

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 11.08, Targeted Closures:(10) Narraguagus/Pigeon Hill Rotational Area; (11) Cobscook, Whiting & Dennys Bays; (12) Lower Blue Hill Bay/Jericho Bay Rotational Area

CONCISE SUMMARY:

The Commissioner adopts this emergency rulemaking to establish scallop conservation closures in the Narraguagus/Pigeon Hill and Lower Blue Hill/Jericho Bays Rotational Areas (Zone 2) and Cobscook, Whiting and Dennys Bays in Zone 3. The Department is concerned that continued harvesting for the remainder of the 2022-2023 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2022 Scallop surveys that are essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in four important scallop harvest areas. 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)(A).

EFFECTIVE DATE: February 19, 2023

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DEPARTMENT OF MARINE RESOURCES

Chapter 11 Scallops

11.01 Definitions

1. Chafing gear or cookies.

Chafing gear or cookies, with respect to the scallop fishery, means steel, rubberized, or other types of donut rings, disks, washers, twine, or other material attached to or between the steel rings of a sea scallop drag or dredge.

2. Drag, dredge, drag gear, or dredge gear.

Drag, dredge, drag gear, or dredge gear, with respect to the scallop fishery, means gear consisting of a mouth frame attached to a holding bag constructed of metal rings, or any other modification to this design, that can be or is used in the harvest of scallops.

3. Drag or dredge bottom.

Drag or dredge bottom, with respect to the scallop fishery, means the rings and links found between the bail of the drag or dredge and the club stick, which, when fishing, would be in contact with the sea bed. This includes the triangular shaped portions of the ring bag commonly known as “diamonds”.

4. Drag or dredge top.

Drag or dredge top, with respect to the scallop fishery, means the mesh panel in the top of a drag or dredge and immediately adjacent rings and link found between the bail of the dredge, the club stick, and the two side panels. The bail of the dredge is the rigid structure of the forward portion of the drag or dredge that connects to the warp and holds the drag or dredge open. The club stick is the rigid bar at the tail of the drag or dredge bag that is attached to the rings.

5. Scallop Management “Zone One (1)” includes all coastal waters West of a line beginning at the easternmost point of Fort Point State Park on Cape Jellison then running southwesterly to channel marker #1 South of Sears Island, then running southwesterly to channel marker RW “II” located between Marshall’s Point and Bayside in the Town of Northport, then running southwesterly to Graves channel marker southeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy “PB” East of Rockland Harbor, then running southerly to the TBI whistle southwest of Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then running due South magnetic to the boundary of the State’s coastal waters to the New Hampshire border.
6. Scallop Management “Zone Two (2)” includes all coastal waters East of the line defined in the preceding subsection 5 for Zone One, including all coastal waters of the Penobscot River North of Fort Point State Park to the Lubec-Campobello Island bridge; and all territorial waters surrounding Machias Seal Island and North Rock.
7. Scallop Management “Zone Three (3)” includes all coastal waters North and East of the Lubec-Campobello Island bridge including all of Cobscook Bay and the St. Croix River inside Maine territorial waters.
8. Commercial Scallop License. A handfishing scallop or handfishing with tender license issued under 12 M.R.S §6701 or a scallop dragging license issued under 12 M.R.S. §6702.

11.02 Reporting: See Chapter 8.**11.03 Atlantic Sea Scallops Harvesting Season**

A person may not fish for or take scallops by dragging in Maine's territorial waters from April 16th to November 30th, both days inclusive. A person may not fish for or take scallops except on an open day established in 11.11.

11.04 Configuration of Scallop Drag

1. Minimum mesh size.

A. Twine top restrictions.

The mesh size of net material on the top of a scallop dredge in use by or in possession of vessels in the Atlantic sea scallop fishery shall not be smaller than 5.5 inches (13.97 cm).

- (1) For vessels rigged with a dredge or dredges, and each individual dredge is greater than 8 ft (2.44 m) in width, there must be at least seven rows of non-overlapping steel rings unobstructed by netting or any other material, between the terminus of the dredge (club stick) and the net material on the top of the dredge (twine top).
- (2) For vessels rigged with a dredge or dredges, and each individual dredge is greater than 3.5 ft (1.07 m) and less than or equal to 8 ft (2.44 m) in width, there must be at least four rows of non-overlapping steel rings unobstructed by netting or any other material, between the club stick and the twine top of the dredge.
- (3) For vessels rigged with a dredge or dredges, and each individual dredge is 3.5 feet (1.07 m) or less in width, there must be at least one row of non-overlapping steel rings unobstructed by netting or any other material, between the club stick and the twine top around the circumference of the top of the dredge. The twine top must be hung on no more than two diamond meshes per ring on the top and bottom and a single diamond mesh per ring on the sides. Alternative designs may be approved by permit from the Commissioner.

B. Measurement of mesh size.

Mesh size is measured by using a wedge-shaped gauge having a taper of 2 cm in 8 cm and a thickness of 2.3 mm, inserted into the meshes under a pressure or pull of 5 kg. The mesh size is the average of the measurements of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings running parallel to the long axis of the net.

2. Chafing gear and other gear obstructions.

A. Chafing gear restrictions.

No chafing gear or cookies shall be used on the top of a scallop dredge.

B. Link restrictions.

No more than double links between rings shall be used in or on all parts of the dredge bag, except the dredge bottom. No more than triple linking shall be used in or on the dredge bottom portion and the diamonds. Damaged links that are connected to only one ring, i.e., "hangers", are allowed, unless they occur between two links that both couple the same two rings. Dredge rings may not be attached via links to more than four adjacent rings. Thus, dredge rings must be rigged in a configuration such that, when a series of adjacent rings are held horizontally, the neighboring rings form a pattern of horizontal rows and vertical columns.

C. Dredge or net obstructions.

No material, device, net, dredge, ring, or link configuration or design shall be used if it results in obstructing the release of scallops that would have passed through a legal sized and configured net and dredge, as described in this part, that did not have in use any such material, device, net, dredge, ring, or link configuration or design.

3. Minimum Ring Size

A person may not use a drag to fish for or take scallops in the territorial waters with rings that measure less than 4 inches.

11.05 Scallop Harvesting Gear Restrictions

1. State Waters Drag Size Restriction

It shall be unlawful to possess on any vessel fishing for scallops, or to fish for or take scallops, in Maine's territorial waters:

Any scallop drag or combination of scallop drags that exceed 10 feet 6 inches in width (by measuring from the extreme outside of the mouth of the drag or drags).

2. Dragging for Scallops Damariscotta River, Lincoln County

It shall be unlawful to fish for or take scallops in the Damariscotta River with any scallop drag (chain sweep or rock drag) 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 from April 16 to ½ hour after sunset December 31 of each year.

3. Scalping in the Frenchboro Cable Area - Hand Scallop Fishing Allowed

- A. It shall be lawful to take scallops by hand, unless prohibited by other statute or regulation in the Frenchboro Cable Area described in 12 M.R.S. §6954-A(1) (hereafter "Frenchboro Cable Area").
- B. It shall be unlawful to operate any watercraft when towing a drag or trawl while taking scallops by hand in the Frenchboro Cable Area.
- C. It shall be unlawful to use a watercraft rigged for dragging while taking or attempting to take scallops by hand in the Frenchboro Cable Area.
- D. It shall be unlawful to possess scallops aboard a watercraft rigged for dragging while taking or attempting to take scallops by hand in the Frenchboro Cable Area.

11.06 Municipal Mooring Field Closures

It shall be unlawful to fish for, take, or possess scallops taken by dragging within any of the following closed areas. All directions are relative to True North (not magnetic).

Transiting exception:

A vessel may not transit within the following closed areas with any part of a drag, including the cable, in the water.

1. Inner Blue Hill Harbor

West of a line drawn from the most western point of Sculpin Point, Blue Hill to the closest point of land on Parker Point, Blue Hill Neck.

2. Bartlett Landing

East of a line starting at the town pier 44 20.576 N 068 25.042 W, running south to the northern tip of west point 44 20.274 N 068 25.264 W.

3. Seal Harbor

North of a line starting at the southern end of Crownshield Pt 44 17.286 N 068 14.620 W running in an easterly direction to 44 17.416 N 068 14.180 W.

4. Northeast Harbor

North of a line starting at a private pier on the western side of the Harbor 44 17.244 N 068 16.787 W running in a north easterly direction to the southern tip of land on the eastside of the harbor 44 17.432 N 068 16.583 W.

5. Somes Sound Harbor

North of a line starting at the northern tip of Mason Point 44 21.491 N 068 19.626 W then running in a southeasterly direction to the southern tip of Squantum Point 44 21.425 N 068 19.311 W.

6. Western Blue Hill Bay (Blue Hill)

Inside and westerly of a line beginning at the easternmost point of High Head, Blue Hill, then running northeast to the most eastern tip of Sand Point, Blue Hill.

7. Pennamaquan River

Inside and up river of a line drawn from the Eastern tip of Kelly Point, Pembroke and running in a Northeast direction to GC "11" and then continuing in a direction of true North to Hersey Neck.

8. Sullivan Harbor

Inside and north of a line starting at Edgewater Point, Sullivan, 44 31.214 N 068 12.692 W, continuing in an easterly direction for approximately .6 nm to an unnamed point, 44 31.023 N 068 11.902 W, Sullivan.

11.07 Atlantic Sea Scallop Limitations

1. Atlantic Sea Scallops, Minimum Size

In Maine Territorial Waters, it shall be unlawful to possess Atlantic sea scallops whose shells are less than 4 inches in the longest diameter, effective on December 1, 2004 and thereafter in accordance with 12 M.R.S. §6721(1)(A) & (B).

2. Atlantic Sea Scallops, Night Harvesting Prohibition

Effective November 1, 1986, it shall be unlawful to fish for or take scallops during the nighttime hours between sunset (as defined in 12 M.R.S. §6001(46)) and sunrise (as defined in 12 M.R.S. §6001(45)) within Maine's territorial waters.

3. Atlantic Sea Scallops, Culling Required

Scallops less than the minimum legal size must be immediately liberated. It is prima facie evidence of possession of illegal scallops if a vessel contains scallops smaller than the minimum size while a scallop license holder or crewmember is shucking scallops.

4. Atlantic Sea Scallops, Shellstock Ratio to Meat Conversion, Possession Limit, Daily Limit

A. Shellstock Ratio to Meat Conversion

For the purposes of this regulation, one and a half bushels of shellstock shall be equal to one gallon of scallop meat.

B. Daily Harvest and Possession Limits.

- (1) Daily Harvest and Possession Limit for Individuals Issued a License under §6702 or 6302-A for scallop dragging

It is unlawful to fish for, take or possess more than 15 gallons of scallop meat or any aggregate of meat and shellstock, which is greater than the equivalent of 15 gallons of meat per day per vessel.

- (2) Daily Harvest and Possession Limit for Individuals Issued a License under §6701 or 6302-A for scallop diving

It is unlawful for an individual licensed under §6701 or 6302-A for scallop diving to fish for, take or possess more than 15 gallons of scallop meat or any aggregate of meat and shellstock, which is greater than the equivalent of 15 gallons of meat per day.

C. Daily Limit Restrictions.

It is unlawful to unload any portion of a day's catch and return to fishing in Maine's territorial waters. It is unlawful to transfer to or receive from another vessel any scallop shellstock or scallop meats.

5. Atlantic Sea Scallops Harvested Seaward of Maine's Territorial Waters

A vessel may possess or land more than 15 gallons of scallop meats per day within Maine's territorial waters only if it meets each of the following requirements:

- A. The scallop meats were harvested seaward of Maine's territorial waters.
- B. The vessel holds a valid current Federal Permit (Title 50(A) §648.4) that authorizes possession of more than 15 gallons of scallop meats per day.
- C. The amount of scallop meats on board does not exceed the maximum amount authorized by the vessel's Federal Permit.
- D. The vessel has all fishing gear (dredges, drags) securely stowed when transiting Maine's territorial waters. 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.

11.08 Targeted Scallop Conservation 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.

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. 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 Graffam 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.

2. 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 "2" at Eastern Drunkers Ledge.

Western boundary: East and North of a line draw from R N "2" at Eastern Drunkers Ledge 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.

3. Sheepscot River

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.

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

Southern boundary: North of a line drawn from the most southern point of Outer Head Island at Griffith Head, Georgetown to the most southern tip of Cape Island, Southport.

4. New Meadows River

Southeast boundary: North of a line drawn from the southernmost tip of Birch Point, Phippsburg, to the southernmost tip of Long Island, Harpswell, then continuing along the western coastline to the northern tip of Long Island, Harpswell, then a line drawn due west to the nearest point of land on Sebascodegan Island, Harpswell.

Southwestern boundary: North of the Route 24 Gurnet Bridge (Harpswell).

5. Card Cove

West of a line drawn from the southeastern most tip of Pinkham Point, Harpswell, in a southwesterly direction to the nearest point of land and to include all of Card Cove, Harpswell.

6. Beals-Jonesport Bridge

Eastern boundary: West of a line drawn from the most eastern tip of Perio Point, Beals to OW Look's wharf, Jonesport.

Western boundary: East of the Jonesport-Beals Bridge.

7. 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.
8. East Moosabec Reach Limited Access Area

Eastern boundary: Inside and west of a line starting at the eastern tip of Kelley Point, Jonesport and running southwesterly to the eastern tip of Pig Island; and, continuing southwesterly to the northeastern tip of Great Wass Island.

Western boundary: East of the Jonesport Bridge.
9. Upper Chandler Bay within the Chandler Bay/Head Harbor Rotational Area

Southern boundary: North of a line starting at the southern tip of Bonney Point, Roque Island and running southwesterly to the southern tip of Ballast Island; continuing southwesterly to Natt Point, Jonesport.
10. ~~Upper Narraguagus Bay within the~~ Narraguagus/Pigeon Hill Bay Rotational Area

~~North of a line starting at the southern tip of Flint Island and running southerly to the R-N "2" buoy, and continuing westerly to the southern tip of Bois Bubert Island; and, continuing north along the eastern shore of Bois Bubert Island to the northern tip and running north to Tom Leighton Point, Milbridge.~~

Eastern boundary: South and West of a line starting at Strout Point in the town of Milbridge to the most northern tip of Foster Island in the town of Milbridge then The most southeastern tip of Fosters Island to the most northern tip of Dyers Island; continuing from southern tip of Dyers Island to the most northwestern tip of Flint Island and the most southwestern tip of Flint Island then running True South to the three mile limit.

Western boundary: North and East 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.
11. Cobscook, Whiting & Dennys Bays

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.

Eastern boundary: West of the international maritime boundary line.

Southern boundary: North and west of the International Bridge between Lubec and Campobello Island.

Exception: Harvest by drag only may occur on Monday, February 20, 2023 within Whiting and Denny's Bay Limited Access Area.
12. Lower Blue Hill Bay/Jericho Bay Rotational Area

Eastern boundary: North and West of a line from the southern most tip of Lopaus Point to the northern most point of Black Island; continuing from the western most tip of Black Island to the northern most tip of Swans Island Head.

Western boundary: North and East of the line from the most southeastern point of Naskeag Point, Brooklin to the northern most tip of Swan's Island Head, Swan's Island.

Northern boundary: South of a line drawn from the 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.

11.09 Limited Access Areas

It shall be unlawful to fish for, take, or possess scallops taken by any method within any of the following Limited Access Areas except by divers on November 18, 2022; December 2, 3, 9, 10, 16, 17, 23, 24, 30 and 31, 2022 for areas 1, 3 and 5 in Zone 1; and, December 3, 10, 17, 24 and 31, 2022; January 7, 14, 21, and 28, 2023; February 4, 11, 18 and 25, 2023 and March 4 and 11, 2023 for area 4 in Zone 3. All directions are relative to True north (not magnetic).

It shall be unlawful to fish for, take, or possess scallops taken by any method within any of the following Limited Access Areas except by draggers on January 2, 9, 16, 23 and 30, 2023; February 6, 13, 20 and 27, 2023 and March 6 and 13, 2023 in areas 1, 3, and 5 in Zone 1; and, December 5, 12, 19, and 26, 2022; January 2, 9, 16, 23 and 30, 2023; and February 6, 13, 20 and 27, 2023 in area 2 in Zone 2; and December 5, 12, 19, and 26, 2022; January 2, 9, 16, 23 and 30, 2023; February 6, 13, 20 and 27, 2023; and March 6, 13 and 20, 2023 in area 4 in Zone 3. All directions are relative to True north (not magnetic).

Transiting exception:

Any vessel possessing scallops onboard, may transit these Limited Access Areas, 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.

The Commissioner may close harvesting for the remainder of the season in the Limited Access Areas listed below through emergency rulemaking if the Department has information that indicates there is a likelihood that between 30 percent and 40 percent of the harvestable biomass has been removed.

1. Western Casco Bay

Western boundary: East of a line drawn from the most southwestern point of Basin Point (Harpswell) to the northern tip of Jewell Island.

Eastern boundary: North and west of a line starting at the southeastern tip of Jewell Island and running northeasterly to R N "2" at Eastern Drunkers Ledge, then continuing 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.

2. Western Penobscot Area:

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 and then from the west shore of Mosquito Island to the most southern tip of Marshall Point, Port Clyde.

~~3. Whiting Bay and Denny's Bay Area:~~

~~It shall be unlawful to fish for or take scallops and or urchins west 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 Denny's Bay.~~

3.4. 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.

11.10 Cobscook Bay Limits and Restrictions

1. Cobscook Bay.

A. Shellstock ratio to meat count.

For the purposes of 12 M.R.S. §6728, one and a half bushels of shellstock shall be equal to one gallon of scallop meat.

B. Daily harvest and possession limits.

(1) Daily Harvest and Possession Limit for Individuals Issued a License under §6702 or 6302-A for scallop dragging

Except as allowed pursuant to Chapter 11.19(2), it is unlawful to fish for, take or possess more than 10 gallons of scallop meat or any aggregate of meat and shellstock, which is greater than the equivalent of 10 gallons of meat per day per vessel.

(2) Daily Harvest and Possession Limit for Individuals Issued a License under §6701 or 6302-A for scallop diving

It is unlawful for an individual licensed under §6701 or 6302-A for scallop diving to fish for, take or possess more than 10 gallons of scallop meat or any aggregate of meat and shellstock, which is greater than the equivalent of 10 gallons of meat per day.

C. Daily limit.

Any vessel which has taken scallops within the restricted area of Cobscook Bay, as defined by 12 M.R.S. §6728(1), may not land scallops and return to fishing for scallops within that restricted area on the same day. It is unlawful to transfer to or receive from another vessel any scallop shellstock or scallop meats.

D. Harvester Meat Count

Except as allowed pursuant to Chapter 11.19(2), no vessel or person may take, possess or transfer shucked scallops which measure more than 35 meats per 16 oz. certified measure from or within the Cobscook Bay Restricted Area, as defined by 12 M.R.S. §6728 (1). The meat count shall be measured by selecting small scallop meats from the harvester's catch.

E. Limited Access Areas: See Chapter 11.09 (4)

2. Non-Cobscook Bay scallops, landing and possession restrictions.

A. Possession.

Vessels transiting or landing scallops within the restricted area of Cobscook Bay, as defined by 12 M.R.S. §6728(1), and which have been fishing exclusively outside of the restricted area may possess more than ten gallons of scallop meat or scallops which measure more than 35 meats per 16 oz. certified measure.

- B. Landing scallops harvested outside the restricted area, in Cobscook Bay.

Vessels which are transiting or landing in the restricted area and which are in possession of more than ten gallons of scallop meat or scallops measuring more than 35 meats per 16 oz. certified measure, which have been harvested outside the restricted area, may not possess any shellstock and must have all fishing gear (dredges, drags) securely stowed when transiting the restricted area.

11.11 Open and Closed Scallop Fishing Days

1. Zone 1 season for draggers

The Atlantic Sea Scallop harvesting season in Maine's territorial waters for draggers in Zone 1 is open December 12, 2022 through March 23, 2023, both days inclusive, with the following exceptions:

- A. In December 2022 fishing is prohibited on Fridays, Saturdays and Sundays.
- B. In January 2023, February 2023, and March 2023, fishing is prohibited on Fridays, Saturdays and Sundays.

2. Zone 1 season for divers

The Atlantic Sea Scallop harvesting season in Maine's territorial waters for divers in Zone 1 is open November 15, 2022 through April 29, 2023, both days inclusive, with the following exceptions:

- A. Fishing is prohibited in the month of November 2022 except on days 15, 16, 17, 18, 19, 22, 23, 25, 26 and 30, 2022. In the month of December 2022 fishing is prohibited on Sundays, Mondays, and Tuesdays.
- B. Fishing is prohibited in the months of January 2023 and February 2023.
- C. In the month of March 2023, fishing is prohibited on Sundays, Mondays, Tuesdays, and Wednesdays.
- D. In the month of April 2023, fishing is prohibited on Sundays, Mondays and Tuesdays.

3. Zone 2 season for draggers

The Atlantic Sea Scallop harvesting season in Maine's territorial waters for draggers in Zone 2 is open December 1, 2022 through March 30, 2023, both days inclusive, with the following exceptions:

- A. In December 2022, fishing is prohibited on Fridays, Saturdays and Sundays, except for Friday, December 16, 2022 which shall be open.
- B. In January 2023, February 2023, and March 2023, fishing is prohibited on Fridays, Saturdays and Sundays.

4. Zone 2 season for divers

The Atlantic Sea Scallop harvesting season in Maine's territorial waters for divers in Zone 2 is open November 17, 2022 through April 22, 2023, both days inclusive, with the following exceptions:

- A. In the month of November 2022, fishing is permitted on days 17, 18, 19, 22, 23, 25 and 26, 2022. December 2022, fishing is prohibited on Sundays, Mondays, Tuesdays and Wednesdays.
- B. In the month of January 2023, February 2023, March 2023 and April 2023 fishing is prohibited on Sundays, Mondays, Tuesdays, and Wednesdays.

5. Zone 2 State Waters season

The Atlantic Sea Scallop harvesting season in Maine's territorial waters around Machias Seal Island and North Rock is open December 1, 2022 through March 31, 2023, both days inclusive.

6. Zone 3 season for draggers

The Atlantic Sea Scallop harvesting season in Maine's territorial waters for draggers in Zone 3 is open December 5, 2022 through March 28, 2023, both days inclusive, with the following exceptions:

- A. Fishing is prohibited on Thursdays, Fridays, Saturdays and Sundays in the month of December 2022.
- B. Fishing is prohibited on Thursdays, Fridays, Saturdays and Sundays in the months of January 2023, February 2023 and March 2023.

7. Zone 3 season for divers

The Atlantic Sea Scallop harvesting season in Maine's territorial waters for divers in Zone 3 is open December 1, 2022 through April 29, 2023, both days inclusive, with the following exceptions:

- A. Fishing is prohibited on Sundays, Mondays, Tuesdays and Wednesdays in the month of December 2022.
- B. Fishing is prohibited on Sundays, Mondays, Tuesdays and Wednesdays in the months of January 2023, February 2023.
- C. Fishing is prohibited on all days in March, except for March 2, 3, 4, 9, 10 and 11, 2023. Fishing is prohibited on all days in April, except for April 1, 8, 15, 22 and 29, 2023.

11.12 Ten (10) Year Rotational Management Plan

All areas in the First Rotation as described in 11.12(1)(A) are open to all individuals issued a license under §6701 or 6302-A for scallop diving only.

All areas in the Second Rotation as described in 11.12(1)(B) are open to individuals issued a license under §6702 or 6302-A for scallop dragging.

All areas in the Third Rotation as described in 11.12(1)(C) are closed to harvest during the 2022-2023 scallop season.

1. Zone Two (2): Eastern Maine

A. First Rotation

All directions are relative to True North (not Magnetic unless specified as such).

Transiting exception:

Any vessel possessing scallops onboard, may transit these closed areas, only if the vessel has all fishing gear (dredges, drags) 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.

(1) The Bold Coast

Eastern boundary: South and West of a line drawn from the international bridge that connects Lubec to Campobello Island, New Brunswick, Canada.

Western boundary: North and East of a line starting at the most western tip of Jim's Head in the town of Trescott and True south to the three mile limit.

(2) Little Kennebec/Englishman Bay:

Eastern boundary: South and West of a line starting at Bucks Head, Machiasport proceeding East to the southern end of Northwest Head on Cross Island then True South to the three mile limit.

Western boundary: East and South of a line starting at the most northeastern point of Great Head, Roque Island then northeast to the most southern end of Shoppee Point, Roque Bluffs and from the eastern tip of Great Spruce Island to the day board at East Black Rock 'RW Bn', and then True South to the three mile limit, including Roque Island harbor however not to include the Thoroughfare between Roque Island and Great Spruce Island.

(3) Addison

Eastern boundary: South and West 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.

Western boundary: East and South of a line starting at Strout Point in the town of Milbridge to the most northern tip of Foster Island in the town of Milbridge then the most southeastern tip of Fosters Island to the most northern tip of Dyers Island; continuing from southern tip of Dyers Island to the most northwestern tip of Flint Island and the most southwestern tip of Flint Island then running True South to the three mile limit.

(4) Frenchman's Bay

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

Western boundary: East and North of a line starting at the most eastern end of Otter Point, Mount Desert Island continuing SE (135°) to the three mile limit at Latitude 44 16.080 N Longitude 68 07.919 W.

(5) Swan's Island

Eastern boundary: South and West of a line starting at Bass Harbor Head then in a southeast direction to the most easterly Point of Great Gott Island continuing on True South to the three mile limit.

Western boundary: East and South of a line from the southern most tip of Lopaus Point to the northern most point of Black Island; continuing from the western most tip of Black Island to the northern most tip of Swans Island Head, Swans Island; continuing South from West Point, Swans Island to Long Point, Marshall Island; then East of a line from the southwestern most tip of Lower Head, Marshall Island running True South to the three mile limit.

(6) Isle Au Haut Bay

Eastern boundary: South and West of a line starting at Moose Island, Deer Isle, to the western most point of Farrel Island, then True South to the three mile limit.

Western boundary: South of a line starting at the southern most point of Stinson Point, Deer Isle west to Mullen Head, North Haven; then East of a line starting at Fish Point, North Haven to Calder Wood Point on Calderwood Neck, Vinalhaven; continuing from the southern most point of Lane Island, Vinalhaven, True South to the three mile limit.

(7) Upper Penobscot Bay

Eastern boundary: Northwest of a line from Deer Isle bridge and the most southwestern point of Little Deer Isle to the most northern point of Pickering Island, then to the most eastern tip of Dark Harbor, Islesboro; continuing on from Grindel Point, Islesboro due West to the Sea Urchin Zone line at Latitude 44 16.913 N Longitude 68 58.508 W.
Western boundary: East of the Sea Urchin Zone Line.

(8) Outer Islands (Machias Seal Island and North Rock)

Territorial waters surrounding Machias Seal Island and North Rock.

B. Second Rotation

All directions are relative to True North (not Magnetic unless specified as such).

Transiting exception:

Any vessel possessing scallops onboard, may transit these closed areas, only if the vessel has all fishing gear (dredges, drags) 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.

(1) The Cutler Shore

Eastern boundary: South and West of a line starting at the most western tip of Jim's Head in the town of Trescott and South to the three mile limit.

Western boundary: North and East of a line drawn South from Western Head, Cutler to the three mile limit.

(2) Chandler Bay/Head Harbor Island

Eastern boundary: North and West a line starting at the most northeastern point of Great Head, Roque Island then northeast to the most southern end of Shoppee Point, Roque

Bluffs and from the eastern tip of Great Spruce Island to the day board at East Black Rock 'RW Bn', and then True South to the three mile limit, including the Thoroughfare between Roque Island and Great Spruce Island.

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

(3) Narraguagus/Pigeon Hill Bay

Eastern boundary: South and West of a line starting at Strout Point in the town of Milbridge to the most northern tip of Foster Island in the town of Milbridge then The most southeastern tip of Fosters Island to the most northern tip of Dyers Island; continuing from southern tip of Dyers Island to the most northwestern tip of Flint Island and the most southwestern tip of Flint Island then running True South to the three mile limit.

Western boundary: North and East 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.

(4) Cranberry Isle Area

Eastern boundary: South and West of a line starting at the most eastern end of Otter Point, Mount Desert Island continuing SE (135°) to the three mile limit at Latitude 44 16.080 N Longitude 68 07.919 W.

Western boundary: North and East of a line starting at Bass Harbor Head Light then in a southeast direction to the most easterly point on the eastern head of Great Gott Island continuing on True South to the three mile limit.

(5) Lower Blue Hill Bay/Jericho Bay

Eastern boundary: North and West of a line from the southern most tip of Lopaus Point to the northern most point of Black Island; continuing from the western most tip of Black Island to the northern most tip of Swans Island Head.

Western boundary: North and East of the line from the most southeastern point of Naskeag Point, Brooklin to the northern most tip of Swan's Island Head, Swan's Island.

Northern boundary: South of a line drawn from the 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.

(6) East Isle Au Haut Bay

Eastern boundary: West of a line from the eastern tip of Coles Head on Whitemore Neck, Deer Isle to the western most point of Millett Island, then South to Richs Point, Isle Au Haut; then from the southern tip of Eastern Head, Isle au Haut, True South to the three mile limit.

Western boundary: South and East of a line starting at Moose Island, Deer Isle, to the western most point of Farrel Island, then True South to the three mile limit

(7) Mid Penobscot Bay

Northern boundary: South of a line from the most northwestern point of Little Deer Isle to the most northern point of Pickering Island, then to the most eastern tip of Dark Harbor, Islesboro; continuing on from Grindel Point, Islesboro due West to the Sea Urchin Zone line at Latitude Latitude 44 16.913 N Longitude 68 58.508 W.

Southern boundary: North of a line starting at the southern most point of Stinson Point, Deer Isle, West to Mullen Head, North Haven AND North of a line starting at Pulpit Rock, North Haven due West to the Sea Urchin Zone line at Latitude 44 09.551 N Longitude 69 01.510 W.

(8) Outer Islands (Machias Seal Island and North Rock)

Territorial waters surrounding Machias Seal Island and North Rock.

C Third Rotation

All directions are relative to True North (not Magnetic unless specified as such).

Transiting exception:

Any vessel possessing scallops onboard, may transit these closed areas, only if the vessel has all fishing gear (dredges, drags) 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.

(1) Machias Area

North and East of a line starting at Bucks Head, Machiasport proceeding east to the southern end of Northwest Head on Cross Island then due South to the three mile limit, and West of a line drawn due south from Western Head, Cutler to the three mile limit.

(2) 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.

(3) 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^o2^o; then to G^o1^o 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 True South to the three mile limit (western boundary of the Zone A lobster management zone).

(4) 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.

(5) 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 southern most tip of Lower Head, Marshall Island running True South to the three mile limit.

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; then from the southern tip of Eastern Head, Isle au Haut, True South to the three mile limit.

(6) Eggmoggin 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.

(7) Lower Penobscot Bay & Outer Islands

Northern/Western boundary: South of a line starting at Pulpit Rock, North Haven due West to the Sea Urchin Zone line at Latitude 44 09.551 N Longitude 69 01.510 W and continuing south along the Sea Urchin Zone line to the three mile limit, encompassing the territorial waters around all the outer islands of Penobscot Bay including Matinicus Island, Ragged Island, Wooden Ball Island, Seal Island and Matinicus Rock.

Eastern boundary: West of a line starting at Calder Wood Point, Vinalhaven to Fish Point, North Haven; then West of a line from the southern most point of Lane Island, Vinalhaven, True South to the three mile limit.

(8) Outer Islands (Machias Seal Island and North Rock)

Territorial waters surrounding Machias Seal Island and North Rock.

11.13 Trigger Mechanism

The Commissioner may close any portion of Maine's territorial waters to harvesting through emergency rulemaking if the Department has information that indicates there is a likelihood that between 30 percent and 40 percent of the harvestable biomass has been removed. Such closures are established for conservation purposes, to protect the resource from unusual damage or imminent depletion.

11.14 Commercial Scallop License Limited Entry System

1. Limited Entry Procedure:
 - A. The Department shall hold two annual lotteries for commercial scallop licenses, provided that the number of licenses to be awarded as determined by the respective exit ratios is greater than zero. One lottery will be held for scallop dragging licenses issued under 12 M.R.S. §6702 and one lottery will be held for handfishing scallop or handfishing with tender license issued under 12 M.R.S §6701.
 - B. Eligible individuals wishing to enter either lottery must submit a lottery application that must be received by the Department by the date specified by the Department, for licenses to be issued in the following calendar year.
 - C. An individual is eligible to enter either the scallop dragging license lottery or the scallop handfishing or handfishing with tender license lottery, but not both, if they meet the following criteria:

- a. Is a Maine resident and 18 years of age or older;
 - b. Held in any previous calendar year or currently holds any commercial license issued under 12 M.R.S Part 9, or has in the past or currently is crewing onboard an active commercial scallop vessel;
 - c. Has not been convicted or adjudicated of a marine resources offense that resulted in a license suspension within the last 7 years; and,
 - d. Does not currently possess a license issued under 12 M.R.S. §6701 or §6702.
- D. The number of draws (chances) allotted to each eligible applicant shall be calculated by the Department.
- a. Each eligible applicant shall be awarded a minimum of one draw.
 - b. Each eligible applicant shall be awarded one additional draw for every consecutive year they enter each lottery.
- E. Before the lotteries are held the Department shall calculate the number of licenses to be awarded for that calendar year, if any.
- F. The Department shall choose individuals to whom licenses will be awarded through a random selection process. The drawing will continue until all available licenses have been awarded.
- G. The Department will verify an applicant's eligibility for the lottery and any additional chances claimed at the time the individual is drawn. If it is determined that the individual misrepresented or falsified any information on their lottery application that drawing shall be void and the Department will draw another individual.
- H. Once a list of winners has been determined, drawing will continue to establish an ordered list of alternates the same length as the list of winners.

2. Exit Ratios

- A. Drag Exit/Entry Ratio. Two individuals will be awarded license eligibility for every three individuals who held a commercial scallop drag license in the year prior to the previous calendar year but who did not renew that license in the previous calendar year. One of the licenses issued will go to an individual over the age of 18 and under the age of 31, and one of the licenses will go to an individual 31 years of age or older. If the number of persons who did not renew is greater than, but not evenly divisible by three, it shall be rounded down to the nearest number evenly divisible by three. If the number is rounded down, the non-renewed licenses in excess of that number evenly divisible by three shall be carried over to the next calendar year for consideration in that year's calculation. If the number is either one or two, the number of licenses awarded shall be zero and the one or two non-renewed license shall be carried over to the next year for consideration in that year's calculation. If the number is zero, the number of licenses awarded shall be zero.
- B. Handfishing Exit/Entry Ratio. One person will be awarded license eligibility for every one person who held a commercial scallop dive license in the year prior to the previous calendar year but who did not renew that license in the previous calendar year. If the number is zero, the number of licenses awarded shall be zero.

3. Issuing the Awarded Licenses

- A. Lottery winners will be informed in writing and mailed a license application form by the Department by registered mail. In addition, lottery winners and alternates will be announced on the Department website.
- B. Lottery winners must submit their license application, correctly completed with the correct fees and documentation to the Department within 30 days of receipt of notice, or the winner will lose their license eligibility.

- C. Any license awarded through misrepresentation or misstatement on the license lottery application shall be void.
 - D. If the winner has not complied with the requirements within 30 days, the next alternate on the list of alternates will be sent a license application and have 30 days to comply in the same manner.
4. Exit/Entry Ratio Review
- A. At a minimum of every two years, the Department shall consult the Scallop Advisory Council concerning potential adjustments to the lottery system.

Basis Statement

The Department is taking emergency rulemaking action to include targeted conservation closures in Chapter 11.08, Targeted Closures: (10) Narraguagus/Pigeon Hill Rotational Area; (11) Cobscook, Whiting & Dennys Bays; (12) Lower Blue Hill Bay/Jericho Bay Rotational Area

Narraguagus & Pigeon Bay Rotational Area

A partial closure of upper Narraguagus Bay was implemented January 8, 2023. Less than 5 vessels had continued to harvest south of the closure line with moderate success during the month of January. Currently, no vessels are active in the area due to low harvest opportunity and no additional effort should occur for the remainder of the season.

The 2022 spring scallop survey observed moderate levels of scallop biomass, with several stations highlighting hotspots of legal sized scallop resource intermixed with seed and sublegal scallops while a few nearby stations had zero scallops. Comparatively, there were more scallops observed overall during the most recent survey than in 2019. (Figure 1).

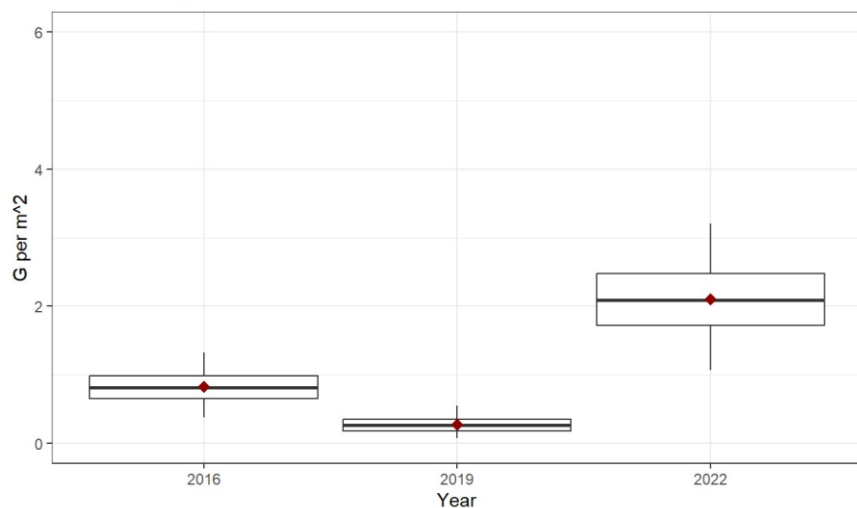


Figure 1: Box plots of scallop resource observations during the ME DMR Scallop Survey conducted Spring 2016, 2019 and 2022 for the Narraguagus Bay Rotational Area. Multiple survey stations demonstrated a relative increase in legal scallop density in 2022 when compared to the two previous surveys.

While the majority of these productive stations were harvested during the initial two months of the 2022-2023 season, additional harvesting occurred in less dense areas as well. Generally, harvester observations reported sublegal scallop were present throughout the rotational area. Conservative management of this area has aided in its recovery and a full closure of the rotational area will benefit future harvest seasons (Figure 2).

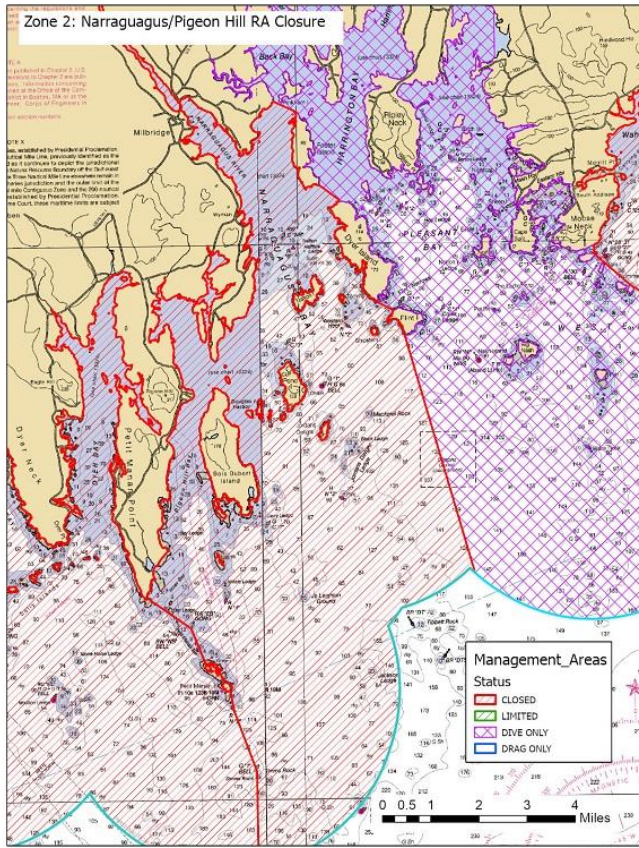


Figure 2: Chart depicts in-season conservation closure for Narraguagus/Pigeon Hill Rotational Area (Zone 2) effective Sunday, February 19, 2023.

Cobscook Bay, including Whiting & Dennys Bay

DMR pre-season scallop survey for Cobscook Bay occurred November 18-20, 2022. Overall, the survey reported a robust presence of sublegal and legal scallops. Comparison with the DMR pre-season scallop survey completed November 2021 indicated a moderate decrease in relative legal scallop density from 14.3 g/m² observed during the November 2021 survey to approximately 12.4 g/m² observed November 2022 (Figure 3). What was observed in November 2022 is similar to the pre-season abundance of legal scallops observed in November 2022.

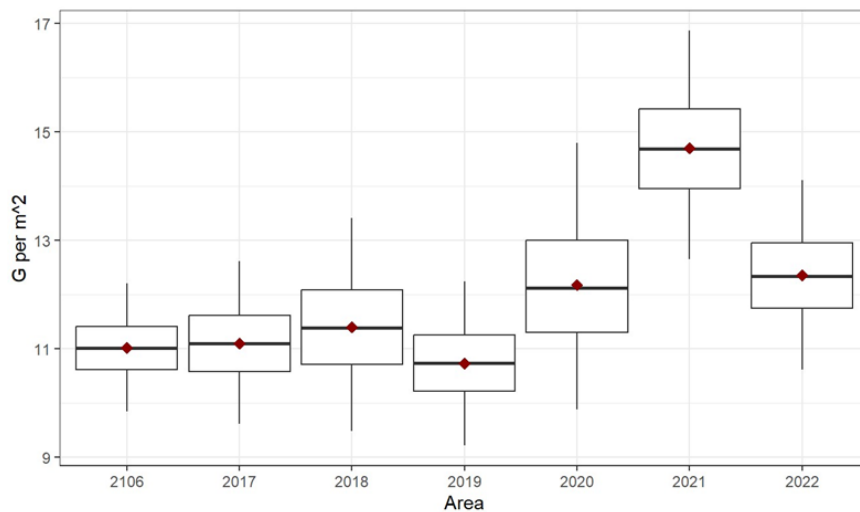


Figure 3: Box plots of scallop resource observations during ME DMR Scallop Surveys conducted Fall 2016 through 2022 in Cobscook Bay. Density of harvestable scallops peaked in the 2021-2022 season but still remained moderately high for this current 2022-2023 season.

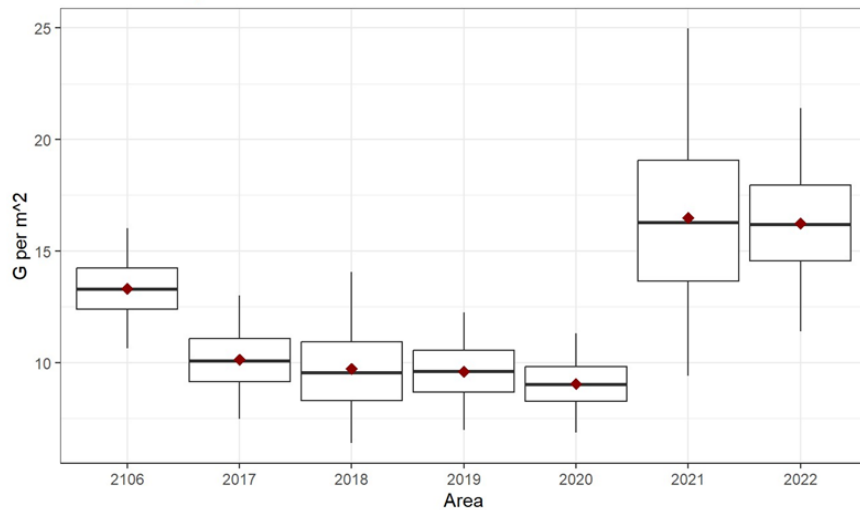


Figure 4: Box plots of scallop resource observations during ME DMR Scallop Surveys conducted Fall 2016 through 2022 for Whiting and Dennys Bays stations only. Density of harvestable scallops peaked in the 2021-2022 season and remain high for this current 2022-2023 season.

Marine Patrol has observed a steady rate of effort in the area since the 2022-2023 scallop season opened on December 5, 2022. For the first few weeks, 65 to 75 vessels were present with high catch rates and good meat size and quality. In the final week of December and early January, participation steadily increased to 100 vessels and at times, upwards of 110 vessels in early February. Weather did not hinder operations and most drag vessels were consistently harvesting for the duration of the season. As a result, total trip time to reach the 90 lb daily limit went from 1 hour to 2.5 hours in some portions of Cobscook Bay. Additionally, meat counts were on average 12-14 count per pound during the early part of the season but has decreased to an average of 18 count per pound, although some harvesters are able to find very small pockets of larger scallops sporadically.

Harvester observations concerning smaller meat counts, towing over small scallops and the increase in tow time have indicated general support for closures to occur. Dragger had 33 harvest days for the 2022-2023 season, which is the median when compared to the two previous seasons that ranged from 32 to 34 days. Harvest in this area is becoming quite stable and reliable. However, harvester observations regarding the Whiting & Dennys Limited Access Area (LAA) still indicate a sufficient abundance of legal scallops (Figure 4).

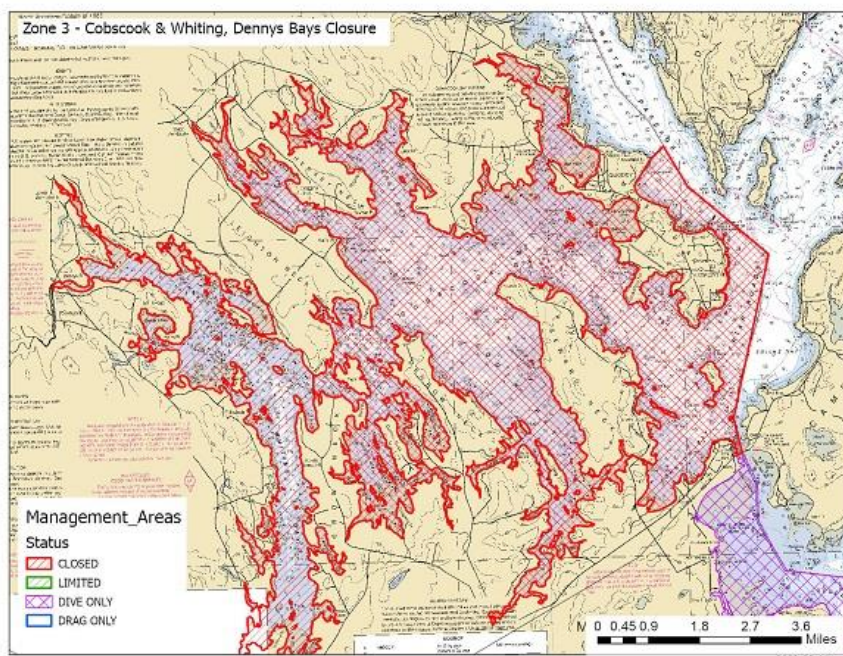


Figure 5: Chart depicts in-season conservation closure for Cobscook Bay (Zone 3) effective Sunday, February 19, 2023.

The Whiting Dennys LAA has been steadily harvested in previous seasons for 11 days but the resource has continued to grow over the last two seasons. An additional day to harvest may benefit the smaller scallops and maximize their growth potential. Additionally, the dive calendar began on December 1st and to achieve equal number of limited access days, providing drag access to Whiting & Dennys Bay LAA on February 20, 2023 would achieve that balance.

The scallop resource in Cobscook has been relatively stable in the last three seasons, and this closure occurs after 33 days of harvesting, which is on par with the previous season. This closure is necessary to prohibit further reduction of the legal spawning stock that remains in the area and to protect the high abundance of sublegal and seed scallops from any additional incidental mortality (Figure 5).

Lower Blue Hill and Jericho Bay Rotational Area

This area opened for drag harvest only on December 5, 2023 and between 12 to 16 vessels were active in the area during the month of December with a peak of 31 vessels. Catch rates were not as strong as previous years, even though legal scallop density was observed to be higher this season based on the April 2022 survey (Figure 6).

Additional observations from the spring survey did not indicate any significant abundance of seed or sublegal presence of scallops (Figure 7). This area was open for the full 70 days during the 2019-2020 season with a peak of 40 boats harvesting, however, it would be imperative to ensure some level of legal standing stock remain in the area to encourage recruitment and recovery for future seasons. During the last few weeks of January, less than 5 harvesters have been active in the area and recently have left to seek more efficient harvesting in other areas.

This closure is necessary to prohibit the reduction of the remaining legal broodstock scallop resource to allow for the maximum potential of recovery in this area for future seasons (Figure 8).

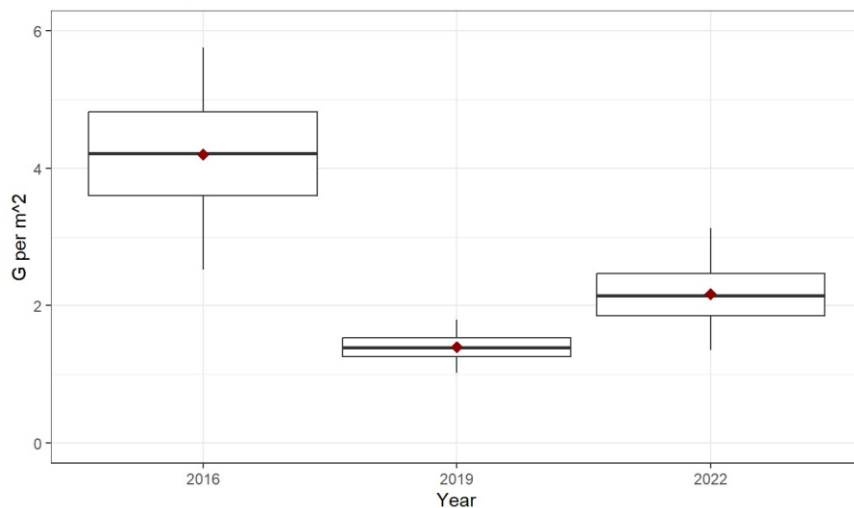


Figure 6: Box plots of scallop resource observations during the ME DMR Scallop Survey conducted Spring 2016, 2019 and 2022 for the Lower Blue Hill and Jericho Bays Rotational Area. There was a slight increase in overall legal scallop abundance for the upcoming 2022-2023 season compared to the previous open season of 2019-2020.

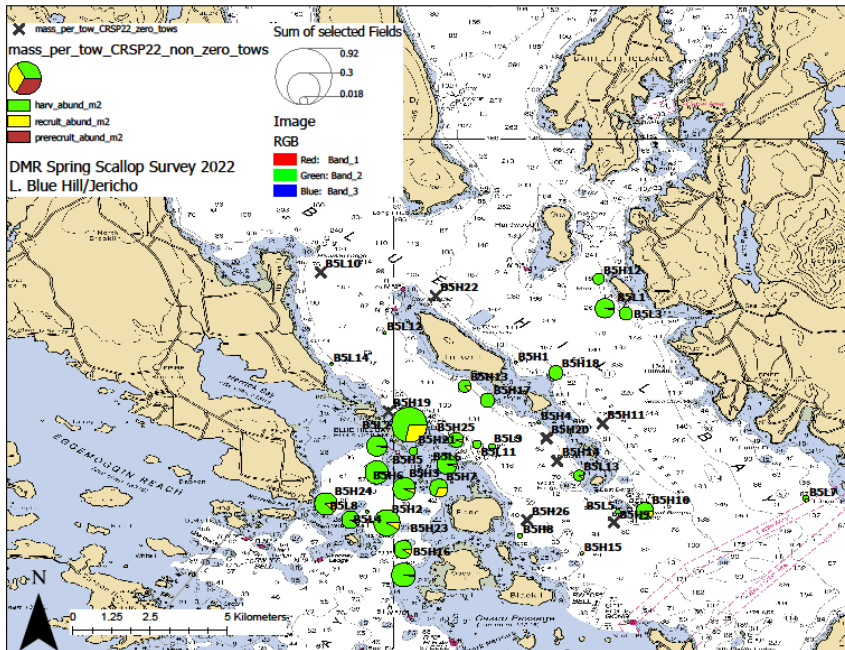


Figure 7: Bubble plots of scallop resource observations during the ME DMR Scallop Survey conducted Spring 2022 for the Lower Blue Hill and Jericho Bays Rotational Area. There was a slight increase in overall legal scallop abundance for the upcoming 2022-2023 (green portion) but the survey did not observe any significant amount of seed or sublegal scallop abundance (red or yellow portion).

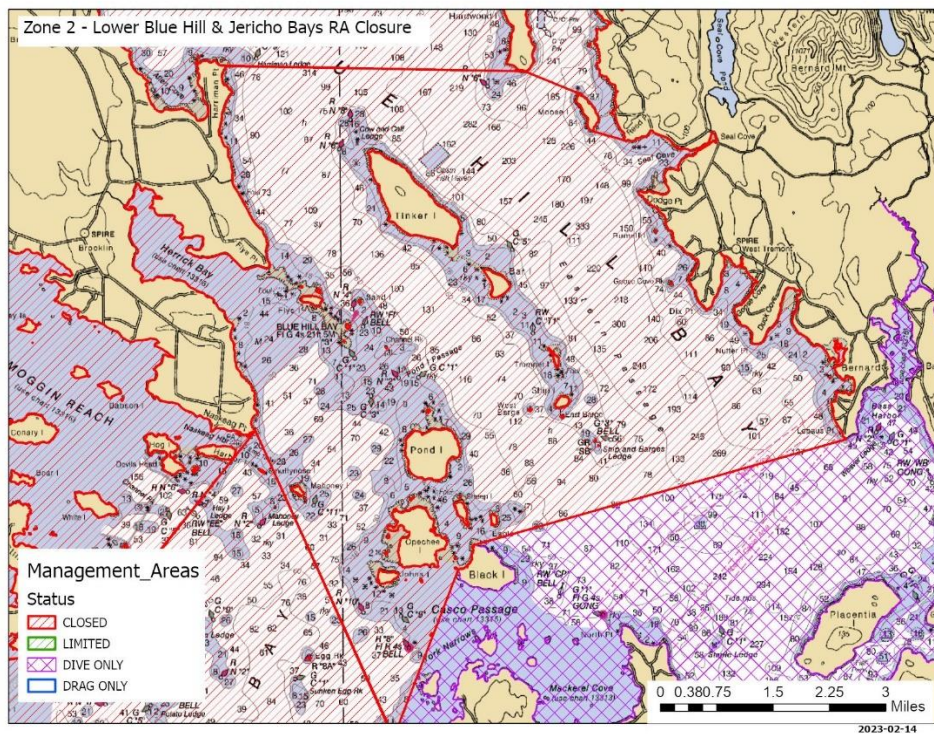


Figure 8: Chart depicts in-season conservation closure for Lower Blue and Jericho Bays Rotational Area (Zone 2) effective Sunday, February 19, 2023.

In summary, the Department is concerned that continued harvesting for the remainder of the 2022-2023 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2022 Scallop surveys that are essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in Narraguagus/Pigeon Hill and Lower Blue Hill/Jericho Bays Rotational Areas (Zone 2) and Cobscook, Whiting and Dennys Bays in Zone 3.

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)(A).

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.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Melissa Smith, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 441-5040; E-mail: Melissa.Smith@maine.gov, web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: **Chapter 11.08, Targeted Closures: (10) Narraguagus/Pigeon Hill Rotational Area; (11) Cobscook, Whiting & Dennys Bays; (12) Lower Blue Hill Bay/Jericho Bay Rotational Area**

STATUTORY AUTHORITY: **12 M.R.S. §6171(3)(A)**

DATE AND PLACE OF PUBLIC HEARING: NA; Emergency Rulemaking

COMMENT DEADLINE: NA; Emergency Rulemaking

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

The Commissioner adopts this emergency rulemaking to establish scallop conservation closures in the Narraguagus/Pigeon Hill and Lower Blue Hill/Jericho Bays Rotational Areas (Zone 2) and Cobscook, Whiting and Dennys Bays in Zone 3. The Department is concerned that continued harvesting for the remainder of the 2022-2023 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2022 Scallop surveys that are essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in four important scallop harvest areas.

MATERIAL INCORPORATED BY REFERENCE IN THE RULE? YES NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

The adopted rule(s) seek to maintain the recovery of the scallop resource within the State of Maine. The rule is intended to have a long-term positive impact on the scallop fishery.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]

Input from DMR science staff, Maine Marine Patrol, and scallop industry members along with landing reports and scallop survey data streams.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

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

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[*see* §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [*see* §8057-A(2)(B)]

BENEFITS OF THE RULE: [*see* §8057-A(2)(C)]

Note: If necessary, additional pages may be used.