



2010

REPORT CARD FOR MAINE'S ENVIRONMENT

The Legislature earned mixed grades this year for its work on bills to protect Maine's environment, wildlife, and people, including one landmark accomplishment, steps forward in a few areas, and disappointments elsewhere. NRCM's annual Report Card describes the successes and shortcomings of this legislative session and notes where to look for improvements in the future.

We are particularly pleased with passage of a bill that promotes "product stewardship." Maine has been a pioneer in this area, with several first-in-the-nation bills that save taxpayers money by requiring manufacturers to pay for end-of-life recovery and recycling costs of consumer products containing harmful chemicals (e.g. computers, television monitors) that should not end up in landfills. The bill adopted this year will expand this approach to other products.

The Legislature passed two important bills that will reduce toxic pollution in Maine. One reauthorizes Maine's Toxics Use Reduction law; the other bans a toxic flame retardant from plastic pallets that are used to ship a broad range of consumer products, including food and clothing.

A victory for clean air came with passage of a bill that ratchets down the sulfur content in home heating oil and industrial oil over the next six years. Air pollution, including climate-changing carbon pollution, also will be reduced as a result of important bills adopted this session that will promote energy efficiency, ocean-based renewable energy, and a "smarter" electricity transmission system.

At a glance...	
SUBJECT	GRADE
Reducing Toxic Pollution	A-
Responsible Recycling	A
Cleaner Air	A-
Energy Efficiency	B
Renewable Energy	A-
Climate Change	D
Healthy Fisheries	B
Pesticides Notification	C-

We made some incremental headway in the area of fisheries protection, with enactment of a saltwater fishing registry that will generate funds for fish restoration programs. Lawmakers struggled, however, with a bill to help ensure that culverts built beneath roads are properly designed to provide fish passage. They also had trouble reaching the right outcome on a bill to make Maine's pesticide spraying notification law more workable, and on a bill to help address climate change through energy efficiency standards for residential subdivisions and commercial development. In each of these three areas, the initial legislation was weakened so much that the final outcome was a disappointment.

Getting good bills through the State House is a team effort. NRCM's advocacy staff play a crucial role in that process. We put in long hours working with legislators, agency staff, and colleagues from other organizations, including the 25 groups that comprise Maine's Environmental Priorities Coalition.

NRCM's members and activists also make a big difference. Your support and involvement help ensure that lawmakers understand the importance of these issues to their constituents, the people of Maine, and future generations. We appreciate the work of the Legislature, and the involvement of everyone who helped us achieve this year's progress on laws to further protect Maine's environment.

—Pete Didisheim, Advocacy Director

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Reducing Toxic Chemicals **A-**



Legislators took important steps to help protect Maine people and the environment from toxic chemicals. Most significantly, they adopted An Act to Clarify Maine's Phase-out of Polybrominated Diphenyl Ethers (LD 1568). This bill closes a loophole in the 2007 law that

bans the toxic chemical "deca" from being used as a flame retardant in consumer electronics, furniture, and mattresses. Deca interferes with brain development and can lead to learning disabilities. Although safer alternatives exist, deca manufacturers have been relentless in seeking new applications. "When we learned that the chemical companies that manufacture deca are using it in plastic shipping pallets, we immediately worked with other groups and key legislators on a bill to block it," says NRCM Toxics Project Director and Legislative Coordinator Matt Prindiville.

With enactment of LD 1568, sponsored by House Speaker Hannah Pingree (D-North Haven), deca in shipping pallets must be phased out no later than January 1, 2013, in favor of safer alternatives. The law also prevents manufacturers from using other toxic brominated or chlorinated flame retardants. NRCM worked with several pallet manufacturers and allied groups to broker an agreement on the final language.

We also secured passage of a reauthorization bill for Maine's Toxics Use Reduction Act (LD 1423). With enactment of this bill, introduced by Rep. Sharon Treat (D-Hallowell), Maine's Department of Environmental Protection (DEP) is required to identify priority chemicals in the industrial sector and create and implement action plans to reduce and/or eliminate their use. The Legislature also adopted a bill that will help fund the safer chemicals law enacted two years ago that will promote the identification and phase-out of the most harmful chemicals found in consumer products sold in Maine.

Responsible Recycling **A**



(L to R): Chris Jackson (Maine Chamber), Rep. Innes, Governor Baldacci, and NRCM's Matt Prindiville at the signing of the product stewardship bill.

Consumers generate too much waste, with too little recycling. Ideally, manufacturers of consumer goods would help pay for the collection and responsible recycling of the products they produce, keeping them out of landfills. This approach, called "product stewardship," is well established in Europe and Canada, and is beginning to take hold in Maine.

The Legislature passed

an important bill this year that establishes product stewardship as a fundamental tenet of Maine's solid waste policies. An Act to Provide Leadership Regarding the Responsible Recycling of Consumer Goods (LD 1631), introduced by Rep. Melissa Walsh Innes (D-Yarmouth), initially drew strong opposition from Maine business interests and lobbyists representing a host of manufacturers. But Rep. Innes and NRCM's Matt Prindiville spent long hours explaining the merits of the bill and working through amendments to address concerns, eventually earning the support of the Maine State Chamber of Commerce. "In the end, we reached a consensus approach that received unanimous support in committee," said Prindiville.

The new law sets up a first-in-the-nation program to systematically review and recommend products for manufacturer-financed collection and recycling programs. It builds on the success of Maine's 2004 electronic waste (e-waste) bill, which has resulted in the collection of more than 25 million pounds of e-waste. Under the new law, Maine's DEP will systematically evaluate products that might be suitable for producer-financed collection programs and report annually to the Legislature, which may draft bills to establish new product stewardship programs. "This bill is a win-win for Maine. It will help save money for taxpayers and move us closer to a holistic approach to waste management that protects our environment and results in responsible recycling of consumer products," said Prindiville.

Clean Air through Cleaner Fuel **A-**

Maine's air continues to be polluted by the burning of fossil fuel, from both in-state and out-of-state sources. Sulfur and small particles released from burning oil and other fuels increase emergency room visits, respiratory illnesses, and premature death. Maine has one of the highest asthma rates in the country, and oil burning is the state's leading contributor to sulfur pollution.



ACADIA NATIONAL PARK BY READ BRUGGER

The Maine Legislature took an important step to reduce air pollution by passing a bill that requires cleaner fuels for home heating and industrial uses. The bill was introduced by Sen. Seth Goodall (D-Sagadahoc) at a press event last fall in Acadia National Park, where summer air pollution can greatly reduce visibility. An Act to Improve Maine's Air Quality and Reduce Regional Haze (LD 1662) was supported by the association representing Maine's oil dealers, yet faced significant opposition from lobbyists representing paper mills that were concerned about the availability of low-sulfur industrial fuels, despite assurances that supplies would be ample. Most other northeastern states are taking similar actions to clean up these fuels.

"The DEP worked hard to show that a six-year timeline for shifting to low-sulfur fuels was achievable and would provide significant public health and air quality benefits," said NRCM Clean Energy Project Director Dylan Voorhees. "This new law will literally save lives by reducing some of the air pollution that threatens the health of Maine families and our environment."

Energy Efficiency **B**

Improving energy efficiency is the best way for Maine to reduce air and global warming pollution, and to help Mainers save money and become more energy independent. Outside of the Legislature, the Efficiency Maine Trust, created by legislation last year, has developed a three-year plan to boost energy efficiency for Maine homes and businesses. Members of the Utilities and Energy Committee were briefed about this "triennial plan" and will face important votes next year. Meanwhile, Efficiency Maine has greatly expanded its programs for homeowners, businesses, and others through December 2011, with the help of one-time federal stimulus money.



Within the Legislature, lawmakers tackled two significant energy efficiency bills, but neither survived as intact as we had hoped. An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses (LD 1717), introduced by Rep. Patsy Crockett (D-Augusta), was designed to authorize creative financing of energy improvements through an approach called Property-assessed Clean Energy (PACE). Local governments would be allowed to lend money to homeowners for weatherization and clean energy projects, and homeowners could repay the loan through their property taxes.

While the final bill was an important step, bank lobbyists convinced legislators to amend the bill in a way that greatly reduces the chance that bond markets or private lenders will lend money to towns for this purpose. The good news is that Maine recently received a \$30 million federal grant to provide loan funds for this program in the near term.

A separate bill aimed at increasing energy-efficiency funding was also watered down considerably. Rep. Seth Berry (D-Bowdoinham) introduced An Act To Enhance Maine's Clean Energy Opportunities (LD 1647), which directed Maine's Public Utilities Commission (PUC) to proactively purchase energy efficiency for ratepayers (which costs 60 percent less than generation), treating efficiency as a resource comparable to new electricity generation. But lawmakers voted to make this approach optional and imposed significant constraints on the PUC's ability to initiate long-term contracts to capture cost-effective energy efficiency.

"The Legislature missed some important opportunities this year to move the ball forward on energy efficiency," said NRCM's Dylan Voorhees. "Next year will be a critical time for renewed leadership in reducing energy waste and costs."

Renewable Energy

A-



ALLISON WELLS

Now, more than ever, it is apparent that we must move Maine and the nation to an energy future focused on clean American energy. Over the past two years there has been considerable discussion in Maine about the potential to develop offshore wind power and tidal energy

as a way to help update our energy system, which relies too heavily on oil, coal, natural gas, and nuclear power. A task force established by Governor Baldacci in 2008 spent more than a year evaluating Maine's opportunities for offshore energy development and presented the Legislature with a detailed bill with proposed statutory changes that can help improve the chances of making clean offshore energy sources a reality.

An Act to Implement the Recommendations of the Governor's Ocean Energy Task Force (LD 1810) establishes an ambitious goal of developing 5,000 megawatts (MW) of offshore energy by 2030; updates Maine's permitting process so that it could be workable for offshore energy projects; creates a system for leasing offshore sites for renewable energy projects in Maine waters, and establishes an approach that would ensure careful consideration of potential environmental, visual, and community impacts of such projects.

"Although it may be a decade before Maine sees a sizable offshore wind power project built in the Gulf of Maine, this bill points us in the right direction and was a major accomplishment," said NRCM's Dylan Voorhees.

The Legislature also adopted a bill that will provide increased financial benefits to communities that host wind power projects, and which could result in increased land conservation as part of land-based wind power projects. An Act to Provide Predictable Benefits to Maine Communities that Host Wind Energy Developments (LD 1504), sponsored by Sen. Peter Mills (R-Somerset) requires wind developers to provide host communities with a "community benefits package" with a minimum value of \$4,000 per turbine per year, for 20 years, in addition to property tax payments.

Climate Change and Development

D



Over the past two years, NRCM and other members of Maine's Environmental Priorities Coalition have worked to pass legislation that would promote energy-efficient design for new commercial developments in order to reduce energy costs, forest cutting,

dependence on fossil fuels, and climate-changing pollution.

During the 2009 legislative session, we supported a bill that would have helped ensure that climate change impacts were considered during the permitting process for new developments. Unfortunately, a strong group of opponents was determined to kill the legislation, regardless of the energy and environmental benefits. Most of the provisions were eliminated from what finally passed.

This year we took another run at this important issue, with An Act to Amend the Site Location of Development Laws to Include Consideration of Greenhouse Gas Emissions (LD 891), sponsored by Sen. Seth Goodall (D-Sagadahoc). The bill would have required developers to incorporate climate change and energy efficiency considerations in their designs, saving consumers money and providing protections for the environment. But this bill also was eviscerated, as lawmakers turned it into simply a study bill. And even that drew opposition from a small group of lawmakers and lobbyists.

"The buildings we create today will be with us for a generation or more. The smartest and most inexpensive choice is to design for a better future, with more energy efficiency and reduced environmental impacts," said Voorhees. "The foolish choice is to build in the same old ways we have in the past, and be stuck with the vulnerabilities and economic consequences of not reducing our dependence on fossil fuels. This bill would have promoted smarter development, and it should have been passed."

Healthy Fisheries

B

Recent studies show that about 90 percent of the culverts that help streams pass under Maine's roads fail to allow fish and other aquatic organisms to pass. To help address this problem, NRCM worked with a diverse coalition of local conservation organizations, sporting groups, and state agencies to improve fish passage through stream culverts in Maine.



JEFF WELLS

The goal of our work was clear: require that new culverts, as well as culvert repairs, be constructed so that fish are able to reach upstream spawning habitat and escape predators. Although poor culverts are a major threat to some of Maine's most economically important fish species, including brook trout, salmon, shad, and alewives, we only achieved a partial victory at the State House. The law that was adopted requires new culverts to be larger and better situated in streams, but the Legislature punted to the future the task of requiring that older culverts be redesigned with fish passage in mind.

Fisheries also will get a small boost as a result of passage of a new saltwater fishing registry in Maine, which will cost \$5 to Maine residents and \$15 for out-of-state residents. This funding will help fill a budgetary gap at Maine's Department of Marine Resources for marine patrol, fisheries science, and habitat improvement. "Without NRCM's work, this bill would not have passed, and the federal government would have imposed a more costly registry on Maine anglers with all the funds going to the U.S. Treasury," says NRCM Staff Scientist and Watershed Project Director Nick Bennett. "It took a tremendous effort by many people to get this registry in place, but it was worth it."

Pesticide Notification Weakened

C-

The Legislature adopted an important bill last year that helps Maine people protect their health by requiring proper and timely notification when pesticides will be applied nearby through aerial or air carrier devices. A package of amendments (LD 1547), introduced by Rep. Andrew O'Brien (D-Lincolnton) was offered to make the system more manageable, help the public understand what to expect from pesticide-spraying neighbors, and make enforcement easier for administrators.



VAILLANCOURT, HARTMAN*

Unfortunately, this bill became a lightning rod for efforts to rescind the original law. In the end, the original law was seriously weakened by eliminating the direct, written, pre-season notification requirement; exempting non-agricultural pesticide applications until 2012; and, for applications to orchards and Christmas trees, reducing the notification distance from 1,320 to 500 feet. Maine's Board of Pesticides Control (BPC) was directed to evaluate provisions of the bill, with input from other agencies, and make recommendations to the next Legislature.

*Photo reproduced by permission from Vaillancourt, L.J., and J.R. Hartman. 2000. Apple scab. The Plant Health Instructor. DOI: 10.1094/PHI-I-2000-1005-01.


Natural Resources
Council of Maine

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Other Legislation of Interest



Development Loophole Closed The Legislature passed a bill that will help prevent roads that initially may be built for forestry operations, with minimal regulatory review, from being converted later into roads for access to subdivisions—with a level of traffic and environmental impact much

greater than the initial intended use. The bill (LD 1538) was introduced by Rep. Joan Welsh (D-Rockport).

Creating a Smart Grid As a result of passage of LD 1535, sponsored by Rep. Jon Hinck (D-Portland), Maine is a step closer to having a “smart” electricity transmission grid that could improve energy efficiency and the utilization of clean, renewable energy.

Transmission Corridor Over the past two years, lawmakers have debated the issue of whether Maine might want to lease land within our transportation corridors (e.g. the I-95 highway median) to companies interested in transporting electricity and other forms of energy from Canada to New England markets. An Act Regarding Energy Infrastructure Development (LD 1786) was approved to guide such possible leasing arrangements, including a requirement that the lease revenues be used for energy efficiency, renewable energy, and transportation investments that reduce Maine’s dependence on fossil fuels.

Forestry Law Enforcement

With passage of LD 1710, sponsored by Rep. Charlie Priest (D-Brunswick), judges may now allow the state to collect litigation costs when it prevails in enforcement actions for violations of Maine’s Forest Practices laws.



Transportation of Firewood The emerald ash borer and Asian longhorned beetle are two insects that pose a serious threat to Maine’s forests, and they can inadvertently be transported by recreationists and campers in firewood intended for campfires. Rep. Jeff McCabe (D-Skowhegan) secured passage of a bill (LD 1607) prohibiting the importation of firewood.

Wood Stove Replacement Program The Legislature established a Residential Wood Stove Replacement Fund that can be used to help finance replacement of old, high-polluting wood stoves (LD 1575). DEP is directed to develop rules for disbursement of funding, which could come from civil penalties for violations of air quality laws.

More information about these bills and other legislative information is available at: www.mainelegislature.org/LawMakerWeb/search.asp

A Call for Nominations for NRCM's 5th annual People's Choice Award



- We are now accepting nominations for our 5th annual People’s Choice Award. Perhaps you would like to nominate someone in your community? We are looking for people who have worked tirelessly to protect a special place, or have helped pass legislation safeguarding Maine’s environment, or have stopped polluting companies from contaminating our state. Someone who selflessly goes above and beyond to make sure future generations will enjoy the kind of Maine we all know and love.
- We’ll accept nominations through August 6. NRCM will compile the nominees and post finalists on our website, where, through Labor Day, you, your friends, and your family can vote for the person you think most deserves to be this year’s People’s Choice Award winner. (Please note that we cannot consider someone who currently sits on a regulatory board or who is in the Legislature, or who is or was serving in a paid position while carrying out the work for which you feel they should be nominated. The People’s Choice Award is to honor volunteers.) The winner will be presented with the award at our Annual Meeting this fall – watch for details. Send us your nomination today!

• Candidate’s Name _____

• Address _____

• Telephone _____

• Please describe below why you believe this person deserves the 2010 People’s Choice Award (and include any of the nominee’s organizational affiliations). Please be as specific as possible about accomplishments for Maine’s environment.

• _____

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• _____

• Your name _____

• Address _____

• Telephone _____

• Email _____

• **Thank you!** We will notify you and your nominee, if that person is selected as a finalist for NRCM’s People’s Choice Award. Please return this form to Beth Dimond, NRCM, 3 Wade Street, Augusta, ME 04330-6317. You can also nominate online at www.nrcm.org.

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Shopper’s Guide to Pesticides This easy-to-use, wallet-sized list helps shoppers avoid foods with the most pesticides and buy those with the least, so your family can shop smarter, save money, and be healthier and happier. <http://www.foodnews.org/EWG-shoppers-guide-download-final.pdf>

Safe, Responsible, Fish Choices Which fish has too much mercury, which is in danger of population collapse, which is a great food choice? “Seafood Selector” helps you choose fish that is good for both you and the ocean. This website features listings and a downloadable, wallet-sized guide. <http://www.edf.org/page.cfm?tagID=1521>

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