

## Concerns regarding proposed “spat” legislation: Trundy Point, LLC

### 1. The definition of “spat” is too broad.

Is the DMR really going to regulate the collection of the larvae of all living ocean organisms (sea urchin, star fish, phytoplankton, etc... )

Not clear to commercial stake holders what the reach of the statute is proposed to be or what the demonstrated need is.

The DMR does not have the resources (money or staff) to effectively and/or fairly police the collection of all marine organism larvae.

According to DMR sources proposed this legislation due to:

- concerns regarding the continued use of a special permit allowing the collection of scallop spat
- by using requiring a license, a broader group of public can participate and this will spur the scallop industry
- need really broad language to be able to craft broad regulations so that all potentialities can be addressed
- to allow for redress against particular individuals/companies collecting mussel spat with unapproved gear on an unapproved site

None of these reasons merit such broadly worded language

### 2. What is the perceived or real risk the DMR is trying to police or alleviate by regulating another area of the ocean and / commerce?

The collection of mussel and / or scallop spat / seed does not raise any serious or even minor risks.

There is no direct, tangible public safety risk. This is in part because other than collecting spat, you cannot do anything with it without DMR approval and license under clear, laws that already regulate and restrict aquaculture farmers. For example, you cannot grow the spat to a commercial size in an attempt to sell shellfish without an approved DMR lease, lpa, harvesters license and / or whole sale shellfish license

Cannot sell spat to anyone without being permitted by under present regulation.

If the concern is that with out such a license a farmer would run afoul of state restrictions on possession of undersized scallops, then address that issue directly. Amend that regulation by defining scallop spat and carve a safe harbor from the regulation for that spat. This approach is more appropriate, more efficient and less likely to cause unintended consequences.

There have been no complaints or evidence that mussel or scallop spat is being depleted by aquaculture farms. Maine mussel farmers (all 4-5 of us) have been collecting mussel spat under DMR regulation for nearly 20 years with out any problem. We are not allowed to buy it without DMR approval. We are not allowed to transport it without DMR approval.

We do not operate within the traditional wild fisheries. Our efforts increase the amount of mussel or scallop spat in Maine waters. For example, each female mussel produces MILLIONS of eggs. The average mussel farm in Maine would grow at least six million mussels. Billions of spat that would not otherwise exist, do exist, do to our farming. This is part of the sustainability aspect of the industry

**3. Why didn't the DMR reach out directly to the mussel, clam and scallop aquaculture community, its customers / licensees before hand if they thought more regulation is needed to protect the public and the industry? Normally DMR does.**

The approach used by DMR in this instance is contrary to the more typical approach they normally follow. Usually, when there is a serious regulatory issue DMR staff contacts us regarding the risk / problem and seeks input from the farmers who have a unique data base of knowledge. This consultation process with our farmers and commercial stakeholders is generally very efficient and successful. The end product is a better crafted regulation that also has broad-based industry support (usually). The present approach is wasteful and likely not to be as effective or as easily policed.

**4. We do not have a viable scallop aquaculture industry at this point. Every further administrative and financial burden placed on the small farmers in this space creates a real risk that the industry will not attract new entrants and the industry massively underperforms or fails.**

Only about eight people are active in experimental scallop aquaculture area in Maine – they make up the entire universe of Maine scallop farmers. We are in near constant contact with various DMR staff, as they are with us. This is due in part to the newness of the industry and thus, new issues that constantly arise. The industry generates very little gross revenue (possibly amounts as much as in the low tens of thousands of dollars but probably less). It generates no profits. At this point, present regulation is working.

To create yet another form to fill out and pay yet another fee may seem trivial but is not. Most of us already pay lease site fees, harvester license fees and whole sale permit fees. We have to fill out monthly landings reports and are inspected by the state several times each year. Most of us are companies with a single manger / administrator. We are “one armed paper hangers”. The regulatory regime is already burdensome enough.

**5. How can DMR reasonably justify \$143 dollar annual fee?**

As mentioned, this is a purely experimental, start-up industry with no real revenue.

How is \$143 justifiable when a LP lease for aquaculture is only \$50 and requires the farmer and the DMR to fill-out / review a several page application each year?

**7. Why is the DMR using its limited resources to address this issue that poses no serious, tangible risk when there are several other areas that it could be addressed legislatively to assist the State create a broad, vibrant and safe aquaculture industry that generates hundreds of millions in revenue, State of Maine exports, payroll and tax revenues?**

The state of Maine people, its government and the aquaculture industry would be far better served if DMR applied the resources it is using here to other much more important regulatory challenges. We have some well known structural barriers and are regulatory in nature that greatly repressing the growth of an industry. By addressing these challenges instead we could have a mussel industry, alone, worth \$100 M.