

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)



118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1997

Legislative Document

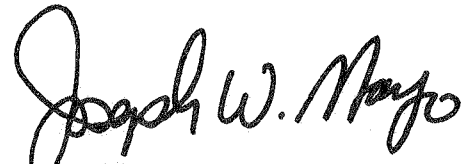
No. 1944

H.P. 1391

House of Representatives, December 18, 1997

An Act to Encourage the Use of Environmental Fines for Environmental Benefits.

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Received by the Clerk of the House on December 16, 1997. Referred to the Committee on Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


JOSEPH W. MAYO, Clerk

Presented by Representative COWGER of Hallowell.
Cosponsored by Representative SHIAH of Bowdoinham.

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

2
4 Sec. 1. 38 MRSA §349, sub-§2-A is enacted to read:

6 2-A. Supplemental environmental projects. In settling a
8 civil enforcement action for any violation of any of the
10 provisions of the laws administered by the department, including,
12 without limitation, a violation of the terms or conditions of any
14 order, rule, license, permit, approval or decision of the board
16 or commissioner, the parties may agree to a supplemental
18 environmental project that mitigates not more than 80% of the
20 assessed penalty. "Supplemental environmental project" means an
22 environmentally beneficial project primarily benefiting public
24 health or the environment that a violator is not otherwise
26 required or likely to perform.

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

32 (1) Pollution prevention projects that eliminate all
34 or a significant portion of pollutants at the point of
36 generation;

38 (2) Pollution reduction projects that significantly
40 decrease the release of pollutants into a waste stream
42 at the point of discharge to a point significantly
44 beyond levels required for compliance;

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

 (4) Environmental awareness projects substantially
 related to the violation that provide training,
 publications or technical support to members of the
 public regulated by the department;

 (5) Scientific research and data collection projects
 that advance the scientific basis on which regulatory
 decisions are made;

 (6) Emergency planning and preparedness projects that
 assist state or local emergency response and planning
 entities in preparing or responding to emergencies; and

 (7) Public health projects that provide a direct and
 measurable benefit to public health.

2 B. Supplemental environmental projects may not be used for
3 the following situations:

4 (1) Repeat violations by the same person;

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

8 (3) If the violator had previously planned the project;

10 (4) To mitigate any calculable economic benefit gained
12 by the violation;

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

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

20 Any settlement that includes a supplemental environmental
22 project must provide that expenditures are not tax
24 deductible and are ineligible for certification as tax
26 exempt pollution control facilities pursuant to Title 36,
28 chapters 105 and 211.

30 C. The commissioner and the Attorney General may adopt such
32 other terms and conditions for supplemental environmental
34 projects as they agree are appropriate. Rules adopted
36 pursuant to this paragraph are routine technical rules
38 pursuant to Title 5, chapter 375, subchapter II-A.

32 SUMMARY

34 This bill describes the situations in which environmental
36 fines could be used for environmental projects such as research,
38 habitat enhancement or protection, public education, pollution
40 prevention or local emergency planning. The bill more clearly
defines and ratifies many of the concepts in the Department of
Environmental Protection's current policy governing supplemental
environmental projects.