

**TESTIMONY OF
Deirdre Gilbert
Department of Marine Resources**

**The Department of Marine Resources (DMR) is testifying
Neither for nor Against
LD 1279 An Act to Require the Department of Marine Resources to
Conduct Biotoxin Testing of Cultured Scallops
(Sponsor's Amendment)
Before the Committee on Marine Resources
Sponsored by Representative Eaton
Date of Hearing: May 1, 2025**

Senator Tepler, Representative Hepler, and members of the Joint Standing Committee on Marine Resources, my name is Deirdre Gilbert, Director of State Marine Policy for the Department of Marine Resources, and I am testifying on behalf of the Department neither for nor against LD 1279 (as amended by the sponsor).

Maine's Marine Biotoxin Monitoring Program is administered by the Department's Bureau of Public Health. It uses the standards outlined in the National Shellfish Sanitation Program (NSSP) to monitor levels of Paralytic Shellfish Poisoning (PSP) and other marine biotoxins in the shellfish of the State of Maine.

When toxin is found at levels near or above where human illness may occur, closures to the harvest of shellfish areas are implemented. Maine has historically had high levels of PSP, more commonly known as "Red Tide", during the warmer periods of the year. In 2008, and twice in 2009, several Maine citizens were hospitalized for PSP toxicity after harvesting shellfish from areas closed for PSP. To prevent illnesses and possible deaths, shellfish samples are collected by DMR statewide between March and October and evaluated at certified laboratories. Data are then interpreted and appropriate closures are made when necessary to protect public health.

All areas along the coast during any active bloom season require weekly monitoring at a minimum. High risk areas and high risk species have additional considerations for management. DMR employs a regional management strategy closing mussels, European oysters, surf clams, razor clams, and carnivorous snails from May until the end of the bloom season. Lease-specific exception areas to the regional and emergency closures for aquaculture lease sites (standard and experimental) require industry to submit a signed Memorandum Of Understanding (MOU) to DMR to establish testing requirements. If the aquaculture lease holder wants or requires the services of private lab testing an additional private lab MOU must also be signed and submitted to DMR.

Certain species (i.e. whole or roe-on Atlantic scallop, whole or roe-on bay scallop, surf/hen clams, Arctic surf clams, and razor clams) pose an additional biotoxin risk because they are slow to eliminate toxins (domoic acid and saxitoxin) due to their capacity to store these toxins within their tissues. In addition, some of these species can also transform less toxic compounds into more toxic compounds

within their bodies. Because high risk areas are prone to chronic exposure to toxin (annual bloom events) and higher toxicities than other areas, high risk species grown in these areas require testing year-round even when phytoplankton blooms are no longer in the water. Scallop adductor muscles do not accumulate toxin and are exempt from biotoxin testing requirements as long as adductor muscles are the sole product.

Requirements for biotoxin testing of high risk species through the MOU process include:

- Annual DMR biotoxin MOU signed by lease holder and DMR
- Annual private lab MOU signed by lease holder, private lab, and DMR
- Written notification 30 days prior to initial harvest
- Collection and provision of samples according to DMR sampling protocols and chain of custody requirements, with results provided to DMR directly from private lab
- Results from three samples each seven days apart to initiate harvest
- Written permission provided by DMR to allow initial harvest
- Sampling thereafter in consultation with DMR and at established frequencies

LD 1279 would establish a new pilot program, in which biotoxin testing of whole or roe-on scallops would be treated differently than other high risk species in that transportation and testing of samples would be at the Department's expense, rather than the lease holder. All of the MOU requirements would still apply. Because the Department cannot do the work associated with the transportation and testing within existing resources, in the amendment provided by Representative Eaton there is a \$50,000 general fund appropriation. These funds would cover a Department contract to provide for the transportation of samples, and extraction of samples as well as consumable lab supplies. However, because this appropriation was not included in the Governor's Budget, the Department is testifying neither for nor against the amended bill.

As a point of clarification, the amendment also specifies that the Department is not required to provide testing for scallops grown on limited-purpose lease sites. We believe that the intent here was to exclude product grown on limited-purpose aquaculture (LPA) license sites, which are not leases. There is a current prohibition on biotoxin monitoring through the MOU process for LPA sites.

Thank you for your consideration, and I would be happy to answer any questions you may have.