MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 215

H.P. 167

House of Representatives, January 24, 1995

An Act to Amend the Laws Regarding Consent Agreements of the Department of Environmental Protection.

Reference to the Committee on Natural Resources suggested and ordered printed.

OSEPH W. MAYO, Clerk

Presented by Representative MARSHALL of Eliot.
Cosponsored by Representatives: AHEARNE of Madawaska, BARTH of Bethel, DEXTER of Kingfield, GOULD of Greenville, LIBBY of Kennebunk, RICE of South Bristol, STROUT of Corinth, TUTTLE of Sanford, UNDERWOOD of Oxford.

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

Sec. 1. 38 MRSA §347-A, sub-§4, ¶B, as enacted by PL 1993, c. 204, §2, is amended to read:

All proposed administrative consent agreements sent to alleged violator must be accompanied by written correspondence from the department, in language reasonably citizen, understandable t.o explaining а the violator's rights and responsibilities with respect to the proposed administrative consent agreement. correspondence must include an explanation of the factors considered by the commissioner in determining the proposed penalty, а statement indicating that administrative consent agreement process is a voluntary mechanism for resolving enforcement matters without the need litigation and an explanation of the department's procedures for handling administrative consent agreements. The correspondence must also specify a reasonable time period for the alleged violator to respond to the proposed administrative consent agreement and offer the opportunity for a meeting with department staff to discuss the proposed agreement. A consent agreement may not require the alleged violator to waive any rights to further hearings or procedures before the board, nor may it contain a requirement to abide by conditions not specifically stated in the agreement. If the department and the alleged violator can not agree to the terms of a consent agreement, at the request of either party the District Court having jurisdiction where the alleged violation occurred shall appoint a mediator to meet with the parties in an attempt to reach agreement. The parties must meet with the mediator at least once and try in good faith to reach an agreement. After the first meeting, at the request of either party, mediation must end.

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STATEMENT OF FACT

This bill provides that a consent agreement for an environmental violation may not require an alleged violator to waive rights to further hearings or procedures before the Board of Environmental Protection or contain a requirement to abide by conditions not specifically stated in the agreement. The bill further requires mediation at the request of either party if the Department of Environmental Protection and the alleged violator can not agree to the terms of a consent agreement.