

**Environment and Natural Resources Subcommittee
of the Regulatory Fairness and Reform Committee**

**Presenter Recommendations from
March 4, 2011 Meeting**

Presenter	Recommendation	Potential LD (as suggested by presenter)
Maine Farm Bureau	There should be more common sense in interpretation of state laws by agency (example: allow burning of agricultural products in OWBs).	LD 484
Maine Farm Bureau	Strengthen the Pesticide Control Board.	LD 321?
Maine Farm Bureau	Reduce setbacks for vernal pools and wetlands to 100 feet.	Several vernal pool bills
Maine Farm Bureau	Shift regulation for agricultural composting from DEP to Dept. of Agriculture.	Proposed bill
Maine Farm Bureau	Regarding farmers markets: Stop requiring every product to be inspected; change to just 1 inspection.	LD 330, 363, 738, 366
Fairchild Semiconductor	Adopt EPA audit policy without change.	LD 1
Fairchild Semiconductor	In general, need more consistency between federal and state regulations.	
Lafayette Hotel	Amend coastal sand dune system rules to allow addition of elevator and to build handicapped accessible rooms.	Several sand dune bills
Superintendent of SAD 58 and Union 113	Change requirement that schools have to certify indoor plumbing annually.	None known
Superintendent of SAD 58 and Union 113	Change requirement that schools have to inspect sewers every year.	None known

Superintendent of SAD 58 and Union 113	Change requirement for each school to have an integrated pesticide coordinator.	None known
Superintendent of SAD 58 and Union 113	Bring level of common sense to requirements for discarding of chemicals in schools.	None known
National Semiconductor	Adopt federal beneficial reuse exemption to hazardous waste rule.	LD 1
CMP	Recommend changes to BEP, because of de novo review.	LD 1
CMP	DEP should not be able to apply conditions or policies that have not gone through rulemaking (examples: in lieu fee program; vegetation management agreed to for one project is now being applied to other permits).	
CMP	Applicant's consultant may have more experience and education than DEP staffer, but DEP staffer can disregard the consultant's evidence out of hand (example: vernal pools).	
CMP	Applicant, not DEP, should be able to pick their own third-party inspector.	
Jamie Kilbreth	Make vernal pool setback consistent for NRPA and Site Law projects.	LD 159
Jamie Kilbreth	Under Site Law, DEP should not be bringing grandfathered facilities into review under a common scheme of development.	
Jamie Kilbreth	Municipal ordinances should be prospective.	Yes
Jamie Kilbreth	The structure of BEP should be changed.	LD 1
Jamie Kilbreth	Not all State standards should be the same as federal standards.	
Jamie Kilbreth	Does not support proposed changes to judicial review/standard of review.	
MEREDA	Need consistency between NRPA and Site Law standards (vernal pool setbacks).	LD 159
MEREDA	Increase Site Law thresholds.	LD 159
MEREDA	Site Law rules should be major substantive.	LD 159
MEREDA	Need clarification on hydroperiod in vernal pool rules. The period in rules should not be discretionary.	LD 156
MEREDA	Clarify vernal pool rules regarding vernal pools that straddle properties.	LD 156
Maine State Chamber	BEP current system needs to be changed.	LD 1

Maine State Chamber	Conform Maine standards to federal standards.	LD 1
Maine State Chamber	Adopt EPA environmental audit policy.	LD 1
Maine State Chamber	Require NOV to be issued within 30 days of observed violation.	LD 1
Maine State Chamber	Align state universal waste rules with federal universal waste rules.	LD 1
Maine State Chamber	Revise DEP beneficial reuse policy to eliminate hurdles.	LD 1
Maine State Chamber	Set a volume amount for a reportable oil spill.	None known
Maine State Chamber	Proceed with caution re: changing standard of review and limited deference.	
Maine State Chamber	Recommend review of Maine's chemical law.	Bill proposed
Maine State Chamber	Recommend review of product stewardship law.	Bills proposed
Environmental Health Strategy Center	Define sustainable biomass standard for bioplastics.	None known
Environmental Health Strategy Center	Adopt State purchasing preference for bio-based material.	None known
Environmental Health Strategy Center	State liaison needed to leverage federal grants re: bio-based material.	None known
Grondin & Sons	Look at using performance standards system similar to gravel pit regulation for other programs.	None known
Maine Forest	Re: vernal pools: DEP rules are inaccurate (example: rules say certain species require vernal	Vernal pool

Products Council	pools, but they don't).	bills.
Maine Forest Products Council	Re: waterfowl wading bird habitat: Areas are misclassified as high value; Manmade areas are identified as high, but they are exempt; Need criteria for removing an area from the list of high value habitat.	SWH bills
Maine Forest Products Council	Municipalities have been using department guidance maps as definitive and incorporating them into shoreland zoning maps.	None known
Maine Forest Products Council	Project permitting is time consuming and costly.	
Maine Forest Products Council	For expedited wind power projects, one agency should do all reviews.	None known
Maine Forest Products Council	Review how agencies should assess financial capability for big projects.	None known
Maine Forest Products Council	Legislature should take more action in reviewing agency rules. Limited deference is not a good idea.	
Maine Forest Products Council	Replace BEP with Board of Appeals.	LD 1
Maine Forest Products Council	Conform Site Law standards with NRPA standards.	LD 159
Maine Forest Products Council	Board of Pesticide Control needs to be strengthened.	
Maine Forest Products Council	Review rules for emission of carbon.	
Maine Forest Products Council	Review rules for culverts and stream crossings; there are alternatives to regulation.	
Maine Forest Products Council	Encourage regulatory impact analysis.	LD 1
NFIB	Consent agreement process is too stringent - Only given 5 days to review and sign and have to pay lump sum when sign the agreement. Structured payments are not allowed.	None known
NFIB	State laws should be consistent with federal law.	
NFIB	Web site on how to comply with laws should be more user friendly.	None known

NFIB	Require impact analysis. Maine law requiring impact analysis on small businesses is not being followed.	LD 1
NFIB	Strongly support small business ombudsman.	LD 1
Saddleback Ski Resort	Need more certainty of rules upfront.	None known
Saddleback Ski Resort	Law Court reviews for environmental projects should be required to be heard within 30 days.	None known
Saddleback Ski Resort	If permit approval is appealed to Law Court and approval is upheld, appellant should be required to pay for costs resulting from the time delays.	None known
Saddleback Ski Resort	State agencies should be held to same standards as private business.	None known
Grocery Manufacturer's Association	Amend the Kids Safe Products law.	Bills proposed (no LD yet)
Maine Aggregate Association	Develop a single source for permitting of ASTs.	LD 253?
Dan Riley, BSSN	Agencies should not give the force of law to guidelines and policies that have not been authorized by Legislature.	LD 1
Dan Riley, BSSN	Re: judicial review and deference - current standard is sufficient.	LD 1
Ginger Davis, Preti Flaherty	Re: judicial review and deference - opposes de novo review of substance. Courts should give only limited deference to agency when reviewing whether the process was fair and equal.	LD 1
Ginger Davis, Preti Flaherty	BEP should be changed to PUC model.	
Ginger Davis, Preti Flaherty	DEP should adopt rules, but more of them should be major substantive.	
Ginger Davis, Preti Flaherty	Require a public process before a waterbody is put on DEP's impaired waterbody list.	
Ginger Davis, Preti Flaherty	Review financial capacity requirements under DEP rules.	
Ginger Davis, Preti	Do not prohibit the use of third-party inspectors.	LD 1

Flaherty		
Ginger Davis, Preti Flaherty	Make Site Law standards uniform.	
Ginger Davis, Preti Flaherty	Review fee structure.	
Ginger Davis, Preti Flaherty	Revise requirements for transferring a solid waste facility license, especially requirement that board members show no criminal activity.	
Conservation Law Foundation	Proposed changes to standard of review and judicial deference would not provide predictability.	LD 1
Conservation Law Foundation	Supports concept of regulatory ombudsman.	LD 1
Conservation Law Foundation	Does not recommend an across the board conforming of state laws with federal laws.	LD 1
Conservation Law Foundation	Does not recommend doing away with minimum penalties.	LD 1
Conservation Law Foundation	Supports environmental audit policy in concept.	LD 1
Conservation Law Foundation	Does not recommend replacing BEP with 3 person ALJ.	LD 1
Maine Audubon	Does not recommend eliminating the requirement for comprehensive plans to be consistent with state goals.	LD 1
Maine Audubon	Does not support LURC proposals.	LD 1
Maine Audubon	Does not support conforming NRPA vernal pool setback and Site Law setback.	LD 1
NRCM	Does not recommend replacing BEP.	LD 1
NRCM	May support environmental audit in concept.	LD 1
NRCM	May support ombudsman in concept.	LD 1
Nature Conservancy	Suggests using a process of facilitated dialogue for moving forward with LD 1.	
Maine Realtors	Reduce setback in vernal pool rules.	Vernal pool bills
Maine Realtors	Repeal culverts law.	

Maine Realtors	Make Site Law rules major substantive.	Site Law bills
MWWCA	Update Maine's approach to arsenic.	Yes
MWWCA	Support DEP's efforts to utilize site specific criteria in the proposed Nutrients Rules.	
MWWCA	Convene a task force to develop methods to streamline site specific methods for determining metals limits.	
MWWCA	Continue efforts to streamline regulatory issues relating to the Endangered Species listing of Atlantic Salmon.	
MWWCA	Require DEP to justify biosolid standards that are more stringent than federal standards.	
Rodney Kelshaw	Confusion is created as result of differences between state and Army Corps. definitions of and requirements for vernal pools and wetlands.	
Rodney Kelshaw	Towns are incorporating the State wading bird and waterfowl habitat maps into town's shoreland zoning maps even though the State maps are only for guidance.	
Maine Aggregate	Allow the beneficial reuse of stumps.	
Boyle Associates	Supports use of third-party inspectors.	LD 1
Maine Pulp and Paper	Supports beneficial reuse. Conform hazardous waste reporting requirements with federal requirements.	LD 1
Maine Pulp and Paper	Change oil spill reporting requirements.	None known