shall be subject to regulations of the bureau, **promulgated pursuant to Title 5, chapter 375, subchapter II**, to carry out the purposes of this legislation to manage or maintain the areas for the preservation of their natural condition.



**Sec. 207.** 12 MRSA § 542, sub-§ 7, as enacted by PL 1977, c. 360, § 6, is repealed and the following enacted in its place:

**7. Rules and regulations.** The survey may from time to time adopt, amend, repeal, pursuant to Title 5, chapter 375, subchapter II, and enforce reasonable rules and regulations necessary to carry out the duties assigned to it.

**Sec. 208.** 12 MRSA § 545, last sentence, as enacted by PL 1977, c. 360, § 7, is amended to read:

The survey shall have the power to make such rules and regulations as it may deem proper, pursuant to Title 5, chapter 375, subchapter II, with respect to all sections of this subchapter, including safety and resource conservation.

**Sec. 209.** 12 MRSA § 547, sub-§ 2, as enacted by PL 1977, c. 360, § 7, is further amended by adding at the end of a new sentence to read:

**All rules and regulations under this subsection shall be promulgated pursuant to Title 5, chapter 375, subchapter II.**

**Sec. 210** 12 MRSA § 547, sub-§ 4, ¶ I, as enacted by PL 1977, c. 360, § 7, is amended by adding at the end a new sentence to read:

**Any notice of forfeiture sent or hearing held under this subsection shall otherwise conform to the provisions of Title 5, chapter 375, subchapter IV.**

**Sec. 211.** 12 MRSA § 547, sub-§ 4, last ¶, 1st 2 sentences, as enacted by PL 1977, c. 360, § 7, are repealed and the following enacted in their place:

**Judicial review of final action by the director may be obtained pursuant to the provisions of Title 5, chapter 375, subchapter VII, except that the decision of the Superior Court shall be final.**

**Sec. 212.** 12 MRSA § 547, sub-§ 5, last ¶, 1st sentence, as enacted by PL 1977, c. 360, § 7, is amended to read:

**A Public hearing shall be held, in conformity with Title 5, chapter 375, subchapter II, prior to any ruling required under this subsection.**

**Sec. 213.** 12 MRSA § 547, sub-§ 6, ¶ C, 1st ¶, 2nd and 3rd sentences, as enacted by PL 1977, c. 360, § 7, are repealed and the following enacted in their place:

**The hearing shall be held in conformity with Title 5, chapter 375, subchapter IV, and within 60 days of the receipt of the application.**

**Sec. 214.** 12 MRSA § 547, sub-§ 7, ¶ C, 1st ¶, 2nd and 3rd sentences, as enacted by PL 1977, c. 360, § 7, are repealed and the following enacted in their place:

**The hearing shall be held in conformity with Title 5, chapter 375, subchapter IV, and within 60 days of the receipt of the application.**

Sec. 215. 12 MRSA § 547, sub-§ 12, last sentence, as enacted by PL 1977, c. 360, § 7, is repealed and the following enacted in its place:

**The notice of termination sent and hearing held under this subsection shall otherwise conform to Title 5, chapter 375, subchapter IV. Judicial review of final action by the director may be obtained pursuant to Title 5, chapter 375, subchapter VII.**

Sec. 216. 12 MRSA § 552, subsection 2, ¶ D, sub-¶¶ (1), (2), (3), (4) and (5), as enacted by PL 1975, c. 339, § 6 and sub-¶¶ (6) and (7), as enacted by PL 1977, c. 360, § 8, are repealed.

Sec. 217. 12 MRSA § 552, sub-§ 2, ¶ D, as last amended by PL 1977, c. 360, § 8, is further amended by adding at the end a new paragraph to read:

**All rules and regulations of the bureau shall be promulgated in accordance with the procedures set forth in Title 5, chapter 375, subchapter II. These rules and regulations, except those related to the conduct of public hearings, shall be enforced by any law enforcement officer. A violation of any such rules and regulations, except as aforesaid, shall be a Class E crime.**

Sec. 218. 12 MRSA § 602, sub-§ 3, last 5 paragraphs, as repealed and replaced by PL 1977, c. 360, § 9, are repealed and the following enacted in their place:

**All rules and regulations of the bureau shall be promulgated in accordance with the procedures set forth in Title 5, chapter 375, subchapter II.**

Sec. 219. 12 MRSA § 633, last ¶, 1st sentence, as amended by PL 1977, c. 360, § 12, is further amended to read:

The department may promulgate rules and regulations to carry out this chapter in accordance with ~~Title 5, chapter 303~~ **the procedures set forth in Title 5, chapter 375, subchapter II.**

Sec. 220. 12 MRSA § 673, last ¶, as repealed and replaced by PL 1977, c. 360, § 13, is amended to read:

Rules and regulations governing the Allagash Wilderness Waterway shall be adopted in accordance with ~~section 602, subsection 3~~ **the procedures set forth in Title 5, chapter 375, subchapter II.**

Sec. 221. 12 MRSA § 684, 4th sentence, as enacted by PL 1969, c. 494, is amended to read:

**The commission, acting in accordance with the procedures set forth in Title 5, chapter 375, subchapter II, may adopt whatever rules it deems necessary for the conduct of its business.**

**Sec. 222.** 12 MRSA § 685-A, sub-§ 1, 1st ¶, last sentence, as amended by PL 1973, c. 569, § 10, is further amended to read:

The commission, acting in accordance with the procedures set forth in Title 5, chapter 375, subchapter 11, shall enact regulations for determining the boundaries of each major type of district in accordance with the following standards.

**Sec. 223.** 12 MRSA § 685-A, sub-§ 3, 1st ¶, as amended by PL 1973, c. 569, § 10, is amended by adding at the end a new sentence to read:

**These standards shall be adopted by the commission in accordance with the procedures set forth in Title 5, chapter 375, subchapter II.**

**Sec. 224.** 12 MRSA § 685-A, sub-§ 7, 3rd ¶, as amended by PL 1971, c. 544, § 28-D, is repealed and the following enacted in its place:

**That notice shall state a citation of the statutory authority under which the maps or standards are proposed to be adopted, the purpose, time and place of the hearing, the time and place where copies of the proposed maps or standards may be inspected or obtained prior to the hearing, and the manner and time within which comments may be submitted to the commission for consideration.**

**Sec. 225.** 12 MRSA § 685-A, sub-§ 7, 5th ¶, as amended by PL 1973, c. 569, § 10, is further amended by adding at the end a new sentence to read:

**Except as provided in this chapter, any hearings required or authorized under this subsection or subsection 8 shall be conducted in accordance with the requirements for rulemaking set forth in Title 5, chapter 375, subchapter II.**

**Sec. 226.** 12 MRSA § 685-A, sub-§ 7, 6th ¶, 1st sentence, is amended to read:

**The commission, acting in accordance with Title 5, chapter 375, subchapter II, shall adopt, and may amend and repeal, rules for the conduct of public hearings held under this section, including adjournments and continuations thereof.**

**Sec. 227.** 12 MRSA § 685-A, sub-§ 7, 7th ¶, as enacted by PL 1971, c. 457, § 5, is repealed and the following enacted in its place:

**Land use maps and standards so adopted shall become effective not sooner than 15 days after their adoption by the commission, provided the requirements of the Maine Administrative Procedure Act are met and provided the maps and standards are available in the appropriate registry of deeds for each county.**

**Sec. 228.** 12 MRSA § 685-B § 3, 1st ¶, as enacted by PL 1973, c. 569, § 11, is amended by adding at the end a new sentence to read:

**The commission shall respond to the request within 30 days of receipt thereof by notifying the petitioner in writing of the date, time and place set for the requested hearing or of the denial of the request.**

**Sec. 229.** 12 MRSA § 685-B, sub-§ 3, 2nd ¶, first 2 sentences, as amended by PL 1971, c. 544, § 28-F, are repealed and the following enacted in their place:

**The commission may determine on its own motion to hold a hearing on an application, in which event it shall hold the hearing within 45 days of receiving the application. At least 15 days prior to the hearing, notices of the date, time and place thereof shall be sent to the applicant and to appropriate state and federal agencies. Any hearing held under this subsection shall not be considered an adjudicatory proceeding, subject to Title 5, chapter 375, subchapter IV.**

**Sec. 230.** 12 MRSA § 685-B, sub-§ 3 3rd ¶, as amended by PL 1971, c. 619, § 7 is further amended to read:

**The commission, acting in accordance with Title 5, chapter 375, subchapter II, shall adopt, and may amend and repeal, rules of conduct of hearings and shall make a complete verbatim recording of all hearings held pursuant to this section.**

**Sec. 231.** 12 MRSA § 685-B, sub-§ 3, 5th ¶, is repealed and the following enacted in its place:

**In the event that the commission determines to act upon an application for approval without hearing, within 30 days of receipt of the application, the commission shall approve, with such terms and conditions as deemed necessary, or disapprove the application.**

**Sec. 232.** 12 MRSA § 685-B, sub-§ 5, 2nd ¶, first 2 sentences, as amended by PL 1971, c. 544, § 28-F, are repealed and the following enacted in their place:

**A violation of any condition attached to a commission approval or permit, or any change in use, arrangement or construction from that approved, shall be deemed a violation of this chapter and, in addition to any other penalties or remedies prescribed herein or otherwise provided by law, shall constitute grounds for the revocation or suspension of this approval. The commission may, acting in accordance with Title 5, section 10003, amend, modify or refuse to renew any commission approval or permit where the commission determines that the criteria for approval set forth in subsection 4, paragraphs A to F, have not been, are not being, or will not be satisfied.**

**Sec. 233.** 12 MRSA § 685-C, sub-§ 1, 4th ¶, last sentence, is amended to read:

**The public hearings will be conducted according to commission rules adopted in accordance with procedures for the establishment of rules and regulations pursuant to Title 5, ~~sections 2351 to 2354~~ chapter 375, subchapter II.**

**Sec. 234.** 12 MRSA § 685-C, sub-§ 3, 1st ¶, last sentence, as enacted by PL 1971, c. 457, § 5, is amended to read:

**The fees shall be adopted and amended, in accordance with procedures for the**

establishment of rules and regulations pursuant to Title 5, ~~sections 2351 to 2354~~ **chapter 375, subchapter II.**

**Sec. 235.** 12 MRSA § 685-C, sub-§ 5, ¶ A, as amended by PL 1973, c. 569, § 14, is further amended to read:

**A.** Adopt rules to interpret and carry out this chapter in accordance with Title 5, ~~sections 2351 to 2354~~ **chapter 375, subchapter II**, unless otherwise provided by this chapter;

**Sec. 236.** 12 MRSA § 689, as last amended by PL 1975, c. 770, § 65, is repealed and the following enacted in its place:

**§ 689. Appeal**

**Persons aggrieved by final actions of the commission may appeal therefrom in accordance with Title 5, chapter 375, subchapter VII.**

**Sec. 237.** 12 MRSA § 903, 1st ¶, as amended by PL 1965, c. 226, § 18, is repealed and the following enacted in its place:

**The Baxter State Park Authority may in a manner consistent with the Maine Administrative Procedure Act, establish such rules and regulations as it deems necessary for the protection and safety of the public or for the proper observance of the conditions and restrictions expressed in the deeds of trust of the park to the State.**

**Sec. 238.** 12 MRSA § 1021, sub-§ 2, last 2 sentences, as enacted by PL 1975, c. 764, § 3, are repealed and the following enacted in their place:

**These rules shall be adopted in accordance with the procedures set forth in Title 5, chapter 375, subchapter II.**

**Sec. 239.** 12 MRSA § 1106, as last amended by PL 1973, c. 460, § 18, is further amended by adding at the end a new sentence to read:

**The exercise by the director of his power to issue orders, notifications and permits pursuant to this section is not and shall not be deemed an adjudicatory proceeding under the Maine Administrative Procedure Act.**

**Sec. 240.** 12 MRSA § 1203, last ¶, as amended by PL 1973, c. 460, § 18, is repealed and the following enacted in its place:

**The director may construct and maintain public campsites in the district and may establish a schedule of fees, pursuant to Title 5, chapter 375, subchapter II, for the use thereof.**

**Sec. 241.** 12 MRSA § 1402, 3rd sentence, as last amended by PL 1973, c. 460, § 18, is further amended to read:

When forest fire conditions become serious, the director may ~~declare void~~ file a complaint in the Administrative Court seeking revocation of permits already issued.

Sec. 242. 12 MRSA § 1402, last ¶, last sentence, as amended by PL 1973, c. 460, § 18, is repealed and the following enacted in its place:

**Whenever a guide violates this paragraph, the director may file a complaint in the Administrative Court seeking revocation of his permit.**

Sec. 243. 12 MRSA § 1551, 2nd ¶, 4th sentence, as last amended by PL 1973, c. 460, § 18, is further amended to read:

Whenever in the opinion of the director there is a serious forest fire hazard, due to dry weather conditions, he may prohibit all burning under this section and in such periods forest rangers and town forest fire wardens shall refuse all requests to burn and ~~declare void~~ shall file a complaint in the Administrative Court seeking revocation of all permits already issued.

Sec. 244. 12 MRSA § 1902, last sentence, is repealed

Sec. 245. 12 MRSA § 1904, 4th ¶ from the end, is amended to read:

All permits shall expire with the calendar year ~~and may be revoked by the commissioner at anytime prior thereto for failure to comply with the rules and regulations of the commissioner adopted pursuant to this section.~~

Sec. 246. 12 MRSA § 1904, 3rd ¶ from the end, is repealed.

Sec. 247. 12 MRSA § 1956, as last amended by PL 1977, c. 78, § 51, is repealed.

Sec. 248. 12 MRSA § 1957 is repealed.

Sec. 249. 12 MRSA § 1958 is repealed.

Sec. 250. 12 MRSA § 1960, as last amended by PL 1977, c. 503, § 5, is repealed and the following enacted in its place:

#### § 1960. Rules

The commissioner may, in conformity with the Administrative Procedure Act, Title 5, Part 18, and except as otherwise provided, adopt, amend and repeal reasonable rules, including emergency rules necessary for the proper administration, enforcement, implementation and interpretation of any provision of law that he is charged with the duty of administering. These rules duly promulgated shall have the full force and effect of law and shall be effective upon filing with the Secretary of State, unless a later date is required by statute or specified in the rule.

Sec. 251. 12 MRSA § 1960-A, as last amended by PL 1977, c. 506, § 6, is repealed.

Sec. 252. 12 MRSA § 1961, 1st ¶, as amended by PL 1977, c. 78, § 55, is repealed.

Sec. 253. 12 MRSA § 1961, 2nd ¶, last sentence, as repealed and replaced by PL 1977, c. 221, is repealed.

Sec. 254. 12 MRSA § 1961-A, as enacted by PL 1973, c. 690, § 3, is repealed and the following enacted in its place:

§ 1961-A. Filing of regulations

The commissioner may file certified copies of all rules promulgated by him and any and all amendments thereto with the clerk of all District Courts and Superior Courts in the State in which these rules are applicable. These certified copies shall be considered official publications of the State for all purposes, including, but not limited to, the Maine Rules of Civil Procedure, Rule 44 (a) (1) and the Maine Rules of Criminal Procedure, Rule 27, and judicial notice shall be taken accordingly.

Sec. 255. 12 MRSA § 1979, as last amended by PL 1975, c. 497, § 3, is repealed.

Sec. 256. 12 MRSA § 2053, 4th ¶, as repealed and replaced by PL 1969, c. 241, § 2, is repealed.

Sec. 257. 12 MRSA § 2067, sub-§ 2, as enacted by PL 1973, c. 734, § 1, is amended to read:

2. **Department may adopt rules.** It shall be in the intent of any ~~regulation~~ rule required that it shall be in accord with such federal regulation as may be promulgated under the Federal Boat Safety Act of 1971. The commissioner, acting jointly with the Commissioner of the ~~Department of~~ Marine Resources, may adopt and amend ~~regulations~~ rules under the procedure provided in ~~section 2068~~ Title 5, Part 18, which are not inconsistent with this chapter, covering the following subject matter:

A. ~~Regulations~~ Rules to further establish administrative procedure under this chapter;

B. ~~Regulations~~ Rules further governing the use and operation of watercraft upon the waters of the State to insure safety of persons and property;

C. ~~Regulations~~ Rules further governing safety equipment for watercraft, including the type, quality and quantity of such equipment;

D. ~~Regulations~~ Rules governing the horsepower of motors used to propel watercraft on all internal waters of this State. In promulgating such ~~regulations~~ rules, the commissioner shall take into consideration the area of the internal waters, the use to which the internal waters are put, the depth of water and the amount of water borne traffic upon the waters and determine whether or not

such ~~regulation~~ rule is necessary to insure the safety of persons and property. The adoption of ~~regulations~~ rules under this paragraph is governed by ~~section 2068~~ Title 5, Part 18, except that such ~~regulations~~ rules may be only adopted as a result of a petition from the municipal officers of the municipality or municipalities in which the waters exist or from 25 citizens of the municipalities in which the waters exist, by the county commissioners of the county in which the waters exist if they are located in unorganized territory or 25 citizens of the unorganized territory in which the waters exist, requesting the issuance of such a ~~regulation~~ rule for a particular body of internal water and stating the proposed horsepower limitation.

Sec. 258. 12 MRSA § 2068, as enacted by PL 1973, c. 734, § 1, is repealed.

Sec. 259. 12 MRSA § 2072, sub-§ 3, as enacted by PL 1973, c. 734, § 1, is repealed.

Sec. 260. 12 MRSA § 2106, 1st ¶, 1st and 2nd sentences, are repealed and the following enacted in their place:

The commissioner may, in conformity with the Administrative Procedure Act, Title 5, Part 18, enact a rule setting apart, for a term not to exceed 10 years, any inland water for the use of the State in the prosecution of the work of fish culture and scientific reasearch relative to fish.

Sec. 261. 12 MRSA § 2106, 2nd ¶, is repealed.

Sec. 262. 12 MRSA § 2108, as amended by PL 1971, c. 618, § 12, is repealed and the following enacted in its place:

#### § 2108. Designation of spawning beds

The commissioner may, in conformity with the Administrative Procedure Act, Title 5, Part 18, enact a rule designating any inland waters of the State as fish spawning areas. The commissioner shall institute a public hearing, in conformity with the Administrative Procedure Act, if so requested by any state agency.

Sec. 263. 12 MRSA § 2155, as last amended by PL 1975, c. 516, §§ 5-C and 5-D, is repealed and the following enacted in its place:

#### § 2155. Use of wildlife management areas

The commissioner may, in conformity with the Administrative Procedure Act, Title 5, Part 18, promulgate rules regulating the public use of any wildlife management area or wildlife sanctuary as designated in section 2101. In no event, shall any landowner be prohibited from operating any vehicle on land on which he is domiciled.

The commissioner may harvest and sell natural products of the land on lands owned by the department.



Sec. 264. 12 MRSA § 2201, 4th ¶ from the end, as amended by PL 1965, c. 386, § 2, is repealed.

Sec. 265. 12 MRSA § 2208, as enacted by PL 1973, c. 786, § 1, is repealed and the following enacted in its place:

§ 2208. Hearings; appeals

In the event that an application for a permit is denied, or that it is granted upon terms objectionable to the applicant, the applicant may, within 30 days of receipt of notice of the decision, file a notice of appeal with the commissioner. The commissioner may then, within 30 days of receipt of the notice of appeal, provide the applicant with the opportunity for a hearing which shall be before him or his designee, and of which a transcript shall be made. Any person aggrieved by a final order or decision of the commissioner may appeal therefrom to the Superior Court.

Sec. 266. 12 MRSA § 2209, 1st sentence, as enacted by PL 1973, c. 786, § 1, is amended to read:

The commissioner may ~~pursuant to the Administrative Code and based upon the standards provided in section 2207, adopt, amend and repeal such regulations, establish such hearing procedures and~~ charge fees as he deems necessary to properly administer this subchapter.

Sec. 267. 12 MRSA § 2302, 1st ¶, as last amended by PL 1977, c. 78, § 64, is further amended by adding after the first sentence a new sentence to read:

**On conviction of any person, holding a license or licenses, of the violation of any provision of Title 17-A while on a hunting trip or in the pursuit of wild game or game birds, the commissioner may revoke the license or licenses held by that person for a period not to exceed 5 years.**

Sec. 268. 12 MRSA § 2352, 3rd ¶, as last amended by PL 1977, c. 503, § 13, is repealed and the following enacted in its place:

**It shall be unlawful for any person to hunt, capture, kill, take, possess, transport, buy or sell any migratory game bird, except at the times, in the manner and numbers and by the means specifically permitted by this section or by rules promulgated by the commissioner.**

Sec. 269. 12 MRSA § 2466-B, 3rd ¶, as enacted by PL 1973, c. 240, is amended to read:

The commissioner ~~may promulgate specific regulations for the keeping of records, taking, possession or training of raptors used in the practice of falconry and~~ may issue licenses to persons to engage in the practice of falconry.

Sec. 270. 12 MRSA § 2471, 2nd ¶, as enacted by PL 1967, c. 86, § 1, is repealed.

Sec. 271. 12 MRSA § 2479, as enacted by PL 1967, c. 86, § 1, is repealed.

Sec. 272. 12 MRSA § 2751-A, 2nd ¶, 1st sentence, as enacted by PL 1965, c. 448, § 29, is amended to read:

The commissioner may grant permits ~~and establish rules and regulations~~ to import live fresh-water fish or eggs into the State.

Sec. 273. 12 MRSA § 2953, 1st ¶, as enacted by PL 1965, c. 374, is repealed and the following enacted in its place:

The commissioner, upon receiving a report of the wounding or killing of a human being, may bring a complaint in the Administrative Court seeking to revoke or suspend the current license or the privilege to obtain a hunting license of any person who, while on a hunting trip or in the pursuit of wild game or game birds, is alleged to have shot and wounded or killed that human being. The Administrative Court shall suspend the license or privilege for a period not to exceed 5 years, if it finds that the public safety will be endangered by the retention of the license or privilege by that person.

Sec. 274. 12 MRSA § 3204, last ¶, last sentence, as enacted by PL 1975, c. 328, § 2, is amended to read:

He shall maintain a list of all species which he has designated to be endangered or threatened, naming each species contained therein by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened, except that no species shall be added to or deleted from such list unless notice of such change is published and a public hearing thereon has been held in accordance with the procedures established in section ~~1960-A~~ 1960.

Sec. 275. 12 MRSA § 3206, as enacted by PL 1975, c. 328, § 2, is repealed.

Sec. 276. 12 MRSA § 4757, first ¶, first sentence, as enacted by PL 1971, c. 541, is amended to read:

Any person having a recorded interest in wetlands affected by any such order of the board may, within ~~90 days after notice thereof~~ **the time provided in Title 5, chapter 375, subchapter VII**, appeal to the Superior Court ~~for the county in which the wetland is situated~~ for the purpose of determining whether such order so restricts the use of the property as to deprive the owner of the reasonable use thereof or constitutes the equivalent of a taking without compensation.

Sec. 277. 13 MRSA § 1956, sub-§ 6, as enacted by PL 1973, c. 621, § 1, is amended to read:

6. **Rules and regulations.** The board shall have authority from time to time to adopt, amend and repeal, in the manner prescribed by ~~Title 5, sections 2351 to 2354~~

the Maine Administrative Procedure Act, such rules and regulations as may be necessary or appropriate to carry out this Article.

Sec. 278. 13 MRSA § 1957, sub-§ 3, 1st sentence, as enacted by PL 1973, c. 621, § 1, is amended to read:

The board shall provide ~~for a hearing upon such petition~~ notice and opportunity for a hearing, provided in a manner consistent with the provisions as to adjudicatory proceedings of the Maine Administrative Procedure Act.

Sec. 279. 13 MRSA § 1957, sub-§ 4, as enacted by PL 1973, c. 621, § 1, is amended to read:

4. **Refiling of petition.** If, ~~at~~ after said hearing, the board does not deem an association qualified, it shall, in a manner consistent with the Maine Administrative Procedure Act, clearly specify the reasons for such failure to qualify in its decision and, upon the refiling of said petition, shall reconsider its decision within 30 days after the date on which said petition was filed.

Sec. 280. 13 MRSA § 1957, sub-§ 7, as enacted by PL 1973, c. 621, § 1, is amended to read:

7. **Revocation.** If a qualified association ceases to maintain the standards for qualification set forth in subsection 3, the board shall, ~~after notice and hearing in~~ a manner consistent with the Maine Administrative Procedure Act, apply to the Administrative Court to revoke the qualification of such association. ~~Said decisions shall clearly specify the reasons for the revocation of the qualifications of any association.~~

Sec. 281. 13 MRSA § 1958, sub-§ 6, as enacted by PL 1973, c. 621, § 1, is repealed and the following enacted in its place:

6. **Investigation.** Whenever it is charged that a qualified association or handler refuses to bargain, as that term is defined in subsection 1, the board shall investigate the charges. If, upon investigation, the board considers that there is reasonable cause to believe that the person charged has refused to bargain in violation of this Article, the board shall provide that person with notice and opportunity to be heard, in a maner consistent with the Maine Administrative Procedure Act as to adjudicatory hearings.

Sec. 282. 13 MRSA § 1958, sub-§ 7, as enacted by PL 1973, c. 621, § 1, is repealed and the following enacted in its place:

7. **Hearing.** Hearings held pursuant to subsection 6 shall be held in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory hearings. The board shall request that the Attorney General, or any attorney in his department designated by him, be present at these hearings and shall advise the board on procedure and on the admissibility of any evidence.

Sec. 283. 13 MRSA § 1958, sub-§ 9, as enacted by PL 1973, c. 621, § 1, is repealed.

Sec. 284. 13 MRSA § 1959, sub-§ 2, as amended by PL 1973, c. 788, § 54, is repealed.

Sec. 285. 13 MRSA § 1959, sub-§ 3, as enacted by PL 1973, c. 621, § 1, is amended to read:

3. Stay. The commencement of proceedings ~~under subsection 1 or 2~~ for judicial review shall not stay enforcement of the board's decision, but the reviewing court may order a stay upon such terms as it deems proper.

Sec. 286. 13 MRSA § 1959, sub-§ 4, as enacted by PL 1973, c. 621, § 1, is repealed.

Sec. 287. 13-A MRSA § 1210, sub-§ 1, first ¶, as enacted by PL 1971, c. 439, § 1, is amended to read:

The authority of a foreign corporation to do business in this State may be revoked by the ~~Secretary of State, as provided by subsections 2 and 3~~ Administrative Court when:

Sec. 288. 13-A MRSA § 1210, sub-§§ 3, 4 and 5, as enacted by PL 1971, c. 439, § 1, are repealed.

Sec. 289. 13-A MRSA § 1302, sub-§ 1, 2nd sentence, as repealed and replaced by PL 1973, c. 693, § 3, is amended to read:

Upon failure to file an annual report and to pay the annual report fee or the penalty, the ~~Secretary of State~~ Administrative Court shall revoke a foreign corporation's authority to do business in this State and suspend a domestic corporation from doing business.

Sec. 290. 13-B MRSA § 1210, sub-§ 1, first ¶, as enacted by PL 1977, c. 525, § 13, is amended to read:

1. Revocation of authority. The authority of a foreign corporation to carry on activities in this State may be revoked by the ~~Secretary of State, as provided by subsections 2 and 3~~ Administrative Court when:

Sec. 291. 13-B MRSA § 1210, sub-§§ 3, 4 and 5, as enacted by PL 1977, c. 525, § 13, are repealed.

Sec. 292. 13-B MRSA § 1302, sub-§ 1, 2nd sentence, as enacted by PL 1977, c. 525, § 13, is amended to read:

Upon failure to file a biennial report and to pay the penalty, the ~~Secretary of State~~ Administrative Court shall, after January 1, 1981, revoke a foreign corporation's authority to carry on activities in this State and suspend a domestic corporation from carrying on activities.

Sec. 293. 17 MRSA § 1055, sub-§ 4, as reenacted by PL 1975, c. 638, § 1, is amended to read:

4. **Standards of treatment.** Any animal, whose use is permitted under this section, shall be treated in accordance with a set of ethical and humane standards to be promulgated, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, by the Commissioner of Agriculture, Division of Animal Welfare, after the consultation with representative groups in the State having an interest or expertise in the field of animal welfare, biology and education.

Sec. 294. 19 MRSA § 121, 7th sentence, is amended to read:

In the event the applicant shall cease to be an ordained minister of the gospel, a clergyman engaged in the service of the religious body to which he belongs or a person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, or a resident of the State, such license shall thereupon terminate and within 10 days thereafter the applicant shall notify the Secretary of State to this effect ~~and thereupon the Secretary of State shall revoke such license.~~

Sec. 295. 19 MRSA § 121, 8th sentence, is repealed as follows:

~~Such license may be revoked by the Governor for cause, after notice and an opportunity to be heard thereon.~~

Sec. 296. 19 MRSA § 494-A, 2nd ¶, as enacted by PL 1977, c. 139, is repealed and the following enacted in its place:

Subpoenas shall be issued in accordance with the Maine Administrative Procedure Act, Title 5, section 9060, and shall be served in accordance with the Maine Rules of Civil Procedure.

Sec. 297. 19 MRSA § 498, sub-§ 2, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:

2. **Contents of notice.** In addition to conforming with the requirements of the Maine Administrative Procedure Act, Title 5, section 9052, subsection 4, the notice shall contain:

- A. A statement of the debt accrued or accruing under section 495 and periodic support payments in the future;
- B. A statement of the periodic public assistance;
- C. A statement of the name of the recipient of the public assistance and names of dependent children;
- D. A statement of rights at the hearing;

**E. A statement that if the responsible parent fails to appear, the stated accrued debt and periodic support payments in the future shall be assessed and enforced by collection action; and**

**F. A statement that the property of the responsible parent may be subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions.**

**Sec. 298. 19 MRSA § 498, sub-§ 4, ¶ B, as enacted by PL 1975, c. 532, § 3, is amended by adding at the end the following new sentence:**

**Written notice of the responsible parent's rights to review or appeal of the decision within the department or review of the decision by the courts, as the case may be, and of the action required and the time within which the action shall be taken in order to exercise the right of review or appeal shall be given to the responsible parent with the decision.**

**Sec. 299. 19 MRSA § 500, sub-§ 1, first sentence, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:**

**In addition to conforming with the requirements of the Maine Administrative Procedure Act, Title 5, section 9052, subsection 4, notice of debt shall include:**

**Sec. 300. 19 MRSA § 500, sub-§ 2, as amended by PL 1975, c. 770, § 84, is further amended to read:**

**2. Commencement of action.** Actions to collect any debt accrued or accruing under section 495 may commence after 20 days from the date of ~~service receipt~~ of the notice of debt described in this section.

**Sec. 301. 19 MRSA § 503, first sentence, as enacted by PL 1975, c. 532, § 3, is amended to read:**

**Twenty-one days after ~~service receipt~~ of the notice of debt under section 500 or upon ~~service receipt~~ of the decision under section 498, the amount stated in the notice of debt or in the decision shall be a lien in favor of the department against all property of the responsible parent.**

**Sec. 302. 19 MRSA § 504, sub-§ 1, ¶ B, as enacted by PL 1975, c. 532, § 3, is amended to read:**

**B. Twenty-one days have elapsed from the date of ~~service receipt~~ of the notice of debt under section 500 or a decision has been ~~served received~~ under section 498.**

**Sec. 303. 19 MRSA § 515, sub-§ 2, as enacted by PL 1975, c. 532, § 3, is repealed and the following enacted in its place:**

## 2. Hearing.

A. The hearing shall be conducted according to rules promulgated by the commissioner. The rules shall provide at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person, and to be notified of these rights in writing. The decision shall be limited to evidence presented at the hearing.

B. Within 30 days, the responsible parent shall be served with a notice of the results, together with a notice of his right to judicial review.

Sec. 304. 20 MRSA § 6, sub-§ 2, ¶ B, as enacted by PL 1977, c. 299, is amended to read:

B. Only those rules and regulations adopted for use by the department as authorized by this Title which were adopted in the manner set forth in section ~~9192~~ 21 shall be subject to this section.

Sec. 305. 20 MRSA § 6, sub-§ 3, ¶ B, as enacted by PL 1977, c. 299, is repealed and the following enacted in its place:

B. The commissioner, on behalf of the board, shall give notice and shall cause the hearing to be conducted in accordance with section 22.

(1) The board or its designee shall make findings of fact on the specific charges in the complaint and shall decide whether there are reasonable grounds to believe that a unit is in noncompliance.

Sec. 306. 20 MRSA c. 2 is enacted to read:

### CHAPTER 2

#### DEPARTMENTAL AND STATE BOARD RULES AND REGULATIONS

##### § 21. Adoption of rules and regulations

All rules and regulations adopted by the department or the State Board of Education shall be adopted in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, section 8051 et seq.

##### § 22. Adjudicatory proceedings

All adjudicatory hearings conducted by the department or the State Board of Education shall be conducted in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, section 9051 et seq.

##### § 23. Licensing

Any and all licenses issued by the department or the State Board of Education

shall be issued in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, section 10001 et seq.

Sec. 307. 20 MRSA § 51, sub-§ 3, ¶ E, is enacted to read:

**E. The State Board of Education shall fulfill its responsibilities identified in paragraph B in accordance with the procedural requirements of chapter 2.**

Sec. 308. 20 MRSA § 59, 1st sentence, as repealed and replaced by PL 1975, c. 551, § 1, is amended to read:

The State Board of Education shall, in accordance with such rules and regulations as it may prescribe, authorize the Commissioner of Educational and Cultural Services to certify and seek in the Administrative Court to revoke the certification of teachers and other professional personnel for service in any public school in the State, or in any nonpublic school which accepts public funds for tuition or is approved for attendance purposes under section 911.

Sec. 309. 20 MRSA § 59, as repealed and replaced by PL 1975, c. 551, § 1, is amended by adding at the end a new paragraph to read:

**All rules and regulations adopted by the State Board of Education pursuant to this section shall be adopted in accordance with the procedures set forth in section 21.**

Sec. 310. 20 MRSA § 102, sub-§ 7, as last amended by PL 1975, c. 746, § 1-A, is further amended by adding at the end a new paragraph to read:

**The commissioner shall carry out his responsibilities under this subsection in accordance with the procedures set forth in chapter 2.**

Sec. 311. 20 MRSA § 160, as amended by PL 1977, c. 24, § 1, is further amended by adding at the end a new sentence to read:

**The commissioner shall adopt such regulations in accordance with the procedures set forth in section 21.**

Sec. 312. 20 MRSA § 212, 3rd ¶, as last amended by PL 1973, c. 571, § 71, is further amended to read:

The board, acting in accordance with the requirements of chapter 2 where applicable, is empowered and authorized and it shall ~~be their~~ have the duty:

Sec. 313. 20 MRSA § 223, as last amended by PL 1977, c. 78, § 126, is further amended by adding at the end a new sentence to read:

**The State Board of Education shall adopt these regulations in accordance with section 21.**

Sec. 314. 20 MRSA § 916, as last amended by PL 1973, c. 571 § 31, is further amended by adding at the end a new sentence to read:



**The commissioner shall establish these requirements in accordance with section 21.**

**Sec. 315. 20 MRSA § 1011, as amended by PL 1967, c. 425, § 19, is further amended by adding at the end a new sentence to read:**

**The commissioner shall prescribe these rules and regulations in accordance with the procedures set forth in section 21.**

**Sec. 316. 20 MRSA § 1053, sub-§ 2, ¶ B, is enacted to read:**

**B. Standards, regulations and qualifications adopted under this subsection shall be adopted in accordance with the provisions set forth in section 21.**

**Sec. 317. 20 MRSA § 1055, as last amended by PL 1969, c. 178, § 2, is further amended by adding at the end a new sentence to read:**

**The commissioner shall prescribe these regulations in accordance with the provisions forth in section 21.**

**Sec. 318. 20 MRSA § 1091, sub-§ 8, as amended by PL 1975, c. 293, § 4, is further amended by adding at the end a new sentence to read:**

**The rules and regulations shall be adopted in accordance with the provisions set forth in section 21.**

**Sec. 319. 20 MRSA § 1172, as last amended by PL 1975, c. 293, § 4, is further amended by adding at the end a new sentence to read:**

**The board shall make these regulations in accordance with the provisions set forth in section 21.**

**Sec. 320. 20 MRSA § 1195, sub-§ 1, as enacted by PL 1977, c. 471, is amended by adding at the end a new sentence to read:**

**The rules adopted by the commissioner or his designee shall be in accordance with the provisions set forth in section 21.**

**Sec. 321. 20 MRSA § 1281, next to the last ¶, as last amended by PL 1973, c. 571, § 72, is further amended by adding a new sentence at the end to read:**

**The requirements and standards for accreditation shall be adopted by the commissioner in accordance with the provisions set forth in section 21.**

**Sec. 322. 20 MRSA § 1345, as amended by PL 1973, c. 571, § 33, is amended by adding at the end a new sentence to read:**

**The commissioner shall adopt the regulations in accordance with the provisions set forth in section 21.**

**Sec. 323. 20 MRSA § 1451, as last amended by PL 1975, c. 771, § 177, is further amended by adding at the end a new sentence to read:**

**The commissioner shall adopt the rules and regulations in accordance with the provisions set forth in section 21.**

**Sec. 324. 20 MRSA § 1454, as last amended by PL 1977, c. 24, § 9, is further amended by adding at the end a new paragraph to read:**

**Rules and regulations established by the commissioner shall be in accordance with the provisions set forth in section 21.**

**Sec. 325. 20 MRSA § 1753, as last amended by PL 1977, c. 24, § 10, is further amended by adding at the end a new sentence to read:**

**The rules and regulations formulated by the commissioner shall be adopted in accordance with the provisions of section 21.**

**Sec. 326. 20 MRSA § 2202, sub-§ 3, as last amended by PL 1973, c. 571, § 42, is further amended by adding at the end a new sentence to read:**

**The regulations and licensing procedures adopted by the board shall be in accordance with the provisions of chapter 2.**

**Sec. 327. 20 MRSA § 2235, sub-§ 1, as enacted by PL 1967, c. 520, § 1, is amended by adding at the end a new sentence to read:**

**The regulations shall be adopted in accordance with the provisions set forth in section 21.**

**Sec. 328. 20 MRSA § 2272, 2nd ¶, as enacted by PL 1977, c. 335, § 3, is amended by adding at the end a new sentence to read:**

**The commissioner shall promulgate these rules in accordance with the provisions set forth in section 21.**

**Sec. 329. 20 MRSA § 2373, sub-§ 2, ¶ A is enacted to read:**

**A. All guidelines, rules and regulations adopted by the department pursuant to this chapter shall be adopted in accordance with the provisions set forth in chapter 2.**

**Sec. 330. 20 MRSA § 2655, as last amended by PL 1973, c. 571, § 72, is further amended by adding at the end the following new sentence:**

**All rules and regulations adopted by the State Board of Education shall be adopted in accordance with the provisions set forth in section 21.**

**Sec. 331. 20 MRSA § 3132, as repealed and replaced by PL 1975, c. 732, § 2, is repealed and the following enacted in its place:**

**§ 3132. Rules and regulations**

**The commissioner is authorized to make any rules and regulations necessary**

for the administration of this chapter. These rules and regulations shall be adopted in accordance with the provisions set forth in chapter 2.

Sec. 332. 20 MRSA § 3452, sub-§ 8, last sentence, as enacted by PL 1977, c. 24, § 11, is amended to read:

The superintendent shall hold state certification in accordance with rules and regulations established by the State Board of Education in the manner set forth in chapter 2.

Sec. 333. 20 MRSA § 3744, sub-§ 1, ¶ D, sub-¶ (2), as enacted by PL 1977, c. 358, § 6, is amended to read:

(2) Tuition and board for state wards and other pupils placed directly by the State in accordance with rules and regulations ~~adopted by~~ which the Department of Educational and Cultural Services shall adopt in the manner set forth in chapter 2; and

Sec. 334. 20 MRSA § 3747, sub-§ 3, ¶ D, sub-¶ (2), as enacted by PL 1977, c. 358, § 8, is amended to read:

(2) Tuition and board for state wards and other pupils placed directly by the State in accordance with rules and regulations ~~adopted by~~ which the Department of Educational and Cultural Services shall adopt in the manner set forth in chapter 2; and

Sec. 335. 22 MRSA § 42, sub-§ 1, 2nd sentence, as repealed and replaced by PL 1973, c. 521, § 1, is repealed and the following enacted in its place:

The rules and regulations shall be adopted pursuant to the requirements of the Maine Administrative Procedure Act.

Sec. 336. 22 MRSA § 42, sub-§ 3-A, 2nd ¶, as enacted by PL 1975, c. 760, § 4, is repealed and the following enacted in its place:

The department shall investigate or cause to be investigated all cases or complaints of noncompliance with or violations of the rules and regulations adopted pursuant to this section or subsection 3 by any person licensed under this subsection. The department shall have the authority, after notice and hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to amend, modify or refuse to issue or renew a license. The Administrative Court shall have the exclusive jurisdiction to suspend or revoke the license of any person who is found guilty of noncompliance with or violation of the rules and regulations adopted pursuant to this subsection or subsection 3.

Sec. 337. 22 MRSA § 254, 2nd ¶, as enacted by PL 1975, c. 619, § 1, is repealed and the following enacted in its place:

The commissioner is authorized to adopt rules and regulations relating to the

conduct of this program. These rules and regulations shall be related to the following aspects of this program:

Sec. 338. 22 MRSA § 1012, sub-§ 3, as enacted by PL 1977, c. 304, § 2, is repealed and the following enacted in its place:

3. Rules. Rules shall be adopted in conformity with the Maine Administrative Procedure Act.

Sec. 339. 22 MRSA § 1014, sub-§ 2, as enacted by PL 1977, c. 304, § 2, is repealed and the following enacted in its place:

2. Refusal to obey rules. All persons shall obey the rules adopted pursuant to section 1012. Any person who shall neglect, violate or refuse to obey the rules or who shall willfully obstruct or hinder the execution thereof, shall be ordered by the department, in writing, to cease and desist. This order shall not be considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act. In the case of any person who refuses to obey a cease and desist order issued to enforce the emergency rules adopted pursuant to section 1012, subsection 2, the department may bring an action in Kennebec County Superior Court to obtain an injunction enforcing the cease and desist order or to request a civil fine not to exceed \$250, or both. The Superior Court shall have jurisdiction to determine the validity of the cease and desist order whenever an action for injunctive relief or civil penalty is brought before it under this subsection.

Sec. 340. 22 MRSA § 1323, as last amended by PL 1975, c. 293, § 4, is repealed and the following enacted in its place:

§ 1323. Rules and regulations

The Commissioner of Human Services is authorized to adopt rules and regulations for carrying out this chapter.

Sec. 341. 22 MRSA § 1381, as enacted by PL 1973, c. 582, § 1, is amended to read:

§ 1381. Application of Administrative Code

Except as otherwise provided in this Act, the Maine Administrative ~~Code~~ Procedure Act applies to and governs all administrative action taken by the director.

Sec. 342. 22 MRSA § 1471-D, sub-§ 6, as enacted by PL 1975, c. 397, § 2, is amended by adding at the end a new paragraph to read:

If the board fails to renew a license upon application of the licensee, it shall afford the licensee an opportunity for a hearing in conformity with Title 5, chapter 375, subchapter IV.

**Sec. 343.** 22 MRSA § 1471-D, sub-§ 7, as enacted by PL 1975, c. 397, § 2, is repealed and the following enacted in its place:

**7. Suspension.** If the board determines that there may be grounds for revocation of a license or certificate, it may bring an action in the Administrative Court pursuant to Title 4, section 1153, to suspend the license or certificate.

**Sec. 344.** 22 MRSA § 1471-D, sub-§ 8, 1st paragraph, as enacted by PL 1975, c. 397, § 2, is repealed and the following enacted in its place:

**The Administrative Court may suspend or revoke the certification or license of an applicator or pesticide dealer upon a finding that the applicant:**

**Sec. 345.** 22 MRSA § 1471-D, sub-§ 8, ¶ I, is enacted to read:

**I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority.**

**Sec. 346.** 22 MRSA § 1471-D, sub-§ 10, last sentence, as enacted by PL 1975, c. 397, § 2, is amended to read:

Licenses or certificates issued pursuant to this subsection may be suspended or revoked in the same manner and on the same grounds as other licenses or certificates issued pursuant to this chapter ~~or upon suspension or revocation of the license or certificate by the Federal Government or such other state as supplied the basis for the Maine license or certification.~~ Licenses and certificates issued pursuant to this subsection may be suspended or revoked pursuant to subsection 8, paragraph I.

**Sec. 347.** 22 MRSA § 1471-M, sub-§ 1, 1st sentence, as enacted by PL 1975, c. 397, § 2, is amended to read:

**The board shall, by regulations promulgated in conformity with Title 5, chapter 375, subchapter II:**

**Sec. 348.** 22 MRSA § 1471-M, sub-§ 2, ¶ A, 2nd sentence, as enacted by PL 1975, c. 397, § 2, is amended to read:

**The designation of a critical area may prohibit pesticide use or may include such limitations on such use as the board deems appropriate. The proceedings to designate a critical area under this section shall conform to Title 5, chapter 375, subchapter II;**

**Sec. 349.** 22 MRSA § 1817, as last amended by PL 1973, c. 303, § 3, is repealed and the following enacted in its place:

**§ 1817. Issuance of licenses**

**The department is authorized to issue licenses to operate hospitals,**

sanatoriums, convalescent homes, rest homes, nursing homes or other related institutions, which, after inspection, are found to comply with this chapter and any regulations adopted by the department. When any institution, upon inspection by the department, shall be found not to meet all requirements of this chapter or departmental regulations thereunder, the department is authorized to issue either a temporary license for a specified period not to exceed 90 days, during which time corrections specified by the department shall be made by the institution for compliance with this chapter and departmental regulations thereunder, if in the judgment of the commissioner the best interests of the public will be so served, or a conditional license setting forth conditions which shall be met by the institution to the satisfaction of the department. Failure of the institution to meet any of these conditions shall immediately void the conditional license by written notice thereof by the department to the conditional licensee or, if the licensee cannot be reached for personal service, by notice thereof left at the licensed premises. The fee for this temporary or conditional license shall be \$15 and shall be payable at the time of issuance of such a license. A new application for a regular license may be considered by the department if, when and after the conditions set forth by the department at the time of the issuance of this temporary or conditional license have been met and satisfactory evidence of this fact has been furnished to the department. The department may amend, modify or refuse to renew a license hereunder in conformity with the Maine Administrative Procedure Act, or file a complaint with the Administrative Court requesting suspension or revocation of any license on any of the following grounds: Violation of this chapter or the rules and regulations issued pursuant thereto; permitting, aiding or abetting the commission of any illegal act in that institution; conduct of practices detrimental to the welfare of the patient; provided that whenever, on inspection by the department, conditions are found to exist which violate this chapter or departmental regulations issued thereunder which, in the opinion of the commissioner, immediately endanger the health or safety of patients, or both the health and safety, in any of the institutions or to such an extent as to create an emergency, the department by its duly authorized agents may, under the emergency provisions of Title 4, section 1153, request that the Administrative Court suspend or revoke the license.

Sec. 350. 22 MRSA § 2153, 1st sentence, is amended to read:

The authority to promulgate, in a manner consistent with the Maine Administrative Procedure Act, regulations for the efficient enforcement of this subchapter is vested in the Commissioner of Agriculture.

Sec. 351. 22 MRSA § 2153, 3rd ¶, is repealed.

Sec. 352. 22 MRSA § 2159, 1st ¶, is amended by adding at the end a new sentence to read:

**Orders relating to detention and embargo issued pursuant to this chapter shall not be considered licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act.**

**Sec. 353. 22 MRSA § 2161, 2nd ¶, is amended to read:**

**The commissioner may, in a manner consistent with the Maine Administrative Procedure Act, after public hearings, make reasonable regulations for the storing and transportation of frozen foods, including temperature control, sanitation and other matters in accordance with recognized standards necessary for the protection of public health and the preservation of such foods in wholesome condition.**

**Sec. 354. 22 MRSA § 2162, 3rd ¶, 1st sentence, is amended to read:**

**Said commissioner may ~~cancel~~, in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, refuse to renew, and the Administrative Court, in a manner consistent with the Maine Administrative Procedure Act, may revoke and permit whenever there is a lack of compliance with this subchapter.**

**Sec. 355. 22 MRSA § 2496, 2nd ¶, as enacted by PL 1975, c. 496, § 3, is repealed.**

**Sec. 356. 22 MRSA § 2500, as enacted by PL 1975, c. 496, § 3, is amended to read:**

**§ 2500. Suspension or revocation; appeals**

**When the department believes a license should be suspended or revoked, it shall file a ~~statement or~~ complaint with the Administrative Court ~~Judge designated in Title 5, chapters 301 to 307~~ in conformity with the Maine Administrative Procedure Act. A person aggrieved by the refusal of the department to issue a license may ~~file a statement or complaint with the Administrative Court Judge~~ request a hearing in conformity with the Maine Administrative Procedure Act.**

**Sec. 357. 22 MRSA § 2546, as enacted by PL 1969, c. 464, § 1, is repealed and the following enacted in its place:**

**§ 2546. Inspectors; powers and duties**

**For the purposes set forth, the commissioner shall cause to be made by inspectors appointed for that purpose an examination and inspection of all meat food products prepared in any slaughtering, meat-canning, salting, packing, rendering or similar establishment, where such articles are prepared solely for intrastate commerce and for the purposes of any examination and inspection said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag or label as "Maine Inspected and Passed" all**

such products found to be not adulterated; and said inspectors shall label, mark, stamp or tag as "Maine Inspected and Condemned" all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as provided. This inspection and condemnation shall not be considered licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act. The commissioner may, on notice and opportunity for hearing in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, remove inspectors from any establishment which fails to so destroy these condemned meat food products.

Sec. 358. 22 MRSA § 2547, sub-§ 3, 1st sentence, as enacted by PL 1969, c. 464, § 1, is amended to read:

The commissioner, whenever he determines such action is necessary for the protection of the public, may, by regulation adopted in a manner consistent with the Maine Administrative Procedure Act, prescribe:

Sec. 359. 22 MRSA § 2547, sub-§ 5, 2nd and 3rd sentences, as enacted by PL 1969, c. 464, § 1, are amended to read:

If the person, firm or corporation using or proposing to use the marking, labeling or container does not accept the determination of the commissioner, such person, firm or corporation may request a hearing, **which shall be held in a manner consistent with the Maine Administrative Procedure Act**, but the use of the marking, labeling or container shall, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner. ~~Any such determination by the commissioner shall be conclusive unless, within 30 days after receipt of notice of such final determination, the person, firm or corporation adversely affected thereby, appeals to the Superior Court.~~

**The withholding of use pending the opportunity for a hearing shall not be considered licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act.**

Sec. 360. 22 MRSA § 2553, 1st ¶, last sentence, as enacted by PL 1969, c. 464, § 1, is amended to read:

Said inspectors shall refuse to stamp, mark, tag or label any carcass or any part thereof, or meat food product therefrom, prepared in any establishment mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this chapter and by the rules and regulations to be prescribed by said commissioner and said commissioner shall, from time to time, **in a manner consistent with the Maine Administrative Procedure Act**, make such rules and regulations as are necessary for the efficient execution of this chapter, and all inspections and examinations made under this chapter shall be such and made in such manner as described in



the rules and regulations prescribed by said commissioner not inconsistent with this chapter.

**Sec. 361. 22 MRSA § 2554, 2nd ¶, 1st sentence**, as enacted by PL 1969, c. 464, § 1, is amended to read:

The commissioner shall, after hearing, **in a manner consistent with the Maine Administrative Procedure Act**, promulgate regulations governing humane method of slaughter and may from time to time revise regulations which shall conform substantially to the rules and regulations promulgated by the Secretary of Agriculture of the United States pursuant to the Federal Humane Slaughter Act of 1958, Public Law 85-765, 72 Stat. 862, and any amendments thereto.

**Sec. 362. 22 MRSA § 2557, 1st sentence**, as enacted by PL 1969, c. 464, § 1, is amended to read:

The commissioner may by regulations, **adopted in a manner consistent with the Maine Administrative Procedure Act**, prescribe conditions under which carcasses, parts of carcasses, meat and meat food products of cattle, sheep, swine, goats, horses, mules or other equines, capable of use as human food, shall be stored or otherwise handled by any person, firm or corporation engaged in the business of buying, selling, freezing, storing or transporting, in or for intrastate commerce, such articles, whenever the commissioner deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer.

**Sec. 363. 22 MRSA § 2581, last 2 sentences**, as enacted by PL 1969, c. 464, § 1, are repealed.

**Sec. 364. 22 MRSA § 2582**, as enacted by PL 1969, c. 464, § 1, is amended by adding at the end a new sentence to read:

**Orders for this detention shall not be considered licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act.**

**Sec. 365. 22 MRSA § 2587, sub-§ 2, 1st sentence**, as enacted by PL 1969, c. 464 § 1, is amended to read:

For the purposes of this chapter, the commissioner shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, firm or corporation being investigated or proceeded against, and may, **in a manner consistent with the Maine Administrative Procedure Act**, require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person, firm or corporation relating to any matter under investigation.

Sec. 366. 22 MRSA § 2587, sub-§ 2, ¶¶ A, B, C, and E, as enacted by PL 1969, c. 464, § 1, are repealed.

Sec. 367. 22 MRSA § 2587, sub-§ 3, as enacted by PL 1969, c. 464, § 1, is repealed and the following enacted in its place:

**3. Failure to comply; false statements.** Any person, firm or corporation that shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this chapter, or that shall willfully make, or cause to be made, any false entry in any account, record or memorandum kept by any person, firm or corporation subject to this chapter, or that shall willfully neglect or fail to make, or to cause to be made, full, true and correct entries in such accounts, records or memoranda, of all facts and transactions appertaining to the business of such person, firm or corporation, or that shall willfully remove out of the jurisdiction of this State, or willfully mutilate, alter or by any other means falsify any documentary evidence of any such person, firm or corporation or that shall willfully refuse to submit to the commissioner or to any of his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm or corporation in his possession or within his control, shall be deemed guilty of an offense and shall be punished, upon conviction in any court of competent jurisdiction by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for a term of not more than 3 years, or by both.

If any person, firm or corporation required by this chapter to file any annual or special report shall fail to do so within the time fixed by the commissioner for filing the same, and such failure shall continue for 30 days after notice of such default, such person, firm or corporation shall forfeit to this State the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable to the Treasurer of this State, and shall be recoverable in a civil action in the name of the State brought in the district where the person, firm or corporation has his or its principal office or in any district in which he or it shall do business. It shall be the duty of the various county attorneys, under the direction of the Attorney General of this State, to prosecute for the recovery of such forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of this State.

Any officer or employee of this State who shall make public any information obtained by the commissioner without his authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 11 months, or by both.

Sec. 368. 22 MRSA § 2611, sub-§ 3, as enacted by PL 1975, c. 751, § 4, is repealed.

Sec. 369. 22 MRSA § 2625, as enacted by PL 1975, c. 751, § 4, is repealed and the following enacted in its place:

§ 2625. Certificates

The board shall issue certificates to individuals to act as operators. The certificate shall indicate the classification level of the systems or parts of systems for the operation of which the individual is qualified to act as an operator.

Certificates shall continue in effect unless revoked, but shall remain the property of the board, and the certification shall so state.

The board may file a complaint with the Administrative Court to revoke a certificate of an operator when the board determines that the operator has practiced fraud or deception; that he has been negligent in that reasonable care, judgment or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable to perform his duties properly.

The certificates of operators who terminate their employment at a public water system shall remain renewable for 3 years. After 3 years, the certificates shall be automatically invalidated. Operators whose certificates are invalidated under this section may be issued new certificates of a like classification provided appropriate proof of competency is presented to the board.

This chapter shall not be construed to effect or prevent the practices of any other legally recognized profession.

Sec. 370. 22 MRSA § 2647, as enacted by PL 1975, c. 751, § 4, is amended by adding at the end of the first paragraph the following new sentence to read:

These orders shall not be considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act.

Sec. 371. 22 MRSA § 3061, last sentence as enacted by PL 1969, c. 457, § 1, is repealed.

Sec. 372. 22 MRSA § 3181, sub-§ 1, last sentence, as enacted by PL 1973, c. 790, § 2, is amended to read:

Review of any action or failure to act under this chapter shall be pursuant to ~~Rule 90B of the Maine Rules of Civil Procedure~~ Title 5, chapter 375, subchapter VII.

Sec. 373. 22 MRSA § 3906, as enacted by PL 1977, c. 454, § 2, is repealed and the following enacted in its place:

§ 3906. Rules and regulations

The department shall promulgate rules and regulations for long-term foster

care placements in the manner prescribed by the Maine Administrative Procedure Act. These rules and regulations shall include, among other factors, standards for settings appropriate for long-term foster care and supervision of those settings, procedures for selecting children and foster parents, and methods for establishing and reviewing individual plans.

Sec. 374. 22 MRSA § 4717, as amended by PL 1971, c. 544, § 81, is further amended by adding at the end a new sentence to read:

**Any ordinances, rules or regulations adopted by either tribe shall not be deemed to be rules within the meaning of Title 5, sections 2502 or 8001.**

Sec. 375. 22 MRSA § 4724, as enacted by PL 1977, c. 97, § 3, is amended to read:  
§ 4724. Superior Court jurisdiction

Review of fair hearing and pretermination evidentiary hearing decisions shall be within the jurisdiction of the Superior Court and shall proceed in accordance with ~~the Maine Rules of Civil Procedure, Rule 80B~~ Title 5, chapter 375, subchapter VII.

Sec. 376 22 MRSA § 7106, sub-§ 10, last sentence, as enacted by PL 1973, c. 566, § 1, is amended to read:

Such adoption, amendment and rescission shall be made as provided under ~~Title 5, chapters 301 to 307, Administrative Code~~ the Maine Administrative Procedure Act;

Sec. 377. 22 MRSA § 7115, sub-§ 5, as enacted by PL 1973, c. 566, § 1, is repealed and the following enacted in its place:

5. Procedures for the amendment, modification, refusal to issue or renew, revocation or suspension of approval shall be as set forth by the Maine Administrative Procedure Act. In addition the department may seek relief in the District Court for violations of the provisions of this section.

Sec. 378. 22 MRSA § 7802, sub-§ 6, as enacted by PL 1975, c. 719, § 6, is repealed and the following enacted in its place:

6. Appeals. Any person aggrieved by the department's decision to:

A. Issue a temporary or conditional license;

A-1. Amend or modify the terms of a license;

B. Void a conditional license;

C. Refuse to issue or renew a regular license may request a hearing as provided by the Maine Administrative Procedure Act.

**Sec. 379.** 22 MRSA § 7803, sub-§ 1, 2nd ¶, as enacted by PL 1975, c. 719, § 6, is amended to read:

When the department believes that a license should be suspended or revoked, it shall file a complaint with the Administrative Court as provided in ~~Title 5, chapter 305~~ the Maine Administrative Procedure Act.

**Sec. 380.** 22 MRSA § 7803, sub-§ 2, as enacted by PL 1975, c. 719, § 6, is repealed and the following enacted in its place:

**2. Emergency suspension.** Whenever, on inspection by the department, conditions are found which violate applicable law and rules and which, in the opinion of the department, immediately endanger the health or safety of persons living in or attending a facility, the department may request the Administrative Court for an emergency suspension pursuant to Title 4, section 1153.

**Sec. 381.** 22 MRSA § 7902, sub-§§ 2 and 3, as enacted by PL 1975, c. 719, § 6, is repealed.

**Sec. 382.** 22 MRSA § 8002, sub-§ 2, as enacted by PL 1975, c. 719, § 6, is repealed.

**Sec. 383.** 22 MRSA § 8102, sub-§ 3, as enacted by PL 1975, c. 719, § 6, is repealed.

**Sec. 384.** 22 MRSA § 8202, sub-§ 2, as enacted by PL 1975, c. 719, § 6 is repealed.

**Sec. 385.** 22 MRSA § 8302, sub-§ 2, as enacted by PL 1975, c. 719, § 6, is repealed.

**Sec. 386.** 24 MRSA § 2314, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

**§ 2314. Petition for revocation of certificate of authority or license**

The superintendent may file a petition with the Administrative Court seeking the revocation of a certificate of authority or license granted under this chapter for cause at any time.

**Sec. 387.** 24 MRSA § 2322, as enacted by PL 1977, c. 493, § 2, is amended by adding at the end the following new sentence to read:

**Hearings held under this section shall conform to the procedural requirements set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.**

**Sec. 388.** 24 MRSA § 2510, sub-§ 6, as enacted by PL 1977, c. 492, § 3, is repealed and the following enacted in its place:

**6. Disciplinary action.** Disciplinary action by the Board of Registration in Medicine shall be in accordance with Title 32, chapter 48; disciplinary action by the Board of Osteopathic Examination and Registration shall be in accordance with Title 32, chapter 36.

Sec. 389. 24 MRSA § 2512, as enacted by PL 1977, c. 492 § 3, is repealed.

Sec. 390, 24-A MRSA § 212, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Subject to the applicable requirements and procedures of the **Maine Administrative Procedure Act**, Title 5, ~~sections 2301 to 2354~~ **chapter 375, subchapter II**, the superintendent may make, promulgate, amend and rescind reasonable rules and regulations to aid the administration or effectuation of any provisions of this Title.

Sec. 391. 24-A MRSA § 213, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended by adding at the end the following new sentence to read:

**Written notice of the party's rights to review or appeal and of the action required and of the time within which action shall be taken in order to appeal shall be given to each party with the decision.**

Sec. 392. 24-A MRSA § 222, sub-§ 7, ¶ A, first sentence, as enacted by PL 1975, c. 356, § 1, is amended to read:

In the absence of approval by the superintendent, the purchase, exchange, merger of a controlling person of an insurer or other acquisition of control referred to in subsection 4, may be made unless the superintendent, **acting in accord with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV**, and within 30 days after the statement required by subsection 4 has been filed with him, disapproves the purchases, exchanges, merger of a controlling person of an insurer, or other acquisitions of control.

Sec. 393. 24-A MRSA § 229, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended by adding at the end the following new sentence to read:

**The hearing shall be held in conformity with the provisions contained in the Maine Administrative Procedure Act, Title 5, chapter 375.**

Sec. 394. 24-A MRSA § 230, sub-§ 1, 3rd sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the superintendent shall give such notice to all persons whose pecuniary interest, **legal rights, duties or privileges**, to the superintendent's knowledge or belief, are to be directly and ~~immediately~~ **substantially affected** by the hearing.

Sec. 395. 24-A MRSA § 230, sub-§ 2, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

**2. If any hearing is to be held for consideration of rules and regulations**

proposed by the superintendent, the notice of the hearing may be in the form of a notice to show cause, stating the basis of the proposed action and stating that the proposed action will be taken unless those who appear at the hearing show cause why the action should not be taken.

Sec. 396. 24-A MRSA § 230, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. If any hearing is to be held for consideration of rules and regulations proposed by the superintendent, or of other matters which, under subsection 1, would otherwise require separate notices to more than 30 persons, public notice of the hearing shall be given by publication thereof in a newspaper of general circulation in this State, at least once a week during the 4 weeks immediately preceding the week in which the hearing is to be held. The superintendent shall mail notice of rule-making hearings to all persons who have filed within the past year a written request for notice. The persons shall pay a sum fixed by the superintendent, reasonably related to the actual cost of notice.

Sec. 397. 24-A MRSA § 231, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Upon timely application, the superintendent shall permit any person showing that he is or may be substantially and directly affected by the proceeding to intervene as a party. The superintendent may, by order, allow any other interested person to intervene and participate as a full or limited party to the proceeding.

Sec. 398. 24-A MRSA § 231, sub-§ 4, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

4. Formal rules of pleading or of evidence need not be observed at any hearing. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Irrelevant or unduly repetitious evidence may be excluded.

Sec. 399. 24-A MRSA § 231, sub-§ 6, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

6. All hearings shall be recorded in a form susceptible to transcription. The recording shall be transcribed when necessary for the prosecution of an appeal. The Bureau of Insurance shall make the recordings available for inspection at the bureau's offices during normal business hours, and shall make copies of recordings or transcriptions of recordings available to any person at the actual cost.

Sec. 400. 24-A MRSA § 235, sub-§ 3, ¶ E is enacted to read:

**E. Notice of the party's right to appeal or review of the order, of the action required for appeal and of the time within which the action shall be taken in order to exercise the right.**

Sec. 401. 24-A MRSA § 236, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

**§ 236. Appeal from the superintendent**

1. In general, judicial review of actions taken by the superintendent or his representatives shall occur in conformity with the provisions set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

2. An appeal from the superintendent shall be taken only from an order on hearing, or as to a matter on which the superintendent has failed to hold a hearing after application thereof under section 229, or regarding a matter as to which the superintendent has failed to issue an order after hearing as required by section 235.

3. Any person who was a party to the hearing may appeal from an order of the superintendent within 30 days after receipt of notice. Any person not a party to the hearing whose interests are substantially and directly affected and who is aggrieved by an order of the superintendent may appeal within 40 days from the date the decision was rendered. If the appeal is taken from the superintendent's failure or refusal to act, the petition for review shall be filed within 6 months of the expiration of the time within which the action should reasonably have occurred.

4. The appeal shall be heard as a matter of right, and shall be instituted by filing a petition for review in the Superior Court of Kennebec County or in any county where:

A. One or more of the petitioners reside or have their principal place of business; or

B. The activity or property which is the subject of the proceeding is located. The court may grant a change of venue for good cause shown.

5. The petition or complaint shall specify the grounds for appeal and the nature of the relief sought. The petition shall be served by certified mail, return receipt requested, upon the superintendent, all parties to the proceeding at issue, and the Attorney General.

6. No responsive pleading need be filed unless required by order of the reviewing court. Within 30 days after the petition for review is filed, or within such time as the court may allow on motion, the superintendent shall file in the court the original or a certified copy of the complete record of the proceedings under review. Within 20 days of the filing of the petition, all parties to the



administrative proceeding who wish to participate in the appeal shall file a written appearance which includes a statement of position with respect to the decision under review.

7. The filing of a petition shall not operate as a stay of the superintendent's order pending judicial review. Application for a stay shall ordinarily be made first to the superintendent, who may issue a stay upon a showing of irreparable injury to the petitioner, a strong likelihood of success on the merits, and no substantial harm to adverse parties or the general public. A motion for a stay may be made to the Superior Court, but the motion shall show that application to the superintendent for the relief sought is not practicable, or that application has been made to the bureau and denied, or that the action of the superintendent did not afford the relief the petitioner had requested. In addition, the motion shall explain the reasons for the relief requested and the facts relied upon, which facts, if subject to dispute, shall be supported by affidavits. Reasonable notice of the motion for stay shall be given to all parties to the administrative proceeding. The court may condition this relief upon the posting of a bond or other appropriate security, except that no bond or security shall be required of the State or any official thereof.

8. Judicial review from an order of the superintendent shall be confined to the record upon which the administrative decision was based, subject to the exceptions set forth in the Maine Administrative Procedure Act, Title 5, section 11006. The reviewing court may require or permit subsequent corrections of the record.

9. Following review by oral and written argument the court may:

- A. Affirm the decision of the superintendent;
- B. Remand the case to the superintendent for further proceedings, findings of fact or conclusions of law as the court deems necessary; or
- C. Reverse or modify the superintendent's order if that decision is:
  - (1) In violation of constitutional or statutory provisions;
  - (2) In excess of the statutory authority invested in the superintendent;
  - (3) Made upon unlawful procedure;
  - (4) Affected by bias or error of law;
  - (5) Unsupported by substantial evidence on the record; or
  - (6) Arbitrary or capricious or characterized by abuse of discretion.

The reviewing court shall not substitute its judgement for that of the superintendent on questions of fact.

**10. The superintendent and all other parties to the review proceeding in Superior Court may obtain review of the court's judgment by appeal to the Supreme Judicial Court sitting as the law court. The appeal shall be taken in other civil cases.**

**Sec. 402. 24-A MRSA § 415, sub-§ 1, first ¶, as last repealed and replaced by PL 1977, c. 222, § 1, is amended to read:**

**1. A certificate of authority shall continue in force as long as the insurer is entitled thereto under this Title, and until suspended or revoked by the ~~superintendent~~ Administrative Court or terminated at the insurer's request, subject to continuance of the certificate by the insurer biennially by:**

**Sec. 403. 24-A MRSA § 416, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:**

**1. The superintendent shall ~~refuse to continue or shall suspend or revoke an insurer's certificate of authority~~ file a complaint with the Administrative Court, which may be pursuant to Title 4, section 1153, seeking suspension or revocation of an insurer's certificate of authority on any of the following grounds:**

**Sec. 404. 24-A MRSA § 416, sub-§ 2, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:**

**2. In all cases in which the superintendent files a complaint seeking suspension or revocation of an insurer's certificate of authority, the Administrative Court proceeding will be held pursuant to Title 4, chapter 25.**

**Sec. 405. 24-A MRSA § 417, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:**

**1. The superintendent may, in his discretion, file a complaint with the Administrative Court seeking suspension or revocation of an insurer's certificate of authority if the insurer has violated or failed to comply with any lawful order of the superintendent, or has willfully violated or willfully failed to comply with any lawful regulation of the superintendent, or has violated this Title other than those for violation of which a petition for suspension or revocation is mandatory.**

**Sec. 406. 24-A MRSA § 417, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:**

**2. The superintendent shall, pursuant to Title 4, section 1153 or otherwise, file a complaint with the Administrative Court seeking to suspend or revoke an insurer's certificate on authority on any of the following grounds, if a finding is made that the insurer:**

**Sec. 407. 24-A MRSA § 417, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:**

3. The superintendent may, in his discretion, file with the Administrative Court a complaint seeking immediate revocation or suspension of an insurer's certificate of authority pursuant to Title 4, section 1153, if proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced against the insurer in any state by the public official charged with supervising the insurance industry in that state.

Sec. 408. 24-A MRSA § 418, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

**§ 418. Power to amend, modify or refuse to renew certificates of authority**

Notwithstanding the provisions of section 417, the superintendent has the authority to amend, modify or refuse to renew any insurer's certificate of authority for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 409. 24-A MRSA § 419, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The suspension of an insurer's certificate of authority shall be for such period as determined by the Administrative Court, consistent with Title 4, chapter 25.

Sec. 410. 24-A MRSA § 419, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Upon expiration of the suspension period, if within that period the certificate of authority has not terminated, the insurer's certificate of authority shall reinstate unless the procedures of the Administrative Court mandate to the contrary. The suspension shall not terminate if the Administrative Court finds that the causes of the suspension are continuing, or that the insurer is otherwise not in compliance with the requirements of this Title.

Sec. 411. 24-A MRSA § 1539, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The superintendent may file a complaint with the Administrative Court seeking suspension or revocation of any license issued under this chapter or any surplus lines broker license if the superintendent has reason to believe that as to the licensee any of the following causes exist:

Sec. 412. 24-A MRSA § 1539, sub-§ 2, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

2. The superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of licenses held by a firm or corporation for

any of such causes as relate to any individual designated or registered in the license to exercise its powers.

Sec. 413. 24-A MRSA § 1540, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

**§ 1540. Procedures upon suspension or revocation; powers of superintendent**

1. The effective date of suspension or revocation of an agent or broker license shall be determined by the Administrative Court, consistent with Title 4, chapter 25. Similarly, the duration of a suspension and the notice requirements pursuant to a ruling of suspension or revocation shall be determined by the Administrative Court.

2. Notwithstanding the provisions of subsection 1, the superintendent has the authority to amend, modify or refuse to renew any agent or broker license for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 414. 24-A MRSA § 1542, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The superintendent shall not issue a license under this Title as to any person whose license has been revoked by the Administrative Court until at least one year has expired from the effective date of that revocation. If the licensee pursues an appeal from the Administrative Court decision, the superintendent shall not consider issuance of a new license until at least one year from the date of a final court order affirming that revocation. The license applicant shall establish that he again qualifies for the license in accordance with the applicable provisions of this Title. The superintendent may refuse any such new license applied for unless the applicant shows good cause why the prior revocation should not be deemed a bar to the issuance of a new license.

Sec. 415. 24-A MRSA § 2013, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The superintendent may file a complaint with the Administrative Court seeking suspension or revocation of any surplus lines broker's license:

Sec. 416. 24-A MRSA § 2013, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Upon a ruling by the Administrative Court suspending or revoking a broker's surplus lines license the superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of all other licenses held by the same individual under this Title.

Sec. 417. 24-A MRSA § 2111, sub-§ 2, first sentence, as last amended by PL 1973, c. 585, § 12, is further amended to read: