

Testimony in Support of LD 401

An Act to Support Removal of Overboard Discharge Systems

Before the Joint Standing Committee on Environment and Natural Resources
February 24, 2025

Honorable Senator Tepler, Representative Doudera, and distinguished members of the Joint Standing Committee on Environment and Natural Resources:

The purpose of the Shellfish Advisory Council (ShAC) to the Department of Marine Resources (DMR) is: *The council shall make recommendations to the commissioner and the joint standing committee of the Legislature having jurisdiction over marine resources matters concerning:*

- A. How best to utilize state agencies, municipal governments, the shellfish industry and citizen groups to make improvements to and maintain the quality of the State's coastal waters and to expedite the opening of closed shellfish flats; and*
- B. Matters of interest to the State's shellfish industry, including, but not limited to, shellfish resource management, public health protection and the activities and recommendations of a multistate organization that promotes shellfish sanitation.*

In September of 2023, members of the ShAC formed a *Water Quality Committee* to address a priority identified by shellfish programs and harvesters throughout the state – to reopen mudflats that were closed to harvesting or growing shellfish due to failing septic systems and overboard discharges (OBDs). A preliminary analysis by DMR in November of 2023 identified over 20,000 acres of intertidal and subtidal waters that are closed as a precaution as a result of OBDs.¹ This number does not include areas closed due to failing septic systems.

The goal of this Committee was to identify avenues to reducing closures of shellfish growing areas resulting from precautionary buffer areas drawn around OBDs, or areas closed due to high bacteria levels from failing septic systems (or other point sources of pollution). The Committee had members from DMR, the ShAC, and the Department of Health and Human Services within the Department of Environmental Protection, which oversees grant programs to remove OBDs and septic systems, and licenses and inspects OBDs.

Through this Committee, we learned about DEP's licensing and review of over 600 OBDs in Maine, how DMR classifies shellfish growing areas around OBDs, compliance rates, and the available funding programs for removing or replacing OBDs. We also worked with the USDA Rural Development Office and identified federal funding sources, in addition to the state programs – DEP's Small Community Grant Program and the OBD Elimination Grant Program. There is insufficient funding in the State programs for the demand and need for OBD and septic

¹ In Western Maine, there are approximately 15,608 acres closed due to OBDs, and approximately 4,403 acres in Eastern Maine (pers. comm. with Bryant Lewis, ME DMR)

system removal/replacement, and the income thresholds to qualify have not been updated to reflect inflation.

We worked with DEP to include additional information on funding sources in their annual letter that goes out to licensed OBD properties, and also created a new webpage on [DMR's website](#) so property owners had access to all available funding on one page. In addition, DEP and DMR held a work session to identify OBDs in certain areas with shellfish programs, that if removed, could reopen mudflats to harvesting. They identified several properties and took steps to reach out to the landowners.

In addition, after identifying several areas within the regulations that could be updated to better incentivize removal, improve site evaluation options, and increase funding, DEP developed agency rulemaking that is now LD 401. These proposed revisions would support all the goals of the ShAC to reopen mudflats for harvesting and coastal waters to growing shellfish.

We discussed the DEP's initiatives and development of this bill at several meetings in 2024. Then the ShAC called for an electronic vote on LD 401 on February 12, 2025, and the members unanimously supported this bill. Thank you for your time and consideration of this testimony.

On behalf of the Shellfish Advisory Council:

A handwritten signature in black ink that reads "Jessica G. Joyce". The signature is written in a cursive, flowing style.

Jessica Gribbon Joyce (Chair) and
Lewis Pinkham (Vice Chair)