

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

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Legislative Document

No. 1863

H.P. 1303

House of Representatives, January 3, 2006

### **An Act To Permit Supplemental Environmental Projects for Forest Practices Violations**

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Submitted by the Department of Conservation pursuant to Joint Rule 204.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND  
Clerk

Presented by Representative FLOOD of Winthrop.

Cosponsored by Representatives: BRYANT of Windham, JODREY of Bethel, Senator: BRYANT of Oxford.

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

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Sec. 1. 12 MRSA §8870, sub-§5 is enacted to read:

6 5. Supplemental environmental projects. In settling a  
civil enforcement action for any violation of any of the  
8 provisions of the laws administered by the bureau, including  
without limitation a violation of the terms or conditions of any  
10 order, rule, license, permit, approval or decision of the bureau,  
the parties may agree to a supplemental environmental project  
12 that mitigates not more than 80% of the assessed penalty.  
"Supplemental environmental project" means an environmentally  
14 beneficial project primarily benefiting the public health or the  
environment that a violator is not otherwise required or likely  
16 to perform.

18 A. An eligible supplemental environmental project is  
limited to the following categories:

20 (1) Environmental enhancement projects in the same  
ecosystem or geographic area of the violation that  
22 significantly improve an area beyond what is required  
to remediate any damage caused by the violation that is  
24 the subject of the enforcement action;

26 (2) Community forestry projects in the same ecosystem  
or geographic area of the violation that are conducted  
28 in accordance with the purposes of section 8705;

30 (3) Environmental awareness projects substantially  
related to the violation that provide training,  
32 publications or technical support to members of the  
public and that are regulated by the Department of  
34 Conservation; or

36 (4) Scientific research and data collection projects  
that advance the scientific basis on which regulatory  
38 decisions are made.

40 B. A supplemental environmental project may not be used in  
the following situations:

42 (1) Repeat violations of the same or a substantially  
44 similar law administered by the Department of  
Conservation by the same person;

46 (2) When a project is required by law;

48 (3) If the violator had previously planned and  
50 budgeted for the project;

2                   (4) To offset any calculable economic benefit of  
3                   noncompliance;

4                   (5) If the violation is the result of reckless or  
5                   intentional conduct; or

6                   (6) If the project primarily benefits the violator.

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10                   Any settlement that includes a supplemental environmental  
11                   project must provide that expenditures are not tax  
12                   deductible and are ineligible for certification as  
13                   tax-exempt pollution control facilities pursuant to Title  
14                   36, chapters 105 and 211.

15  
16  
17                   **SUMMARY**

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19                   This bill replicates existing law relating to the Department  
20                   of Environmental Protection within the Title of the Maine Revised  
21                   Statutes relating to the Department of Conservation, Bureau of  
22                   Forestry. It would allow the Bureau of Forestry to incorporate a  
23                   supplemental environmental project into the settlement of a civil  
24                   enforcement action for any violation of any of the provisions of  
25                   the forest practices laws administered by the bureau.  
26                   "Supplemental environmental project" under the bill means an  
27                   environmentally beneficial project primarily benefiting the  
28                   public health or the environment that a violator is not otherwise  
                 required or likely to perform.