

NOTICE OF AGENCY EMERGENCY RULE-MAKING ADOPTION**AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 11.22 Targeted Closures (21)(22)(23)(24)(25)(26)(27) Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggemoggin Reach/Southeast Harbor Rotational Area and Casco Bay. Emergency Regulations**CONCISE SUMMARY:**

The Commissioner adopts this emergency rulemaking for the implementation of conservation closures located in the Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggemoggin Reach/Southeast Harbor Rotational Area and Casco Bay (hand harvest by scuba diving allowed) in order to protect Maine's scallop resource due to the risk of imminent depletion and unusual damage. While scallop populations are indicating signs of recovery in some areas of the state, the Department is concerned that unrestricted harvest during the remainder of the 2015-16 fishing season in these specific areas may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the broodstock essential to a recovery. These immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in the Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggemoggin Reach/Southeast Harbor Rotational Area and Casco Bay (hand harvest by scuba diving allowed), as authorized by [12 M.R.S. §6171\(3\)](#).

EFFECTIVE DATE: March 20, 2016

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DEPARTMENT OF MARINE RESOURCES

Chapter 11 Scallops

11.22 Targeted Closures

Targeted closures are imposed as conservation measures to assist in rebuilding specific areas of the state. Targeted closures may be implemented based on depletion, seed, the presence of spat-producing scallops, and other conservation factors as determined by the Commissioner. Targeted closures are not seasonal closures and are implemented in order to improve and enhance the conservation and rebuilding of the resource in these specific areas.

It shall be unlawful to fish for, take, or possess scallops taken by any method within any of the following closed areas, except for St. Croix River (19) which shall be open Wednesdays to draggers and Fridays to divers during the months of February, March and April, 2016 and for Casco Bay (27) which shall remain open to hand harvest (scuba divers). All directions are relative to True North (not magnetic).

Transiting exception:

Any vessel possessing scallops onboard, may transit these targeted closures only if the vessel has all fishing gear (dredges, drags, regulators, buoyancy compensators, fins, tanks, weight belts) securely stowed. Securely stowed shall mean the main wire shall not be shackled or connected to the dredges or drags, and the towing swivel will be at block or on the winch for draggers, while regulators, buoyancy compensators and tanks should be disconnected with fins and weight belts removed for divers.

(1) Muscle Ridge

Eastern boundary: West and South of a line drawn from the most eastern tip of Ash Point, South Thomaston at Latitude 44° 02.805 N Longitude 069° 04.393 W to RW "PA" Mo (A) GONG; then continuing southwest to the northern tip of Two Bush Island.

Western boundary: North of a line starting at the northern end of the Rackliff Island causeway then following the shore to the most southern point of Rackliff Island continuing to the most southern point of Norton Island and then continuing to the most southern point of Whitehead Island then to the southern end of Two Bush Island.

(2) Lower Muscle Ridge

Northern boundary: East and South of a line beginning at the most eastern tip of Whitehead Island, St. George, to the southern tip of Seal Island (Hay Ledges) continuing to the most southwestern point of Graftam Island, then continuing to the southwestern point of Pleasant Island and continuing in a southeasterly direction to the northeastern tip of Two Bush Island.

Southern boundary: North of a line starting at the most southern point of Whitehead Island, St. George, to the southern end of Two Bush Island.

(3) Damariscotta River

North of a line drawn from Emerson Point at the southern most tip of Ocean Point in the town of Boothbay, easterly to Thrumcap Island, then northerly to the southern tip of Rutherford Island, South Bristol.

(4) Ocean Point

West of a line drawn from Emerson Point, at the southern most tip of Ocean Point, Boothbay at Latitude 43° 48.852 N Longitude 069° 35.454 W, to the most northern tip of Fisherman Island, then continuing to R N "8" AND East of a line draw from R N "8" to the most southwestern tip of Ocean Point at Latitude 43° 48.874 N Longitude 069° 36.332 W.

(5) Eastern Casco Bay

Eastern boundary: West and North of a line drawn from the most southern tip of Gun Point, Harpswell, to G "3", South of Round Rock; continuing in a southwesterly direction to R N "4" at Drunkers Ledges.

Western boundary: East and North of a line draw from R N "4" at Drunkers Ledges to the most southern tip of Jaquish Island; then east of a line from the most northwestern tip of Jaquish Island at Latitude 43° 42.950N Longitude 70° 00.137W to the most southeastern tip of land along Jaquish Gut at Latitude 43° 43.043N Longitude 70° 00.128W.

(6) South Portland Harbor

Northern boundary: South of a line drawn from the northern tip of the breakwater on Spring Point, South Portland to the southwestern tip of Fort Scammer Island.

Eastern boundary: West of a line drawn from the southwestern tip of House Island, Portland to the westernmost tip of Cushing Island, Portland, then following the shoreline in a southerly direction to the southwestern most tip of Cushing Island.

Southern boundary: North of a line drawn from the southwestern most tip of Cushing Island to the northeastern most tip of land on the north shore of Ship Cove, Cape Elizabeth.

(7) Lower Broad Sound

Northern boundary: South of a line drawn from the northern tip of the Bates Island, Cumberland to the northern tip of Eagle Island, Harpswell.

Eastern boundary: West of a line drawn from the southern tip of Eagle Island, Harpswell to West Brown Cow Island, Cumberland.

Southern boundary: North of a line drawn from the western tip of West Brown Cow Island, Cumberland to the eastern most tip of Cliff Island, Cumberland.

Western boundary: East of a line drawn from the eastern most tip of Cliff island, Cumberland to the southernmost tip of Bates Island, Cumberland

(8) Sheepscot River

Eastern boundary: West and North of the Townsend Gut Bridge connecting Southport Island and West Boothbay Harbor.

Western boundary: East of a line drawn from the most southern tip of Hockomock Point, Woolwich to the most northern tip of Mill Point, Arrowsic Island, and following the shoreline to the Arrowsic Island-Georgetown Island bridge, and then continuing along the northern coastline to the northeast tip of Dry Point, Georgetown Island.

Southern boundary: North of a line drawn from the southernmost tip of Cape Newagen, Southport Island, to the eastern tip of Outer Head Island, Georgetown Island, then following the southern shoreline to the most southwestern tip of Outer Head Island, then a line drawn due west to the nearest point of land on Griffith Head, Georgetown Island.

(9) Muscongus Bay:

North and east of a line beginning at the intersection of Latitude 43° 55' N on Pemaquid Neck (just north of Brown's Cove, Bristol), and following this latitude to its intersection on the eastern side of Hupper Island, Port Clyde, then to the southern tip of Marshall Point.

(10) Moosabec Reach

Eastern boundary: West of the Jonesport Bridge.

Western boundary: East of a line drawn from the most western tip of Macks Point, located north of Mill Pond cove, Beals to the end of the dock on Lobster Lane, Jonesport.

(11) Inner Harbor/Deep Hole Closure

West of a line drawn from the most western point of Whitmore Neck, Deer Isle due True North to the South shore of Mountainville, Deer Isle at Latitude 44° 12.407 N Longitude 068° 38.819 W.

(12) Expired.

(13)Expired.

(14)Expired.

(15)Vinalhaven and Fox Island Thorofare

Western boundary: East and North of a line drawn from the southwestern tip of Stand-in Point, North Haven to RW "FT" Mo (A) BELL, then continuing in a southwesterly direction to R N "6", then continuing to R N "4", then continuing in a southeasterly direction to the southwestern tip of Little Hurricane Island, then continuing to G C "1", the continuing in a northeasterly direction to the southernmost tip of Heron Neck on Green Island, then continuing in a northeastern direction to the southernmost tip of Lane Island, Vinalhaven. Eastern boundary: West of a line starting at Calderwood Point, Vinalhaven to Fish Point, North Haven.

(16)Whiting Bay and Dennys Bays Area:

All waters inshore of a line starting at the western end of Mahar Point, Pembroke, due south to the nearest point of land on Crow Neck, Trescott, to include all of Whiting Bay and Dennys Bays.

(17)Western Penobscot Area:

Western boundary: North and east of a line beginning at the southern tip of Marshall Point, Port Clyde and running true south to the intersection of Latitude 43° 55' N and then following this latitude in an easterly direction to its intersection on the west shore of Mosquito Island, St. George.

Eastern boundary: South and west of a line starting at the northern end of the Rackliff Island causeway then following the shore to the most southern point of Rackliff Island continuing to the most southern point of Norton Island and then continuing to the most southern point of Whitehead Island then to the southern end of Two Bush Island and continuing in a southwest direction to the most eastern tip of Mosquito Island, St. George.

(18)Cobscook Bay

Western Boundary: East of a line drawn from the western end of Mahar Point, Pembroke, due south to the nearest point of land on Crow Neck, Trescott.

Northern Boundary: South and west of a line drawn from the northern tip of Kendall Head, Eastport to the southern tip of Cummings Cove, Deer Island, Canada.

Southern Boundary: North and west of the Lubec-Campobello Island bridge.

(19)St. Croix River (open Wednesdays to draggers and Fridays to divers during the months of

February, March and April, 2016)

North of a line drawn from the northern tip of Kendall Head, Eastport to the southern tip of Cummings Cove, Deer Island, Canada, to include all of the St. Croix River.

(20)Owls Head

Northern boundary: South and West of a line drawn from the eastern tip of Owls Head to the G "11" BELL, then in a southeasterly direction to the RW "PA" Mo (A) GONG.

Southern boundary: West and North of a line drawn from the most eastern tip of Ash Point, South Thomaston at Latitude 44° 02.805 N Longitude 069° 04.393 W to RW "PA" Mo (A) GONG.

(21)Inner Machias Area

All waters inshore of the following boundary line: A line starting at the Eastern prominence of Bucks Head, Machiasport and proceeding South to the southern end of the southernmost Libby Island, then continuing in a northeasterly direction to the southernmost prominence of Double Head Shot Island, then continuing in a northeasterly direction to the southernmost prominence of Old Man Island, and then continuing northeast to the southern tip of Western Head, Cutler.

(22) Wohoa/Western Bay

Eastern boundary: West of the Jonesport Bridge then True South from the most Eastern tip of Little Pond Head to the three mile limit.

Western boundary: North and East of a line starting at the most eastern end of Tibbett Island going due North to the closest point of land on Moose Neck and southeast to the most northern tip of eastern Plummer Island then the most western tip of Toms Island; then True South to the three mile limit.

(23) Gouldsboro/Dyer Bay

Eastern boundary: South and West of a line starting at the most southern tip of Petit Manan to EB gong. then South to the northern most tip of Green Island; then from the southeastern top of Green Island to the northern tip of Petit Manan Island; then from the southern tip of Petit Manan Island to N"2"; then to G"1" bell; then True South to the three mile limit.

Western boundary: North and East of a line starting from the southern most tip of Schoodic Point Magnetic South to the three mile limit (western boundary of the Zone A lobster management zone).

(24) Upper Blue Hill Bay/Union River

North of a line from Eastern most point of Harriman Point due East to the southern tip of Hardwood Island, then South to the northern tip of Moose Island; then from the southern tip of Moose Island East to Reed Point, Mount Desert Island.

(25) Eggemoggin Reach/Southeast Harbor

Eastern boundary: North and West of a line from the most southeastern point of Stinson Neck, Deer Isle then running to Naskeag Point, Brooklin AND North of a line starting at the most southwestern tip of Stinson Neck, Deer Island running to Coles Point on Whitmore Neck, Deer Island; this includes all of Southeast Harbor.

Western boundary: South and West of the Deer Isle Bridge.

(26) Lower Jericho Bay

Northern boundary: South and east of a line from the southeastern point of Stinson Neck, Deer Isle to the southeastern point of Naskeag Point, Brooklin; continuing southeast to The northern most tip of Swan's Island Head, Swan's Island.

Eastern boundary: North and West of a line from northern most tip of Swans Island Head; continuing South from West Point, Swans Island to Long Point, Marshall Island; then West of a line from the southernmost tip of Lower Head, Marshall Island.

Western boundary: East and south of a line from the southwestern tip of Stinson Neck, Deer Isle west to the eastern tip of Coles Head on Whitmore Neck, Deer Isle; then south to the western most point of Millett Island, then South to Richs Point, Isle Au Haut.

Southern boundary: North of a line running from the southernmost tip of Lower Head, Marshall Island to the northeastern most tip of Richs Point, Isle au Haut.

(27) Casco Bay (Open to hand harvest [scuba divers] only)

North of a line drawn from Portland Head Light, Cape Elizabeth to the southwestern point of Cushing Island, then following the shoreline to the northeastern point of Cushing Island to the southern point of Cliff Island, then continuing to the southwestern point of Jewell Island, then following the shoreline to the northern point of Jewell Island, then continuing to the southwestern point of Basin Point, Harpswell.

Basis Statement

Chapter 11.22 Targeted Closures (21)(22)(23)(24)(25)(26)(27) Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Area, Jericho Bay Area, Eggmoggin Reach/Southeast Harbor Rotational Area and Casco Bay . Emergency Regulations

Justification:

The Department is taking emergency rulemaking action to close the following targeted areas: the Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggmoggin Reach/Southeast Harbor Rotational Area and Casco Bay Area (hand harvest by scuba diving allowed). Based on direct input from Marine Patrol and independent industry participants as well as observations made through the Department's monitoring programs, the level of fishing effort in these areas during the fishing season has likely exceeded the 30% removal target that ensures the fishery continues to rebuild. Continued fishing threatens remaining broodstock scallops that are needed for successful spawning to rebuild the resource in these areas as well as sublegal product that will recruit up to the fishery for harvest in future years.

Inner Machias Area

The [Inner Machias Rotational Area](#) was closed on December 13, 2015 via emergency regulation based on decreasing catch per unit effort (CPUE) trends and estimated removals exceeding the 30% harvest target for available biomass. Following its closure, an in-season survey was conducted in the area to evaluate the closure and compare results with the pre-season survey. While conducting this work, Department scientists found discrepancies that needed further investigation to fine-tune biomass estimates and projections. As a result of this in-depth analysis, Department scientists determined that the original harvestable biomass estimate of 79,000 lbs. was inaccurate. The harvestable biomass estimate was updated based on this analysis to 135,000 lbs., for which a proportion was made available for harvest to the fleet. Therefore, the emergency regulation was allowed to expire and fishing resumed for during the week of March 14th, 2016 allowing the fleet to regain access the entire [Machias Rotational Area](#).

On Monday, March 14th Marine Patrol, sea sampling observations as well as direct industry reports reflected that 37 vessels were fishing in the rotational area and reported mediocre fishing as the areas they were primarily targeting - Machias Bay, Cross Island Narrows and Little Machias Bay - had been heavily fished in December 2015 prior to being closed. While some harvesters were able to obtain their 15 gallon daily catch limit, none reached their daily limit before noon, while a segment of the fleet were not able to obtain their daily limit after fishing all day. On March 15th, 12 vessels were reported fishing in the area, however weather and poor catches forced many in early without reaching their daily limit. On March 16th, 15 vessels were reported fishing in the area as weather improved, while a segment of the fleet chose to fish sea urchins instead as scallop catches had not been strong earlier in the week. Therefore, it is likely that the 30% harvest target for the area has been exceeded. In addition, high concentrations of seed and sublegal scallops were observed in the rotational area as a whole, particularly on the southern shore of Cross Island and between Double Head Shot Island, Cape Wash Island and Old Man Island during the spring DMR survey indicating that a recovery has begun (Figure 1). Incidental mortality of scallops caused by dragging has been estimated to be at least 13-17% per tow. This level of scallop mortality would have a significant negative impact on the abundance of the sublegal scallops that will recruit into the fishery in future seasons. Therefore, an immediate action is necessary to protect the remaining seed and legal scallops in the Inner Machias Area to support rebuilding efforts. The outer portion of the Machias Rotational Area will remain open for continued harvesting opportunity.

Wohoa & Western Bay Rotational Area

The [Wohoa Bay & Jonesport Reach Area](#) was closed on December 13, 2015 via emergency regulation based on decreasing CPUE trends. The emergency regulation was allowed to expire and fishing resumed during the week of March 14th, 2016 allowing the fleet access to the entire [Wohoa & Western Bay Rotational Area](#).

During the week of March 14th Marine Patrol, Coast Guard and direct industry reports reflected that 3 vessels in total fished the area and reported poor catches with many of the Jonesport fleet

choosing to fish in either Gouldsboro & Dyer Bays or in the Machias Area instead. The only vessel reported to have reached their daily catch limit of 15 gallons did so illegally in the [Moosabec Targeted Closure](#); no others were reported as to have reached their daily catch limit in the area that week. This information indicates that the majority of legal sized scallops in the area have been harvested. In addition, the offshore portion of the rotational area which has remained open has been fully exploited, with the fleet serially depleting all remaining beds in the area and not able to reach daily catch limit after a full day of fishing in recent weeks. Finally, the DMR fishery independent spring survey observed very low densities of scallops in the rotational area overall ($<0.2/m^2$; Figure 2). Therefore, a conservation closure of entire [Wohoa & Western Bay Rotational Area](#) is needed in order to protect any remaining legal sized broodstock scallops so that the resource can continue to rebuild in this area.

Gouldsboro & Dyer Bays Rotational Area

The [Gouldsboro & Dyer Bays Area](#) was closed on December 13, 2015 via emergency regulation based on decreasing catch per unit effort (CPUE) trends and estimated removals exceeding the 30% harvest target for available biomass. Following its closure, an in-season survey was conducted in the area to evaluate the closure and compare results with the pre-season survey. While conducting this work, Department scientists found discrepancies that needed further investigation to fine-tune biomass estimates and projections. As a result of this in-depth analysis, Department scientists determined that the original harvestable biomass estimate of 38,000 lbs. was inaccurate Gouldsboro Bay. The harvestable biomass estimate was updated based on this analysis to 69,000 lbs., for which a proportion was made available for harvest to the fleet. Therefore, the emergency regulation was allowed to expire and fishing resumed during the week of March 14th, 2016 allowing the fleet to access the entire [Gouldsboro/Dyer Bays Rotational Area](#).

On Monday, March 14th Marine Patrol, sea sampling observations as well as direct industry reports reflected that 50 vessels were fishing in the newly reopened area, with 25 vessels fishing in Gouldsboro Bay and 25 vessels fishing in Dyers Bay. The majority of fleet was reported to have reached their daily 15 gallon daily limit by early afternoon with a few boats reporting that they were shy of the limit as meats did not shell out as well as they had anticipated. March 15th 27 vessels were reported fishing in Gouldsboro Bay, which provided more shelter from strong southerly winds than Dyers Bay, where 10 vessels were reported to be fishing. Due to weather and declining CPUE, not all members of the fleet that day reached their daily limit. On March 16th, 18 vessels were reported to have been fishing in Gouldsboro Bay while 15 vessels were fishing in Dyers Bay; fishing had slowed in both bays after this intense pressure with only a handful of vessels catching their daily limit by early afternoon that day. It is estimated that **25,650 lbs. or 37%** of the available 69,000 lbs. has been harvested from Gouldsboro Bay. While a harvestable biomass estimate is not available for Dyers Bay, it is estimated that a total of **12,690 lbs.** have been landed from the area this season and it is likely that the 30% removal target has been reached for this area as well. In addition, the offshore portion of the rotational area which has remained open has been fully exploited, with no vessels reporting to have reached the daily limit in this area this season at all. Therefore, a conservation closure of entire [Gouldsboro/Dyer Bays Rotational Area](#) is needed in order to protect any remaining legal sized broodstock scallops so that the resource can continue to rebuild in this area as well as sublegal product that will recruit up to the fishery for harvest in future years.

Upper Blue Hill Bay/Union River Rotational Area

In the [Upper Blue Hill Bay/Union River Rotational Area](#), Marine Patrol observations and direct industry reports indicate that the majority of the area has been fully exploited and that the fleet has sequentially depleted all available scallops, exceeding the 30% harvest target for the area. While both dive and drag vessels reported obtaining their daily landings limits in December, particularly in Blue Hill Harbor (dive only), Bartlett's Landing and the southern shore of Long Island, catches and fishing activity has since dropped off, with draggers moving down to fish the Lower Jericho Bay Rotational Area when weather permitted as they were not able to reach their daily limit while fishing in the Upper Blue Hill Bay/Union River Rotational Area. In addition, overall scallop density was low in the spring 2015 survey of this area. Of 30 tows, there were nine with zero scallops (Figure 3). There were scattered occurrences of harvestable scallops but mean density of harvestable scallops was only 0.016 per m^2 (Figure 4). Seed/sublegal scallops were present in 13 tows in spring 2015 (Figure 4 & 5). Further fishing could damage small scallops in this area and therefore have a negative impact on recruitment. Therefore, it is likely that the 30% harvest target for the area has been exceeded and a conservation closure of entire the [Upper Blue Hill Bay/Union River Rotational Area](#) is needed in order to protect any remaining legal sized broodstock scallops so that the resource can continue to rebuild in this area as well as sublegal product that will recruit up to the fishery for harvest in future years.

Eggemoggin Reach/Southeast Harbor Rotational Area

In the [Eggemoggin Reach/Southeast Harbor Rotational Area](#), Marine Patrol observations and direct industry reports indicate that the majority of the area has been fully exploited and that the fleet has sequentially depleted all available scallops, exceeding the 30% harvest target for the area. While both dive and drag vessels reported obtaining their daily landings limits in December, particularly in the Benjamin River, Southeast harbor and Naskeag area, catches and fishing activity has since dropped off, with draggers moving to fish the Lower Jericho Bay Rotational Area when weather permitted. In addition, this area had overall low scallop densities in the spring 2015 survey (Figure 6), in particular very low harvestable density (0.015 scallops per m²; Figure 7) which have presumably been reduced significantly by this point in the season. There were very few sublegal or seed scallops in the area (Figure 6, 7 & 8). Therefore, it is likely that the 30% harvest target for the area has been exceeded and a conservation closure of entire the [Eggemoggin Reach/Southeast Harbor Rotational Area](#) is needed in order to protect any remaining legal sized broodstock scallops so that the resource can continue to rebuild in this area.

Jericho Bay Area

In the [Lower Jericho Bay Rotational Area](#), Marine Patrol observations and direct industry reports indicate that the majority of the area has been fully exploited and that the fleet has sequentially depleted all available scallops, exceeding the 30% harvest target for the area, except for the offshore portion of this area access to which has been limited by foul weather. While drag vessels reported obtaining their daily landings limits in December, particularly in the Lazygut Islands and Jericho Bay areas, catches and fishing activity has since dropped off, with draggers moving to fish the lower portion of the rotational area between Isle au Haut and Marshall Island when weather permitted. In addition, this area had overall low scallop densities in the spring 2015 survey with six tows collecting zero scallops (Figure 9) and in particular had very low harvestable density (0.003 scallops per m²; Figure 7 & 8), which have presumably been reduced significantly by this point in the season. There were very few sublegal or seed scallops in the area (Figure 9, 10 & 11). Therefore, a conservation closure of the Jericho Bay area where the majority of the fishing activity has been focused is needed in order to protect remaining legal sized broodstock scallops so that the resource can continue to rebuild in this area as well as sublegal product that will recruit up to the fishery for harvest in future years. The outer portion of the Lower Jericho Bay Rotational Area will remain open for continued harvesting opportunity.

Casco Bay Area

In the [Casco Bay Area](#), Marine Patrol observations and direct industry reports indicate that the majority of the area has been heavily exploited, particularly in the Hussey Sound, Portland Harbor and Chandler Cover areas. While both dive and drag vessels reported obtaining their daily landings limits in December, fishing activity has since dropped off, with draggers moving outside the area when weather permitted. Divers in the area had a split season and did not fish the area between January 17 and March 1, and have since resumed on March 2, 2016. The spring 2015 scallop survey in Casco Bay showed that a large proportion of the resource is below minimum legal size (Figure 12, 13, 14 & 15), most notably the two size groups around 60 mm (2.4 in.) and 90 mm (3.5 in.) shell height (Figure 15). While further dragging activity could damage small scallops in this area and therefore have a negative impact on recruitment, hand harvest by scuba diving will have no impact on these small scallops. Therefore, the Casco Bay Area requires a conservation closure for the drag component of the fleet to ensure that sublegal scallops are able to recruit up to the fishery and be available to the fleet as a whole in future season. However, hand harvest by scuba divers will be permitted in the area to allow this component of the fleet access during the bulk of the scheduled days for the 2015-16, which are in March (18 days) and April (11 days).

The Department is concerned that continued harvesting during the remainder of the 2015-2016 fishing season in the above listed areas will damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reduce any remaining broodstock that is essential to a recovery. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggemoggin Reach/Southeast Harbor Rotational Area and Casco Bay (hand harvest by scuba diving allowed).

For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in these areas as authorized by [12 M.R.S. §6171\(3\)](#).

In accordance with [5 M.R.S. §8052, sub-§5-A](#), a statement of the impact on small business has been prepared. Information is available upon request from the DMR Commissioner's Office, State House Station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.

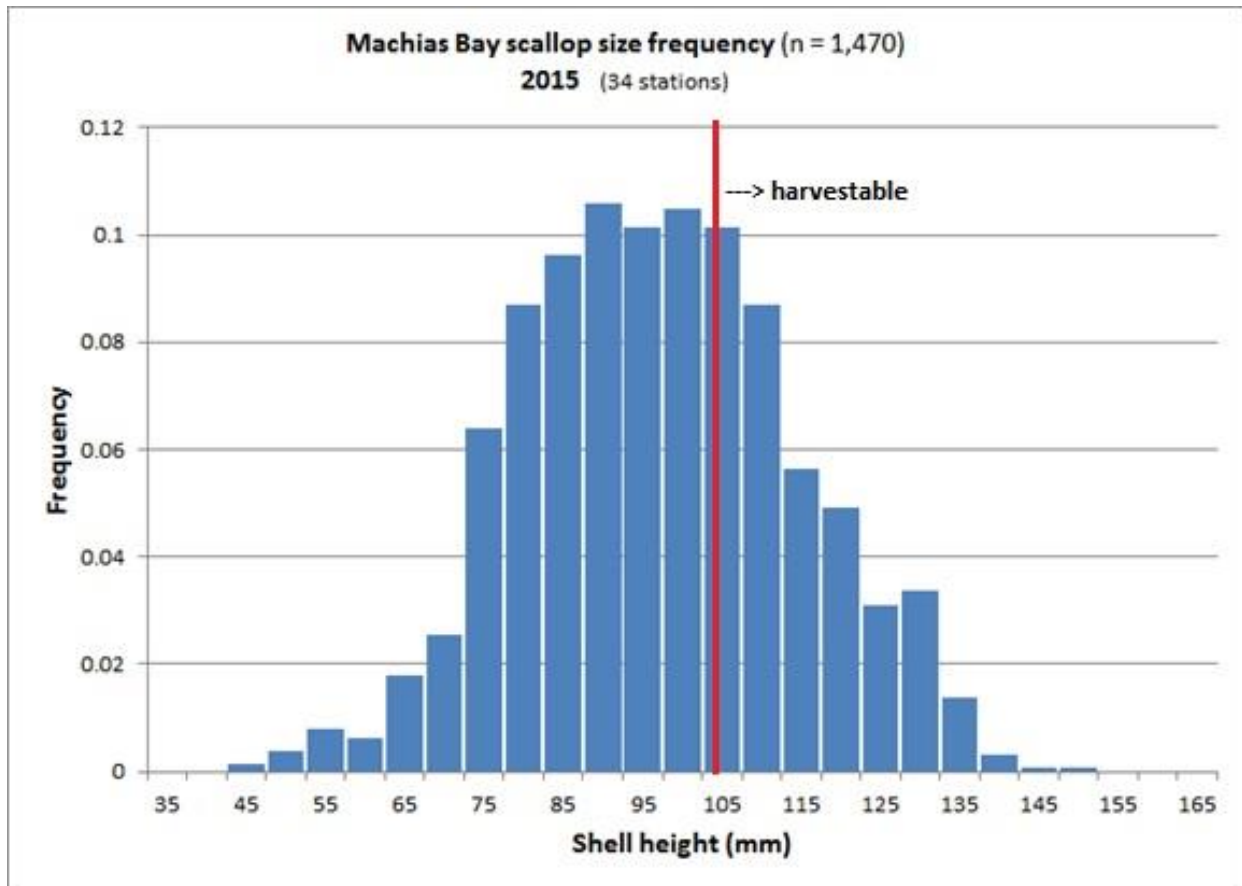


Figure 1. Size frequency (5 mm increments) of scallops in Machias Bay rotational closure (2015).

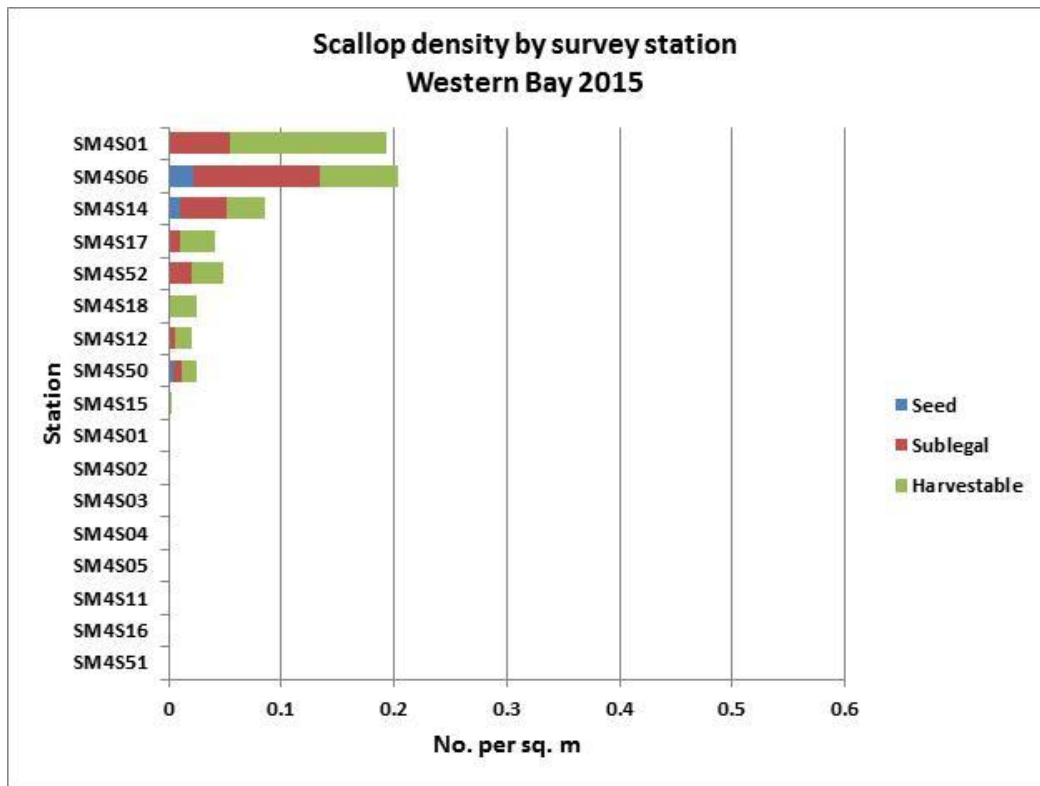


Figure 2. Density of scallops and size class composition by tow (Western Bay), 2015 survey (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

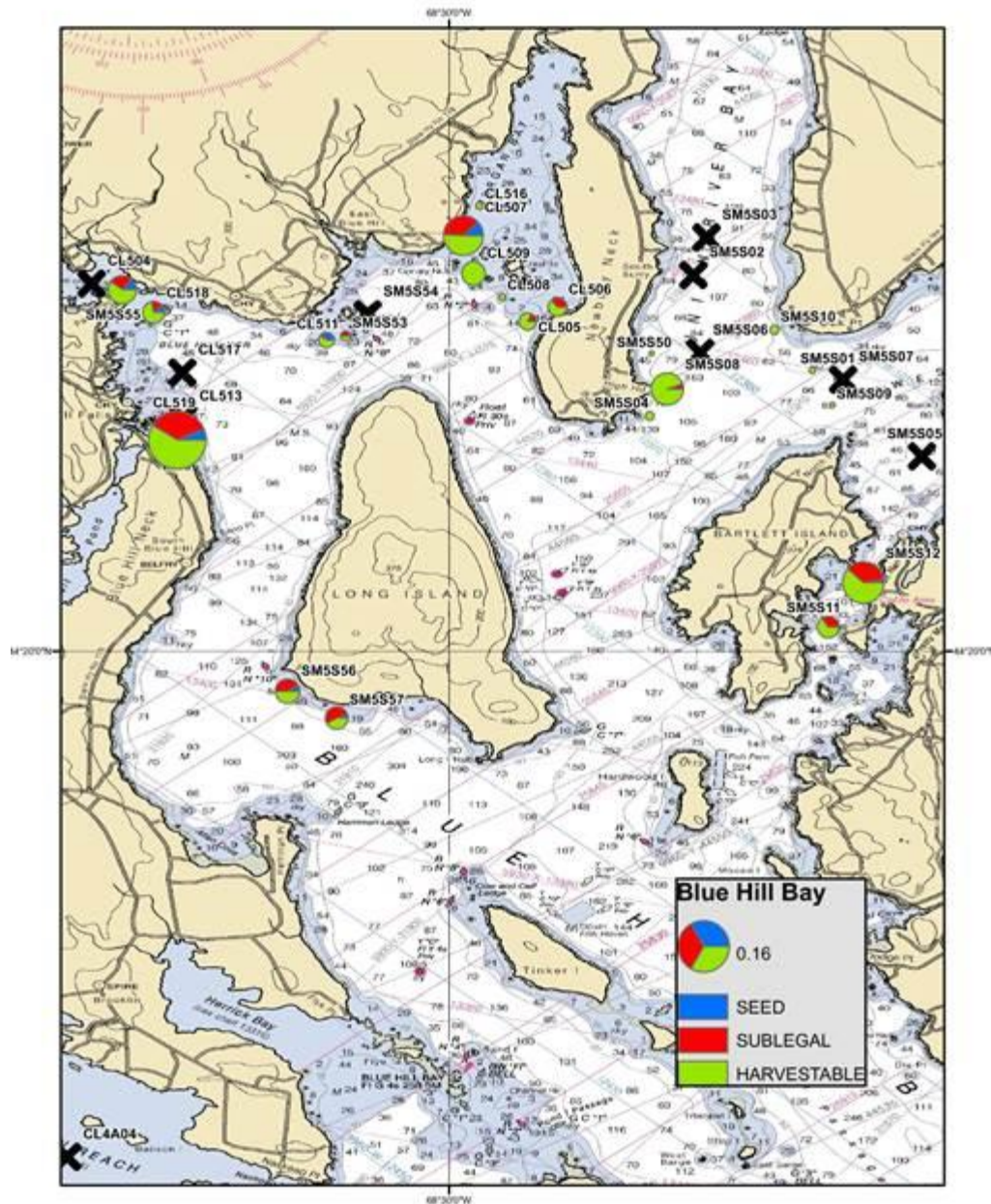


Figure 3. Density of scallops and size class composition by tow and location (Blue Hill). The circle represent density of scallop (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

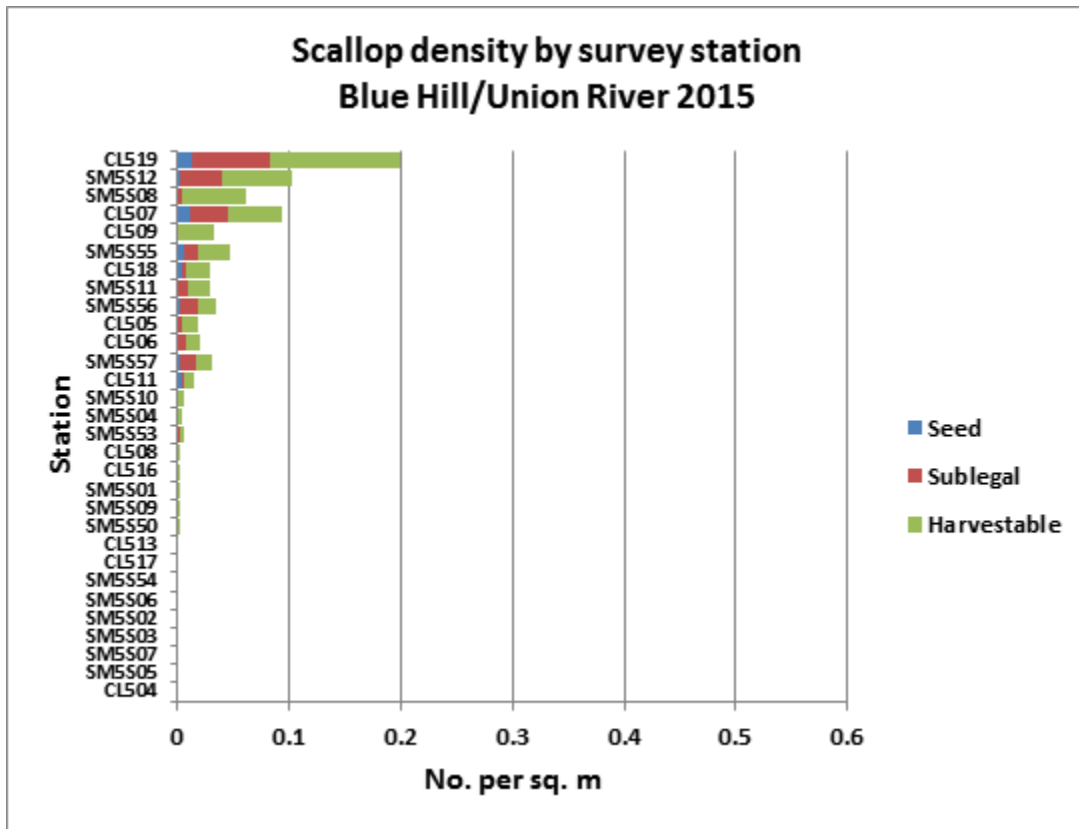


Figure 4. Density of scallops and size class composition by tow (Blue Hill/Union River), 2015 survey (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

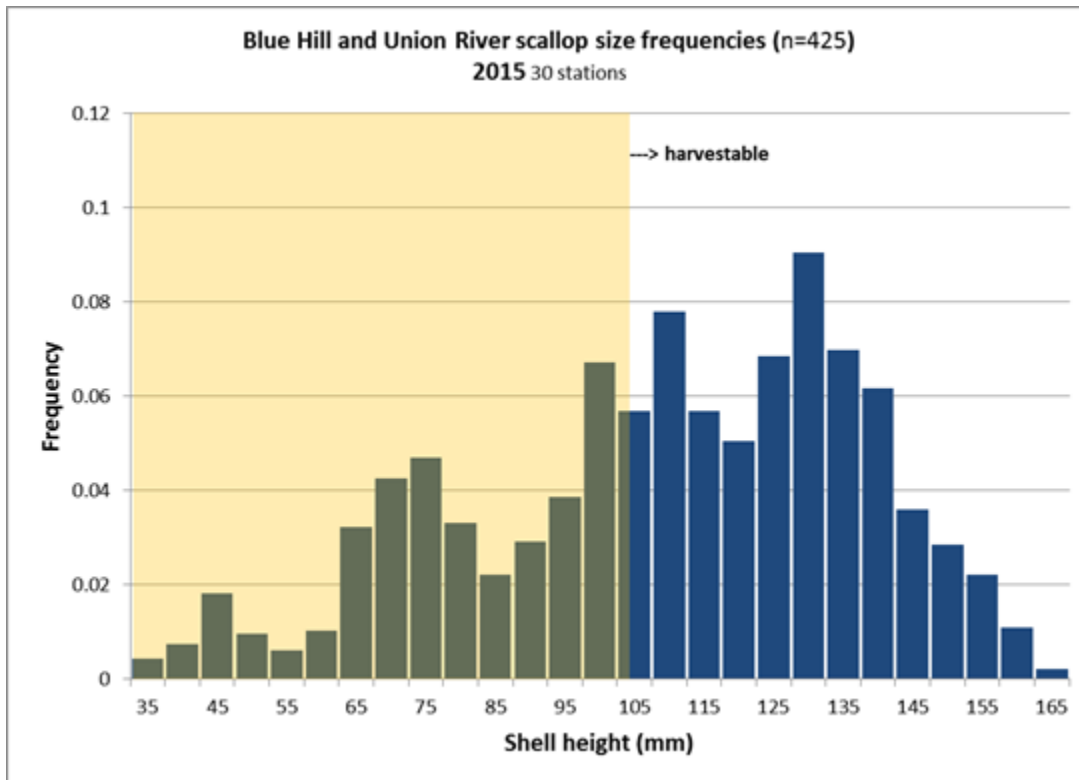


Figure 5. Size frequency (5 mm increments) of scallops in the Blue Hill/Union River area (2015).

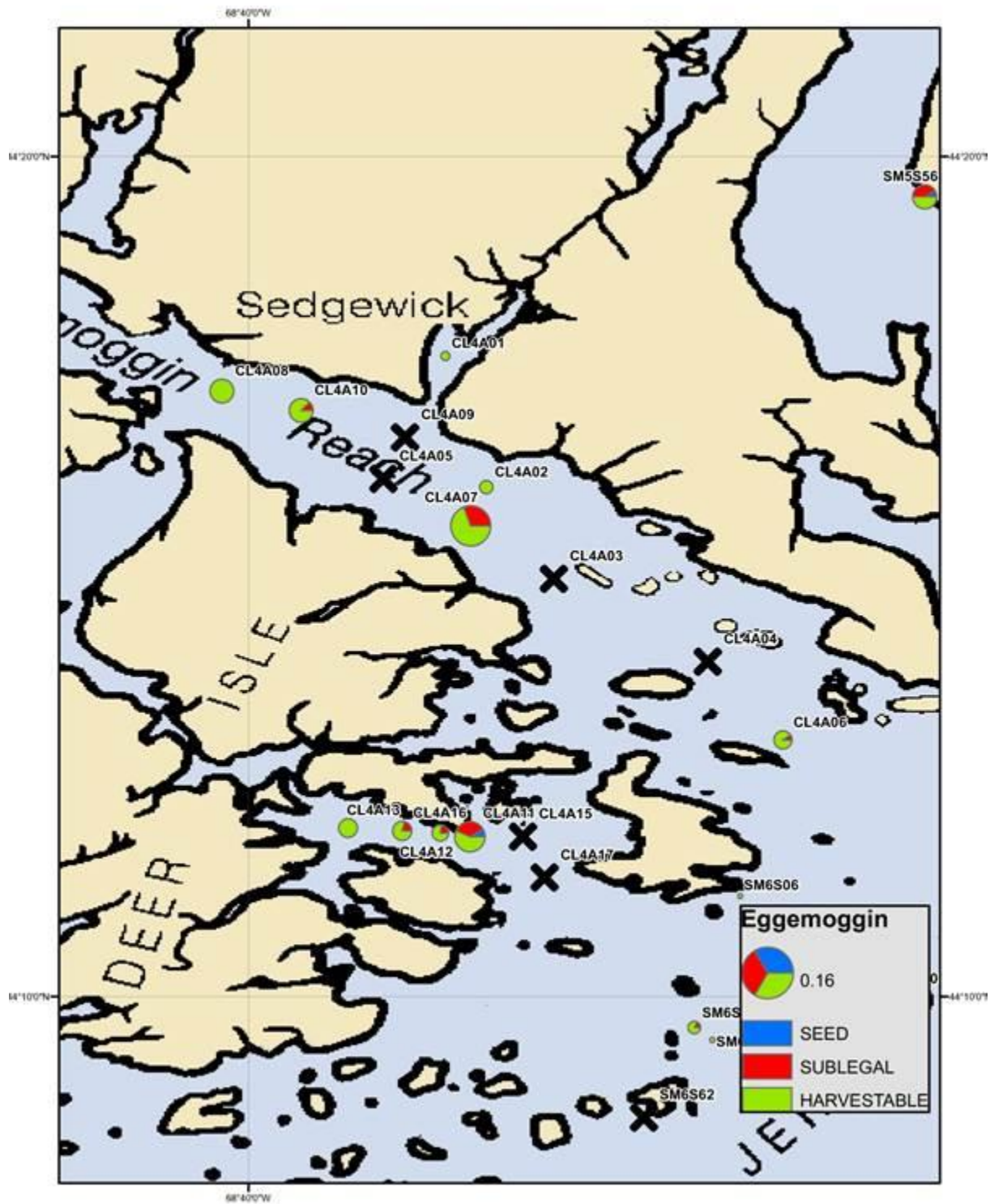


Figure 6. Density of scallops and size class composition by tow and location (Eggemoggin/Southeast Harbor). The circle represent density of scallop (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

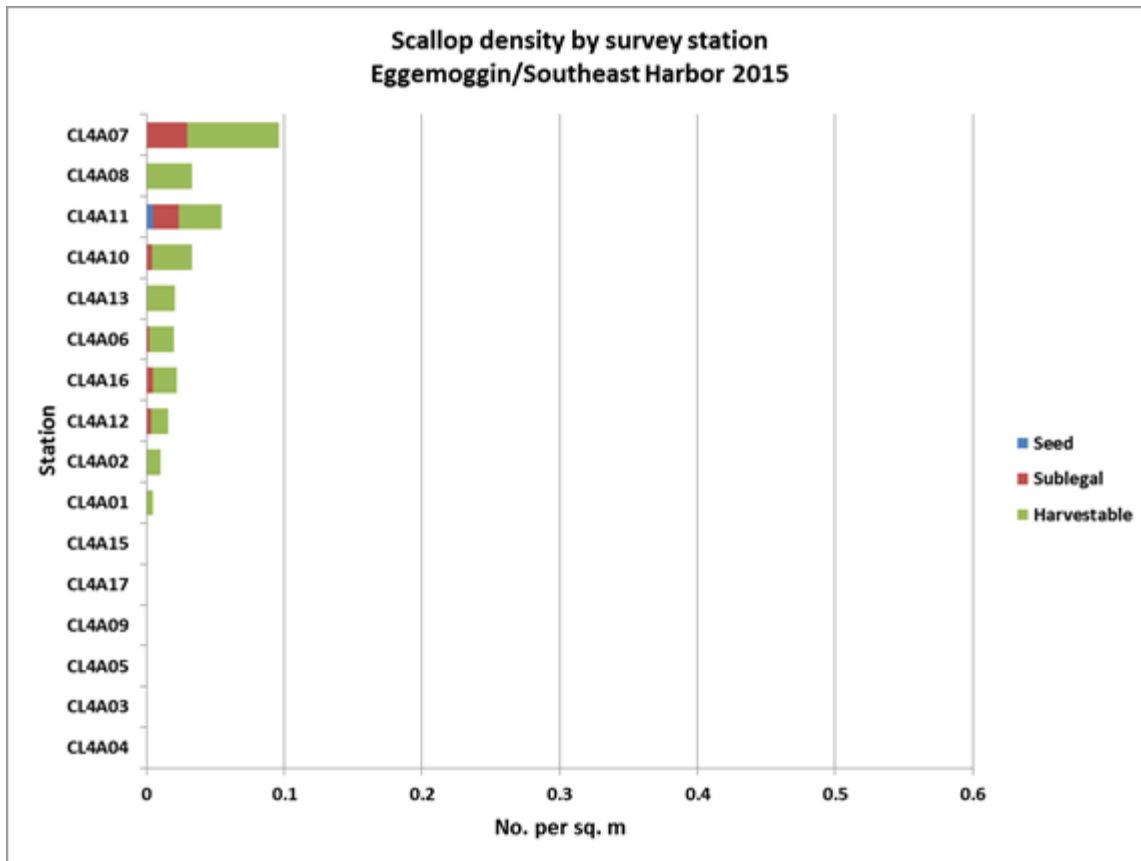


Figure 7. Density of scallops and size class composition by tow (Eggmoggin/Southeast Harbor), 2015 survey (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

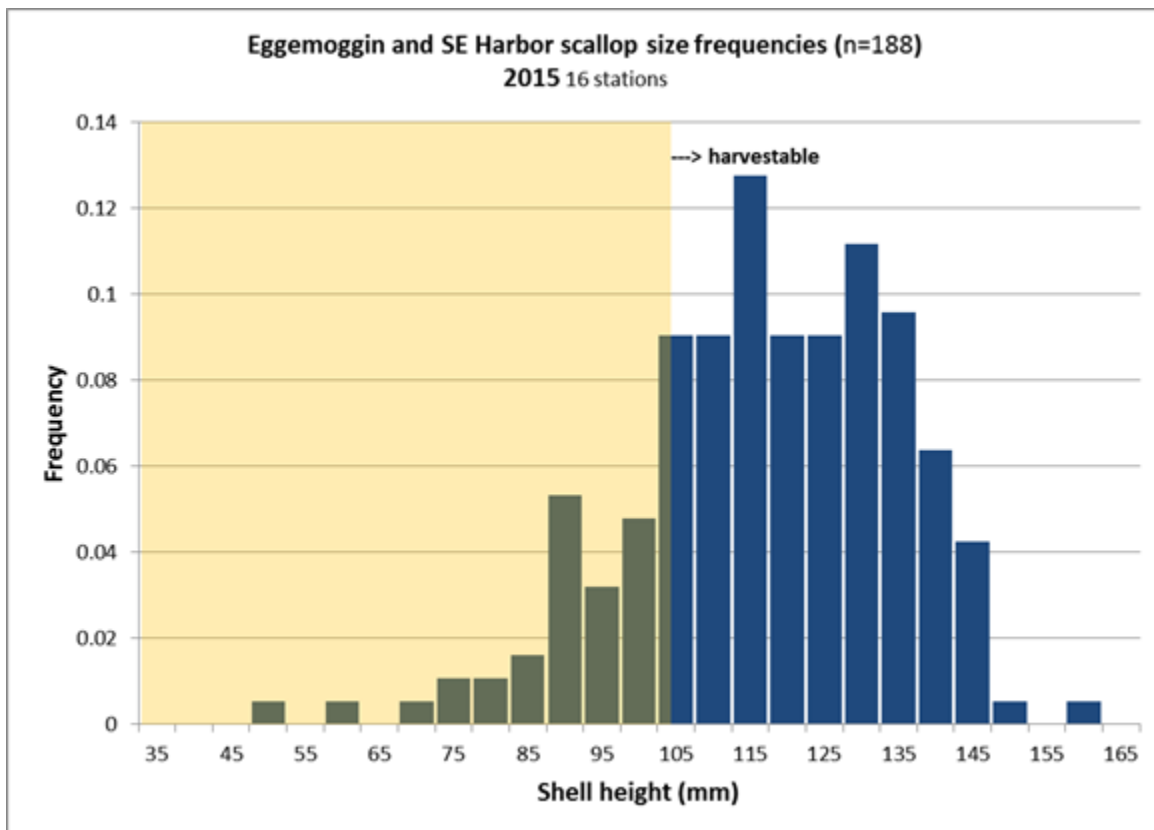


Figure 8. Size frequency (5 mm increments) of scallops in Eggmoggin/Southeast Harbor (2015).

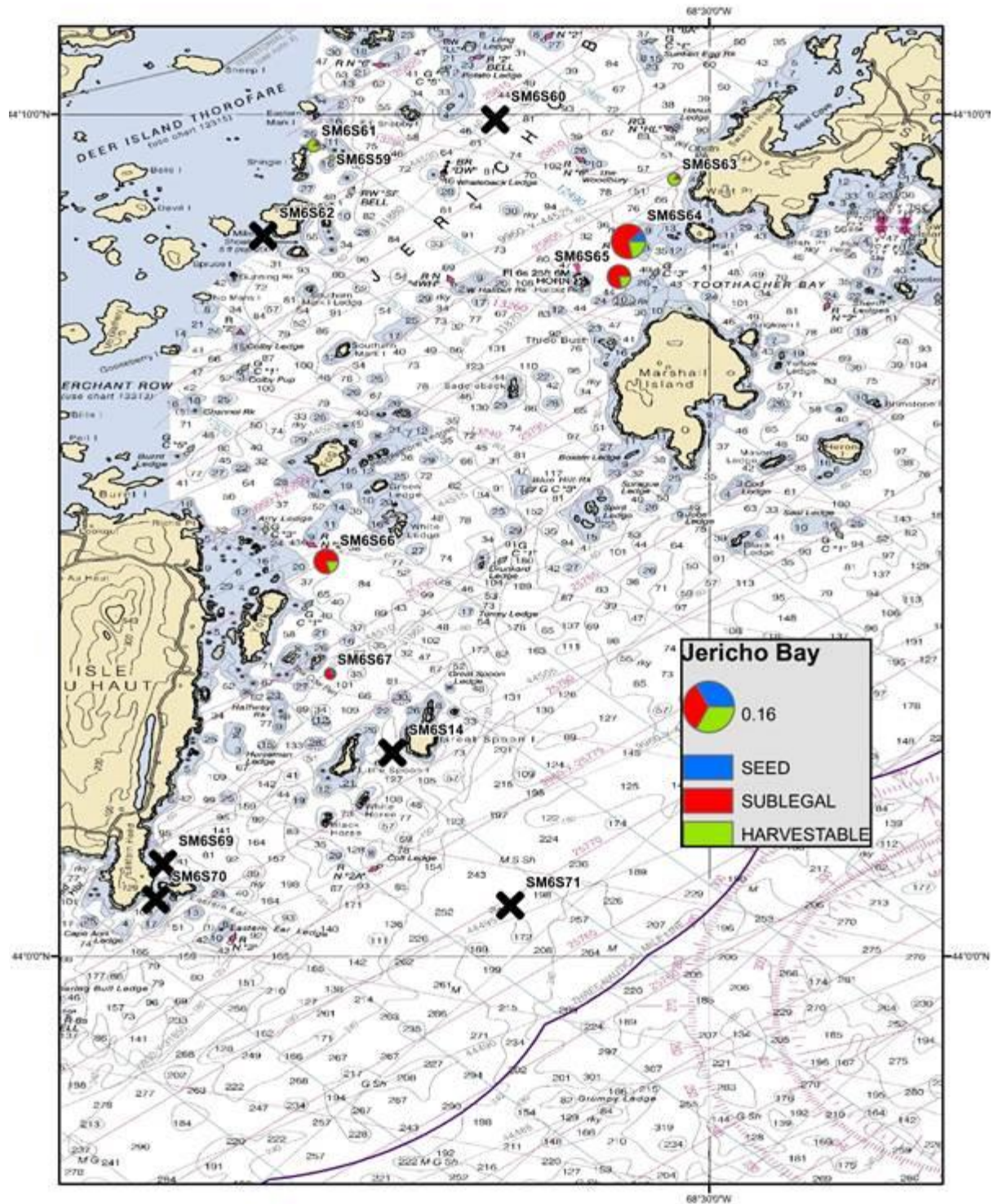


Figure 9. Density of scallops and size class composition by tow and location (Jericho Bay) The circle represent density of scallop (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

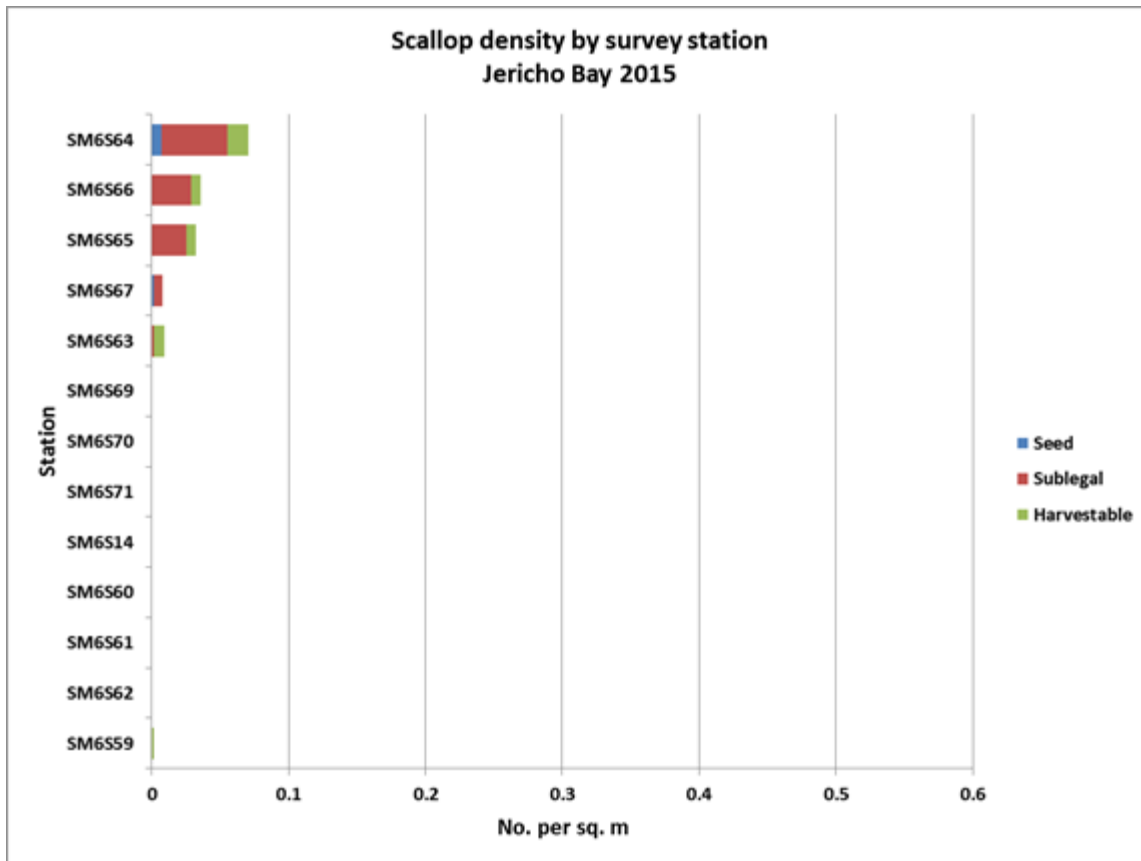


Figure 10. Density of scallops and size class composition by tow (Jericho Bay), 2015 survey (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

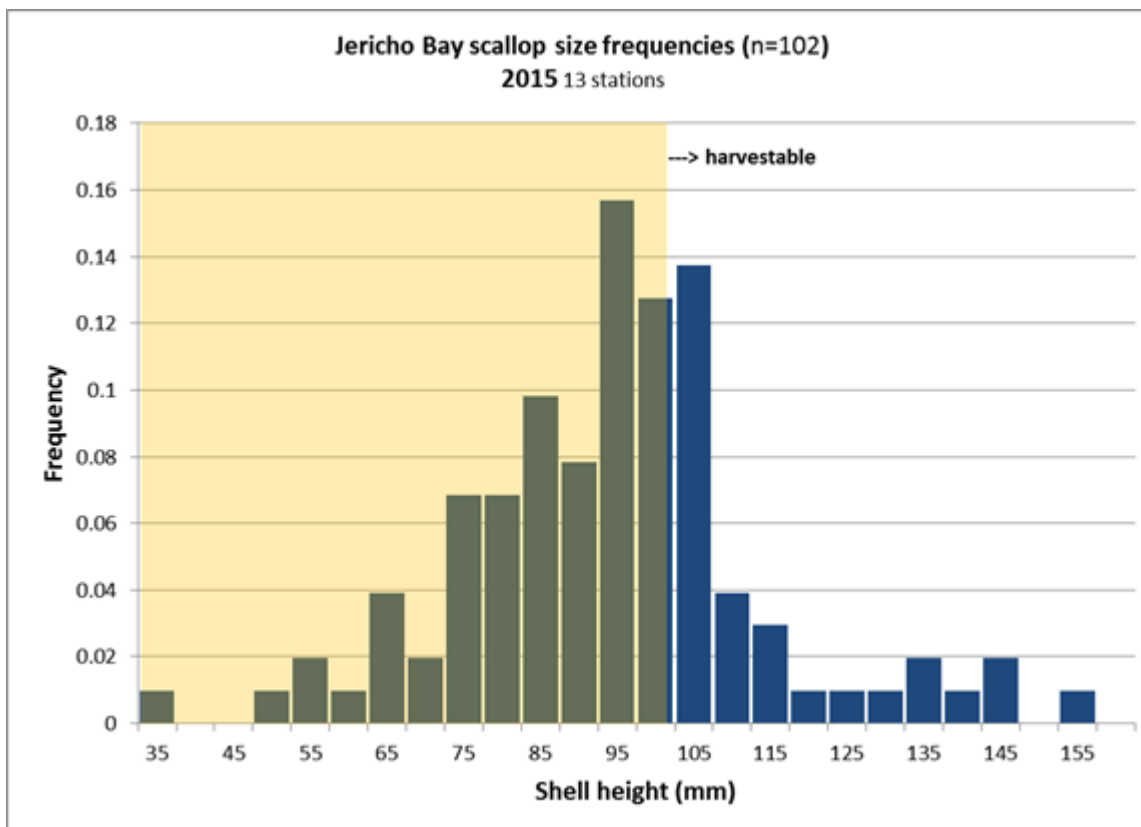


Figure 11. Size frequency (5 mm increments) of scallops in Jericho Bay (2015).

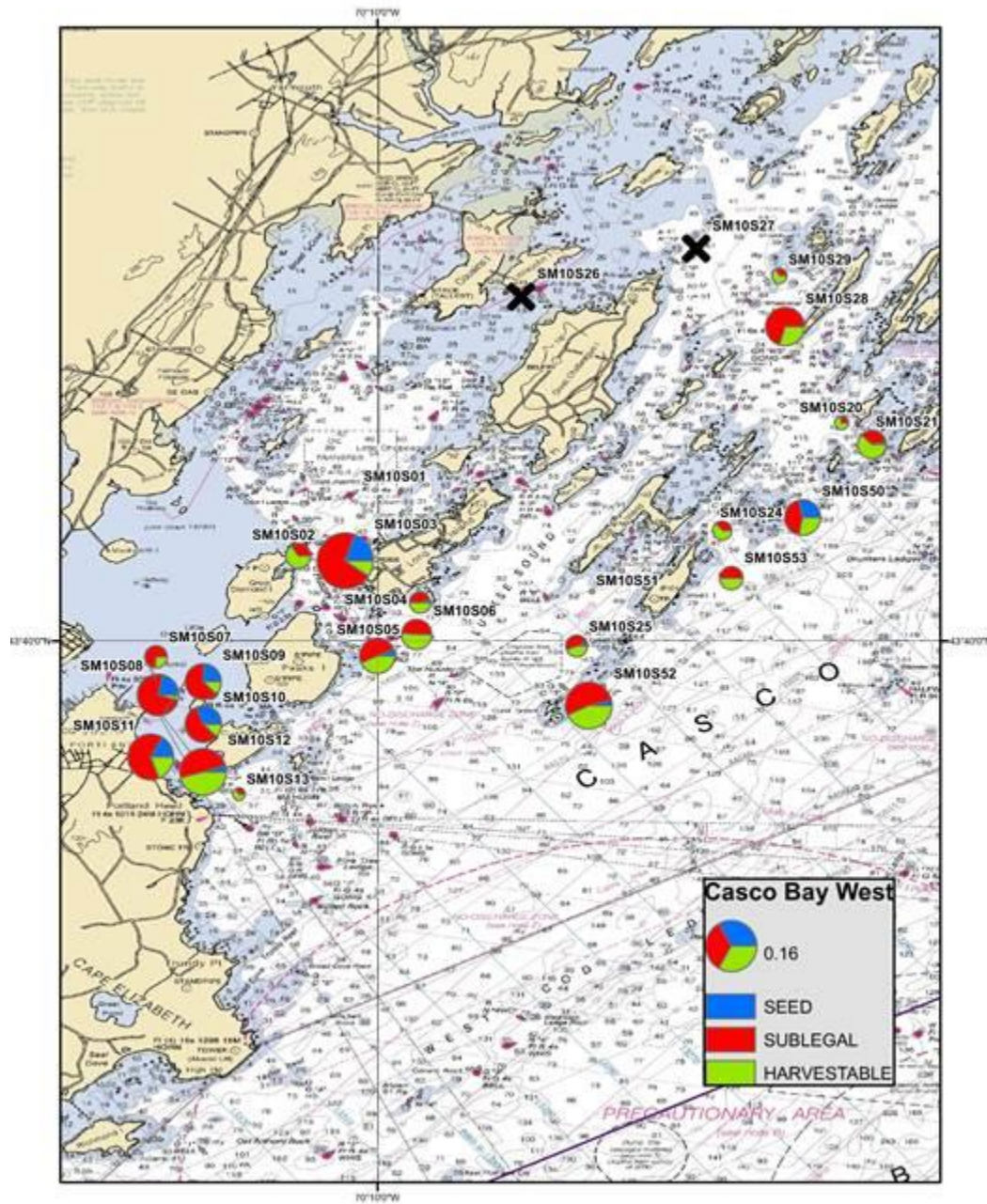


Figure 12. Density of scallops and size class composition by tow and location (Casco Bay West). The circle represent density of scallop (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

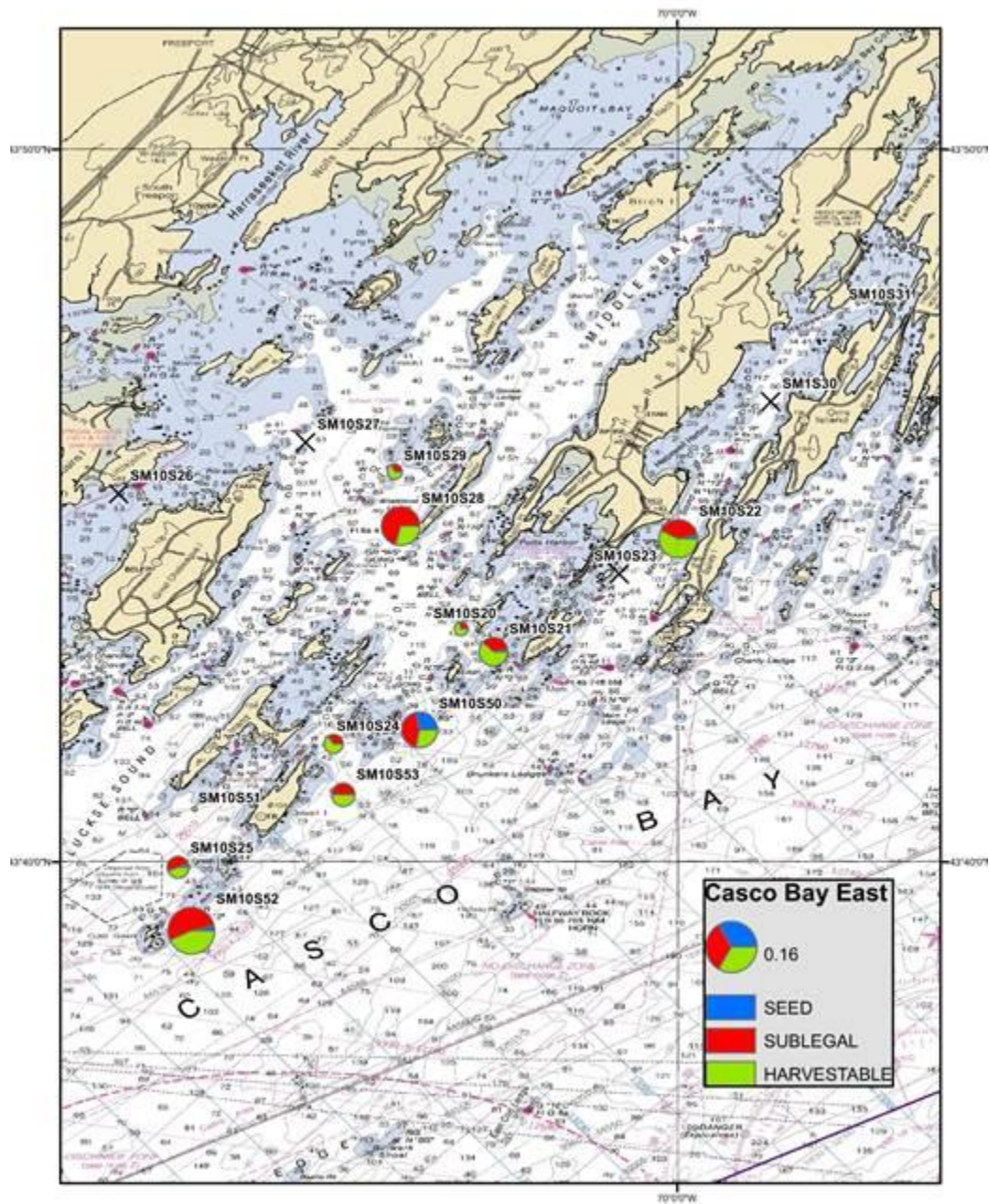


Figure 13. Density of scallops and size class composition by tow and location (Casco Bay East). The circle represent density of scallop (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

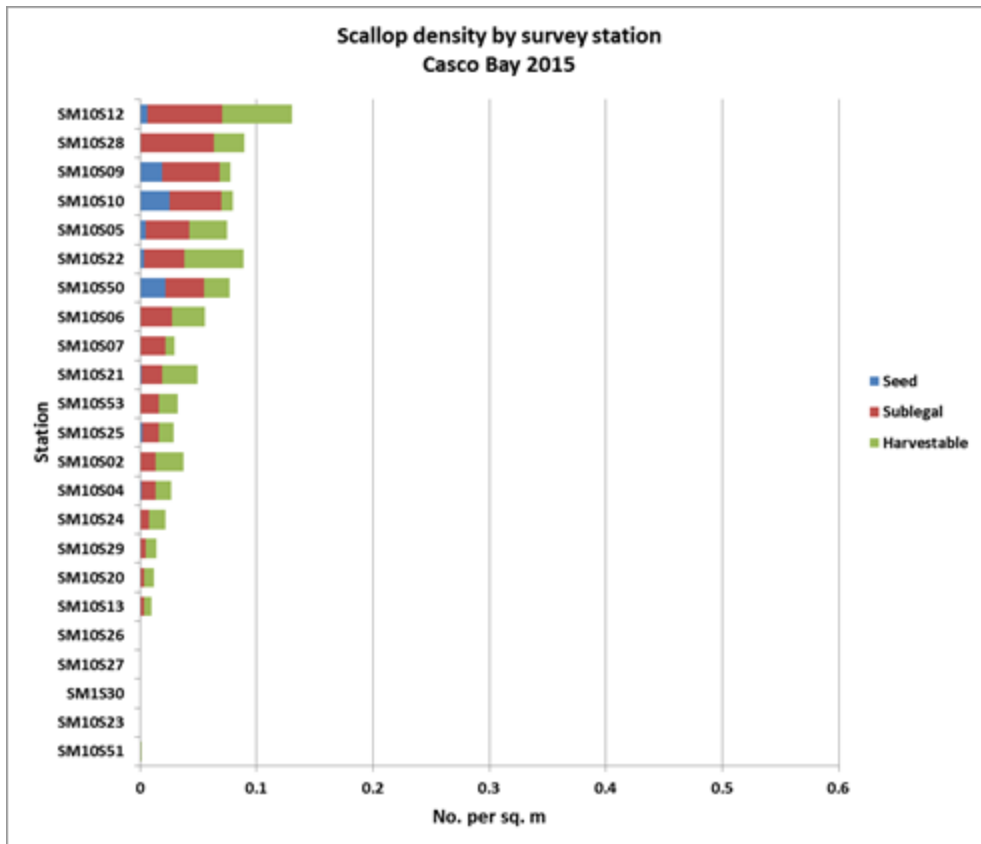


Figure 14. Density of scallops and size class composition by tow (Casco Bay), 2015 survey (*seed* = less than 2.5 inches shell height, *sublegal* = 2.5-3.9 inches, *harvestable* = 4 inches or greater).

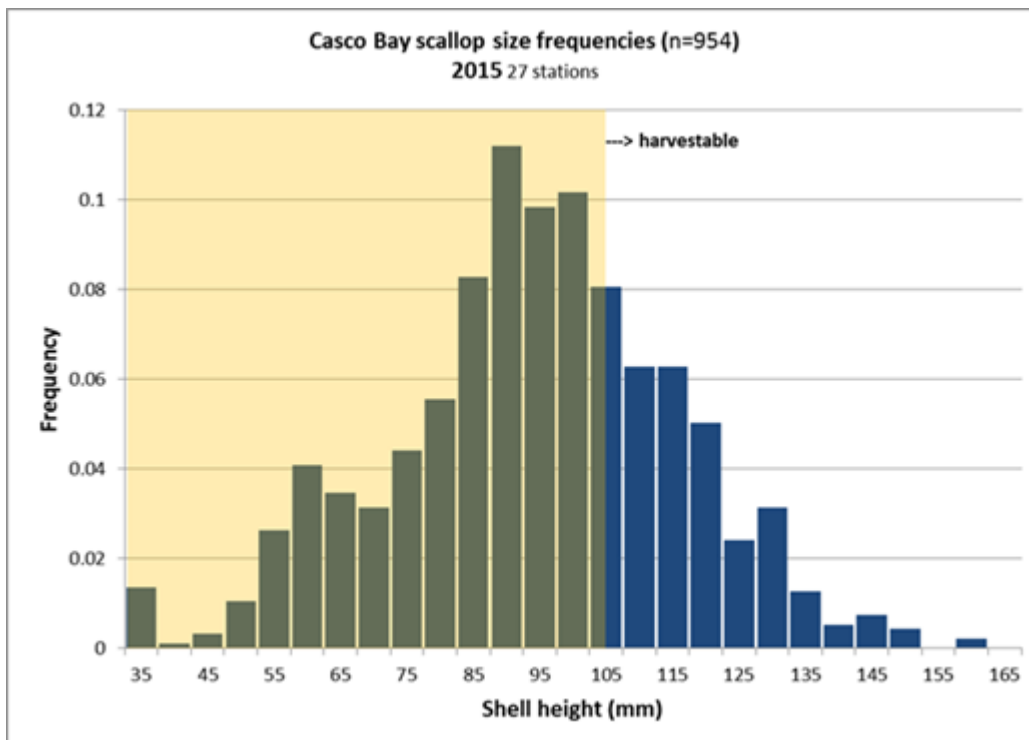


Figure 15. Size frequency (5 mm increments) of scallops in Casco Bay (2015).

Rule-Making Fact Sheet
(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 11.22 Targeted Closures (21)(22)(23)(24)(25)(26)(27) Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggemoggin Reach/Southeast Harbor Rotational Area and Casco Bay. Emergency Regulations

STATUTORY AUTHORITY: [12 M.R.S. §6171\(3\)](#)

DATE AND PLACE OF PUBLIC HEARING: None, Emergency rulemaking

COMMENT DEADLINE: None, Emergency rulemaking

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

The Commissioner adopts this emergency rulemaking for the implementation of conservation closures located in the Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggemoggin Reach/Southeast Harbor Rotational Area and Casco Bay (hand harvest by scuba diving allowed) in order to protect Maine's scallop resource due to the risk of imminent depletion and unusual damage. While scallop populations are indicating signs of recovery in some areas of the state, the Department is concerned that unrestricted harvest during the remainder of the 2015-16 fishing season in these specific areas may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the broodstock essential to a recovery. These immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in the Inner Machias Area, Wohoa/Western Bay Rotational Area, Gouldsboro/Dyers Bay Rotational Area, Upper Blue Hill Bay/Union River Rotational Area, Jericho Bay Area, Eggemoggin Reach/Southeast Harbor Rotational Area and Casco Bay (hand harvest by scuba diving allowed), as authorized by [12 M.R.S. §6171\(3\)](#).

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The adopted rules seek to conserve the scallop resource for utilization in the future. The rule is intended to have a long-term positive impact on the scallop resource to benefit future harvesters and the wholesale and retail seafood industry.

FISCAL IMPACT OF THE RULE:

Enforcement of this amendment would not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.