

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1051

H.P. 747

House of Representatives, March 12, 1991

Received by the Clerk of the House on March 8, 1991. Referred to the Committee on Energy and Natural Resources and 1400 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative LORD of Waterboro.

Cosponsored by Representative ANDERSON of Woodland and Representative GOULD of Greenville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Require the Department of Environmental Protection to
Perform a Cost and Benefit Analysis of Permit Applications.**

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

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50
52

Sec. 1. 38 MRSA §344, sub-§10 is enacted to read:

10. Economic factors. In addition to information required as part of a license or permit application, the department shall consider the economic costs and benefits of the proposed license or permit when deciding whether to issue that license or permit.

Sec. 2. 38 MRSA §414-A, sub-§1, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §30, is further amended to read:

1. Generally. The board shall issue a license for the discharge of any pollutants only if it finds that the following conditions are met:

A. The discharge either by itself or in combination with other discharges will not lower the quality of any classified body of water below such classification;

B. The discharge either by itself or in combination with other discharges will not lower the quality of any unclassified body of water below the classification which the board expects to adopt in accordance with this subchapter;

C. The discharge either by itself or in combination with other discharges will not lower the existing quality of any body of water, unless, following opportunity for public participation, the department finds that the discharge is necessary to achieve important economic or social benefits to the State and when the discharge is in conformance with section 464, subsection 4, paragraph F. The finding must be made following procedures established by rule of the board pursuant to section 464, subsection 4, paragraph F;

D. The discharge will be subject to effluent limitations that require application of the best practicable treatment. "Effluent limitations" means any restriction or prohibition including, but not limited to, effluent limitations, standards of performance for new sources, toxic effluent standards and other discharge criteria regulating rates, quantities and concentrations of physical, chemical, biological and other constituents that are discharged directly or indirectly into waters of the State. "Best practicable treatment" means the methods of reduction, treatment, control and handling of pollutants, including process methods, and the application of best conventional pollutant control technology or best available technology economically achievable, for a category or class of discharge sources that the department determines are best

2 calculated to protect and improve the quality of the
4 receiving water and that are consistent with the
6 requirements of the Federal Water Pollution Control Act, as
8 amended. In determining best practicable treatment for each
category or class, the department shall consider the
existing state of technology, the effectiveness of the
available alternatives for control of the type of discharge
and the economic feasibility of such alternatives; and

10 E. A pesticide discharge is unlikely to exert a significant
12 adverse impact on nontarget species. This standard is only
applicable to applications to discharge pesticides.

14 In making the findings under paragraphs A to E, the department
16 shall consider the economic costs and benefits of issuing the
license.

18 **Sec. 3. 38 MRSA §421, last ¶,** as affected by PL 1989, c. 890,
20 Pt. A, §40 and amended by Pt. B, §43, is further amended to read:

22 Notwithstanding this section, if the department determines
24 from an examination of soil conditions, ground water
26 characteristics, climatic conditions, topography, the nature and
28 amount of the solid waste, economic factors and other appropriate
30 factors, that the deposit of solid waste within an area less than
32 300 feet from any classified body of surface water, will not
result in an unlicensed direct or indirect discharge of
pollutants to that body of surface water, it may, after notice,
permit the deposit of solid waste within that area, upon terms
and conditions as it determines necessary. Permits issued
pursuant to this section are for a term of not more than 2 years
but may be renewed for successive 2-year terms after
reexamination pursuant to this chapter.

34 **Sec. 4. 38 MRSA §480-D, first ¶,** as affected by PL 1989, c.
36 890, Pt. A, §40 and amended by Pt. B, §71, is further amended to
read:

38 The department shall grant a permit upon proper application
40 and upon such terms as it considers necessary to fulfill the
42 purposes of this article. The department shall grant a permit
44 when it finds that the applicant has demonstrated that the
proposed activity meets the following standards. In determining
what constitutes an unreasonable effect, the department shall
consider the economic costs and benefits of the permit.

46 **Sec. 5. 38 MRSA §484, first ¶,** as affected by PL 1989, c. 890,
48 Pt. A, §40 and amended by Pt. B, §89, is further amended to read:

2 The department shall approve a development proposal whenever
3 it finds that the conditions set forth in this section have been
4 met. In determining what constitutes unreasonable or adverse
5 effects, conditions or risks, the department shall consider the
6 economic costs and benefits of the development proposal.

7 Sec. 6. 38 MRSA §590, 2nd ¶, as affected by PL 1989, c. 890,
8 Pt. A, §40 and amended by Pt. B, §164, is further amended to read:

9 Application for air emission licenses must be made in a form
10 prescribed by the commissioner and contain the information
11 relating to the proposed air contamination source and emission of
12 air contaminants as the board may by rule prescribe. All
13 hearings under this section must be held in some municipality
14 within the region where the proposed emission is to be located.
15 At this hearing, the department shall solicit and receive
16 testimony concerning the nature of the proposed emissions; their
17 effect on existing ambient air quality standards within the
18 region; the economic costs and benefits of the application; the
19 availability and effectiveness of air pollution control apparatus
20 designed to maintain the emission for which license is sought at
21 the levels required by law; and the expense of purchasing and
22 installing this apparatus. If after hearing the department
23 finds, after considering both technical and economic factors,
24 that the proposed emission will be receiving the best practicable
25 treatment, will not violate applicable emission standards, or
26 will be controlled so as not to violate the same, and that the
27 proposed emission, either alone or in conjunction with existing
28 emissions, will not violate or can be controlled so as not to
29 violate applicable ambient air quality standards, it shall grant
30 the license, imposing such appropriate and reasonable conditions
31 thereon as may, in the department's judgment, be necessary to
32 secure compliance with ambient air quality standards. If in the
33 course of the renewal or amendment of an air emission license
34 these findings can be made only if the licensee installs
35 additional emission controls or other mitigating measures, then
36 the licensee may continue to emit pollutants from air contaminant
37 sources that will receive these controls or measures up to the
38 same levels allowed in its existing air emission license, if the
39 additional emission controls or other mitigating measures are
40 installed and are fully operational as soon as practicable, but
41 in no case later than 24 months, after the department issues the
42 license renewal or amendment, except as provided in this
43 paragraph. After a showing by the licensee that it cannot can
44 not install and bring to full operation required emission
45 controls or mitigating measures within the 24-month period, the
46 department may establish a later date for the installation and
47 operation.
48

2 **Sec. 7. 38 MRSA §1310-N, sub-§1, ¶C**, as enacted by PL 1987, c.
517, §25, is amended to read:

4 C. In the case of a disposal facility, the volume of the
waste and the risks related to its handling and disposal
6 have been reduced to the maximum practical economically
feasible extent by recycling and source reduction prior to
8 disposal.

10 **Sec. 8. 38 MRSA §1319-R, sub-§1**, as amended by PL 1989, c.
794, §5; affected by c. 890, Pt. A, §40; and amended by Pt. B,
12 §263, is further amended by amending the first paragraph to read:

14 **1. Licenses for hazardous waste facilities.** The department
shall issue a license for a hazardous waste facility whenever the
16 department finds that the facility will not pollute any water of
the State, contaminate the ambient air, constitute a hazard to
18 health or welfare or create a nuisance. In making its findings,
the department shall consider the economic costs and benefits of
20 the license. Licenses must be issued under the terms and
conditions as the department may prescribe and for a term not to
22 exceed 5 years. The department may establish reasonable time
schedules for compliance with this subchapter and rules
24 promulgated by the board.

26

28

STATEMENT OF FACT

30 This bill requires the Department of Environmental
Protection to consider economic factors in environmental
32 permitting decisions.