

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

—
H.P. 1254 - L.D. 1808

**An Act To Implement Recommendations Resulting from a State Government
Evaluation Act Review of the Department of Environmental Protection by
the Joint Standing Committee on Environment and Natural Resources**

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

Sec. 1. 38 MRSA §349, sub-§2-A, as enacted by PL 1997, c. 570, §1, is amended to read:

2-A. Supplemental environmental projects. In settling a civil enforcement action for any violation of any of the provisions of the laws administered by the department, including, without limitation, a violation of the terms or conditions of any order, rule, license, permit, approval or decision of the board or commissioner, the parties may agree to a supplemental environmental project that mitigates ~~not more than 80%~~ up to 100% of the assessed penalty. "Supplemental environmental project" means an environmentally beneficial project primarily benefiting public health or the environment that a violator is not otherwise required or likely to perform.

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

- (1) Pollution prevention projects that eliminate all or a significant portion of pollutants at the point of generation;
- (2) Pollution reduction projects that significantly decrease the release of pollutants into a waste stream at the point of discharge to a point significantly beyond levels required for compliance;
- (3) Environmental enhancement projects in the same ecosystem or geographic area of the violation that 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.

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

- ~~(1) Repeat violations of the same or a substantially similar law administered by the department by the same person;~~
- (2) When a project is required by law;
- (3) If the violator had previously planned and budgeted for the project;
- (4) To offset any calculable economic benefit of noncompliance;
- (5) If the violation is the result of reckless or intentional conduct; or
- (6) If the project primarily benefits the violator.

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

Sec. 2. 38 MRSA §2124-A, first ¶, as amended by PL 2011, c. 655, Pt. GG, §31 and affected by §70, is further amended to read:

By January 1, ~~2013~~ 2020 and ~~annually~~ biennially thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environmental and natural resources matters and the Governor setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.