

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1562

S.P. 529

In Senate, March 2, 1999

**An Act to Establish the Environmental Leadership Program.**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator AMERO of Cumberland.  
Cosponsored by Representative MURPHY of Kennebunk and  
Senators: ABROMSON of Cumberland, BENNETT of Oxford, LIBBY of York, MILLS of  
Somerset, SMALL of Sagadahoc, Representatives: CIANCHETTE of South Portland, DAVIS  
of Falmouth.

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

4 **Sec. 1. 38 MRSA c. 32 is enacted to read:**

6 **CHAPTER 32**

8 **ENVIRONMENTAL LEADERSHIP PROGRAM**

10 **§2461. Definitions**

12 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Development. "Development" has the same meaning as the term "development of state or regional significance that may substantially affect the environment" as defined under section 482, subsection 2.

18 2. Facility. "Facility" means a production manufacturing facility on a development, for which a license or permit is required under chapters 2 to 30.

22 3. Person. "Person" means any individual or business entity.

24 **§2462. Establishment of environmental leadership program**

26 1. Program established. Effective July 1, 2000, the Environmental Leadership Program, referred to in this chapter as the "program," is established as a voluntary environmental leadership program under which a person may receive incentives for improving environmental quality. The board, by July 1, 2000, shall adopt rules necessary to implement the program.

30 2. Eligibility. A person may apply for participation in the program if a facility owned by that person complies with all applicable state and federal environmental laws, regulations, licenses and permits and:

34 A. The operator of the facility has not committed a violation at the facility for a period of 3 years prior to the application date that:

38 (1) Caused significant harm to human health or to the environment;

42 (2) Was part of a pattern of violations that demonstrated management systems at the facility are not adequate to monitor environmental compliance; or

2                   (3) Resulted in a criminal conviction or a compliance  
3                   order, consent order or out-of-court settlement based  
4                   on a violation to which a criminal penalty applies;

6                   B. The operator of the facility maintains at the facility  
7                   an environmental management program;

8                   C. The operator of the facility maintains at the facility an  
9                   environmental compliance audit program to assess the  
10                   facility's compliance with environmental laws, correct  
11                   noncompliance within a reasonable period of time and report  
12                   any audit findings required by law;

14                   D. The operator of the facility maintains at the facility a  
15                   pollution prevention program with specific goals and  
16                   committed actions to significantly reduce releases of  
17                   pollutants or the use of resources beyond the reductions  
18                   required by law or permit;

20                   E. The operator of the facility maintains at that facility  
21                   a system of verifiable quantitative and qualitative measures  
22                   to document compliance with environmental laws, rules,  
23                   licenses and permits, resource conservation goals and  
24                   pollution prevention goals; and

26                   F. The operator of the facility implements and maintains at  
27                   that facility one or more environmental leadership actions.  
28                   Environmental leadership actions include, but are not  
29                   limited to:

30                           (1) Development and maintenance of programs that  
31                           provide technical assistance or mentoring to one or  
32                           more specified organizations to encourage technology  
33                           transfers;

36                           (2) Active participation in industry or business  
37                           environmental improvement programs;

38                           (3) Publication and public distribution of annual  
39                           environmental performance summary reports regarding the  
40                           facility;

42                           (4) Promotion, sponsorship and participation in  
43                           community environmental and advisory programs;

46                           (5) Development and maintenance of management programs  
47                           that encourage and reward employees for meeting or  
48                           exceeding the requirements of environmental laws or  
49                           permits, and for utilizing volunteer practices such as  
50                           car pooling and trip reduction;

2           (6) Development and maintenance of programs that  
4           reduce the adverse environmental impact of development,  
          manufacture, distribution or marketing of the facility  
          or products or services of the facility;

6           (7) Evaluation and revision of environmental  
8           management systems to update and strengthen  
10          environmental policies, procedures, goals and employee  
          training programs; and

12          (8) Acquisition and maintenance of national or  
14          international environmental certification.

16          The board may by rule establish additional environmental  
18          leadership actions if the actions can be expected to result  
          in measurable improvements of environmental quality.

20          3. Incentives. The board shall by rule adopt criteria for  
          establishing priorities among applicants. The commissioner may  
22          provide one or more of the following incentives to a person whose  
          application to the program is approved:

24          A. Dollar rebates or credits applied against the  
26          obligations under chapters 2 to 30 of the facility described  
          in the program application, subject to available funds. The  
28          dollar rebates or credits may not exceed \$10,000 in any  
          3-year period. Dollar rebates or credits may not be applied  
30          to fines or penalties assessed for violations. The amount  
          of dollar rebates or credits must be based on the proportion  
32          that the total investment in environmental leadership  
          actions by the applicant represents of the total value of  
34          the facility. The commissioner shall structure a schedule  
          of rebates and credits to provide greater proportional  
          rebates or credits to owners of facilities of lesser value;

36          B. Formal public recognition by the Governor and the  
38          department, at least annually. The commissioner shall by  
          rule establish a public recognition program for persons who  
40          participate in the program;

42          C. Accelerated review and processing of permit applications  
          submitted by the person for operation of the facility;

44          D. Increased self-monitoring, self-reporting,  
46          self-certification or 3rd-party certification to demonstrate  
          compliance with laws, rules, licenses and permits;

48

2 E. Extension of the terms of environmental licenses or  
permits up to the maximum standards authorized by law or  
4 rule; or

6 F. Issuance of additional credits for reductions in  
emissions or discharges that exceed minimum legal  
8 requirements under an emissions or discharge trading or  
credit program that has been or may be established.

10 4. Application; findings. The following provisions apply  
12 to the application process for participation in the voluntary  
environmental leadership program.

14 A. The commissioner shall establish application forms.

16 B. The commissioner shall review an application in a  
18 reasonable period of time and notify the applicant that the  
application is complete or incomplete. If the application  
20 is incomplete, the commissioner shall describe what  
22 additional information is required to complete the  
application. The person may complete the application and  
resubmit it at any time.

24 C. The commissioner shall review a completed application  
26 within a reasonable period of time. If the commissioner  
determines the application meets the program requirements,  
28 the commissioner shall notify the applicant in writing and  
incorporate the application into a written agreement. If  
30 the commissioner determines the application does not meet  
the program requirements, the commissioner shall, prior to  
32 denying the application, notify the applicant and provide  
the applicant adequate opportunity to rebut the  
34 commissioner's findings.

36 D. The commissioner may enter into one or more agreements  
38 with the owner of a facility to implement the provisions of  
this section. The agreements must specify the incentives  
provided to the applicant.

40 5. Withdrawal or termination from program; suspension. The  
42 following provisions apply to the withdrawal, termination or  
suspension of participation in the program.

44 A. A person who participates in the program may elect to  
46 withdraw from the program upon written notice to the  
commissioner.

48 B. The commissioner shall terminate the participation of a  
50 person in the program if a violation occurs at a facility in  
the program and the violation is not reported in accordance

2 with any applicable law or rule or the violation is not  
3 corrected in a timely manner. This paragraph applies only  
4 to violations that:

6 (1) Cause significant harm to human health or to the  
7 environment;

8 (2) Are part of a pattern of violations that  
9 demonstrate management systems at the facility are not  
10 adequate to monitor environmental compliance; or

12 (3) Result in a criminal conviction or a compliance  
13 order, consent order or out-of-court settlement based  
14 on a violation to which a criminal penalty applies.

16 C. If a violation occurs at a facility in the program and  
17 the violation is reported in accordance with any applicable  
18 law or rule, the commissioner shall suspend participation in  
19 the program of the person who owns the facility until the  
20 violation is corrected and, if necessary, remediated. This  
21 paragraph applies only to violations that:

22 (1) Cause significant harm to human health or to the  
23 environment;

24 (2) Are part of a pattern of violations that  
25 demonstrate management systems at the facility are not  
26 adequate to monitor environmental compliance; or

27 (3) Result in a criminal conviction or a compliance  
28 order, consent order or out-of-court settlement based  
29 on a violation to which a criminal penalty applies.

30 6. Rules. Rules adopted pursuant to this section are major  
31 substantive rules as defined in Title 5, chapter 375, subchapter  
32 II-A.

33 **§2463. Environmental Leadership Fund**

34 1. Fund established. The Environmental Leadership Fund,  
35 referred to in this section as the "fund," is established as a  
36 revolving loan fund in the department.

37 2. Administration. The commissioner shall administer the  
38 fund. The fund must be invested in the same manner as permitted  
39 for investment of funds belonging to the State or held in the  
40 State Treasury. The fund is established and held separate and  
41 apart from any other funds or money of the department and must be  
42 used and administered exclusively for the purposes under  
43 subsection 3. The fund consists of the following:

- 2           A. Such sums as may be appropriated by the Legislature or  
4           transferred to the fund from time to time by the Treasurer  
          of State;
- 6           B. Principal and interest received from the repayment of  
8           loans made from the fund;
- 10          C. Capitalization grants and awards made to the State or an  
12          instrumentality of the State by the Federal Government for  
14          any of the purposes for which the fund has been established.  
16          These amounts must be paid directly into the fund without  
18          need for appropriation by the State;
- 20          D. Interest earned from the investment of fund balances;
- 22          E. Private gifts, bequests and donations made to the State  
24          for any of the purposes for which the fund has been  
26          established;
- 28          F. The proceeds of notes or bonds issued by the bank for  
30          the purpose of deposit in the fund; and
- 32          G. Other funds from any public or private source received  
34          for use for any of the purposes for which the fund has been  
36          established.
- 38          3. Purpose. The commissioner may use the fund for the  
40          following purposes:
- 42                A. To provide to a person who owns a facility loans at  
44                below-market rates for pollution prevention, toxic use  
46                reduction, resource use reduction, resource recovery, energy  
48                efficiency or development of innovative environmental  
50                technologies;
- B. To invest available fund balances and to credit the net  
              interest income on those balances to the fund; and
- C. To pay the costs of the department staff associated with  
              the administration of the fund and projects financed by it,  
              except that no more than the lesser of 2% of the aggregate  
              of the highest fund balances in any fiscal year and 4% of  
              any capitalization grants provided by the Federal Government  
              for deposit in the fund may be used for these purposes.
4. Application. A person who owns a facility that complies  
              with all applicable state and federal environmental laws,  
              regulations, licenses and permits may apply to the commissioner  
              for a loan from the fund for the purposes described under

subsection 3.

2  
4 5. Priorities. Periodically, and at least annually, the  
6 commissioner shall prepare a project priority list of applicants  
8 for loans from the fund. Projects with the highest priority  
ranking must be those with the highest potential for  
environmental benefits and for future application to other  
facilities.

10 6. Rules. The commissioner shall develop by rule the terms  
12 and repayment of loans and may adopt rules for the administration  
14 of the fund. Rules adopted pursuant to this subsection are major  
substantive rules as defined in Title 5, chapter 375, subchapter  
II-A.

16  
18 **SUMMARY**

20 This bill establishes the voluntary Environmental Leadership  
22 Program under which a person may receive incentives for improving  
24 environmental quality if a facility owned by the person meets  
26 certain criteria. The incentives include financial, procedural,  
license and recognition incentives. The bill requires the Board  
of Environmental Protection to implement the program and adopt  
rules by July 1, 2000.

28 The bill also establishes the Environmental Leadership Fund  
30 under which a person who owns a facility may receive a loan at  
32 below-market rates for pollution prevention, toxic use reduction,  
resource use reduction, resource recovery, energy efficiency or  
development of innovative environmental technologies. The fund  
may receive dollars from any public or private source. The fund  
is a revolving loan fund.