

Department of Marine Resources
NOTICE OF AGENCY RULE-MAKING ADOPTION

CHAPTER NUMBER AND TITLE: Chapter 11.10(1)(H)(11) Atlantic Sea Scallop Limitations, Closed Areas, East Bay and South Bay Areas, Emergency regulations

CONCISE SUMMARY: The Commissioner adopts this emergency rulemaking for a conservation closure in East and South Bay of Cobscook Bay to protect Maine's scallop resource due to the risk of unusual damage and imminent depletion of the scallop resource. The Department is concerned that unrestricted harvesting during the remainder of the 2011/2012 fishing season may deplete a severely diminished resource beyond its ability to recover. A public hearing will be held in the affected area if requested of the Commissioner in writing by 5 persons. The hearing will be held within 30 days of the Commissioner receiving the written requests.

EFFECTIVE DATE: January 2, 2012

AGENCY CONTACT PERSON: Trish De Graaf (207-624-9554)
Mail written comments to: : Department of Marine Resources, attn: Regulations Officer, SHS 21
Augusta, Maine 04333-0021

WEB SITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL: Trisha.DeGraaf@maine.gov

FAX: (207) 624-6024

TTY: (207) 633-9500 (Deaf/Hard of Hearing)

Adopted emergency regulations: Chapter 45, Shrimp - *see underlined or deleted text below:*

Chapter 11 Scallops

11.10 Atlantic Sea Scallops Limitations

1. Size, Harvesting and Conservation Zone Regulations

H. Closed Areas

(11) East Bay and South Bay Areas:

Western Boundary: The western end of Mahar Point, Pembroke, due south to the nearest point of land on Crow Neck, Trescott.

Eastern Boundary: A straight line from the tip of Birch Point, Perry to the nearest point of land on the northern tip of Gove Point, Lubec.

Basis Statement

**Chapter 11.10(1)(H)(11) Atlantic Sea Scallop Limitations, Closed Areas,
East Bay and South Bay Areas, Emergency regulations**

Justification:

Maine scallop landings have declined precipitously from a peak of nearly 4 million pounds in 1980-1981 to less than a half million pounds each year since 2001 (Figure 1). DMR began a dredge-based fishery-independent survey of the state scallop resource in 2002. Coast wide surveys in 2002 and 2003 found the resource to be healthiest in Cobscook Bay and small portions of eastern Maine, with patchy and poor abundance along the rest of the coast. 2006 and 2007 surveys indicated Cobscook Bay had by far the highest scallop density in the state with the 2010 survey recording the highest amount of harvestable biomass yet observed for this area; it is the only area exhibiting relatively high scallop production in recent years. Because of this relative abundance, the fishery in Cobscook Bay has been intensive with over 100 boats participating in some years. DMR increased its port sampling effort over the past four fishing seasons to gather information on catch per unit of effort and size of scallop meats landed. In December of 2011, meat counts recorded in the port sampling program were approximately 28 meats per pound (Figure 2). In comparison, scallops sampled early in the 2010/11 season averaged approximately 20 meats per pound (Figure 3). Therefore, the current seasons' meat count is higher than average which is supported by Marine Patrol violations and industry anecdotal reports of averages for some harvesters as high as 55 and 41 meats per pound respectively.

In the previous two years, harvester landings data indicated that the majority of boats in Cobscook Bay landed at or near the 135 lb. daily limit throughout first three weeks of the fishery, with catches dropping off by January (Figure 4 & 5). In December of 2011, the decline came far more rapidly; on the 3rd day of the season (12/19/11) only 44% of 16 boats sampled were landing at or near (≥ 125 lbs.) their daily limit, with a mean catch weight of 103.8 lbs (Figure 6). Directly following the opening of the season, the Department began to receive calls from concerned fishermen that Cobscook Bay could not sustain continued fishing pressure this season, and that the area should be closed until the following season. The catch weights for the start of the 2011/12 are similar to those landed in the 2008/09 season, which resulted in a partial shut down of the fishery for the second half of that season (Figure 7). Anecdotal information suggests much of what is left in Cobscook Bay is sublegal. This is supported by 2010 survey data, which showed the largest abundance of seed (<2½ in. shell height; 36-40 mm) ever surveyed for this area, a 120% increase over 2009. Size frequency data from the 2010 survey indicated a large peak at 61-70 mm (sublegal) shell height in Cobscook Bay (Figure 8). If allowed to mature, these sublegal scallops should recruit to the fishery between 2011 and 2012. However continued fishing pressure may threaten this potential recruitment.

Scallop populations throughout the state, including Cobscook Bay, are at extremely low levels. The Department is concerned that unrestricted harvesting during the remainder of the 2011/2012 fishing season may deplete a severely diminished resource beyond its ability to recover. Continued harvesting may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the broodstock essential to a recovery. These concerns were also expressed by fishermen in attendance at an emergency public meeting held December 27th in Whiting to collect additional information regarding what they were seeing. Significant immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For this reason, the Acting Commissioner has enacted the emergency closures outlined in these regulations to protect Maine’s scallop resource from unusual damage and imminent depletion.

The Acting Commissioner hereby adopts an emergency closure of Maine’s scallop fishery due to the risk of unusual damage and imminent depletion of the scallop resource. As authorized by [12 M.R.S.A. §§6171, 6171\(3\) and 6192\(4\)](#) the Acting Commissioner of Marine Resources adopts this emergency regulation.

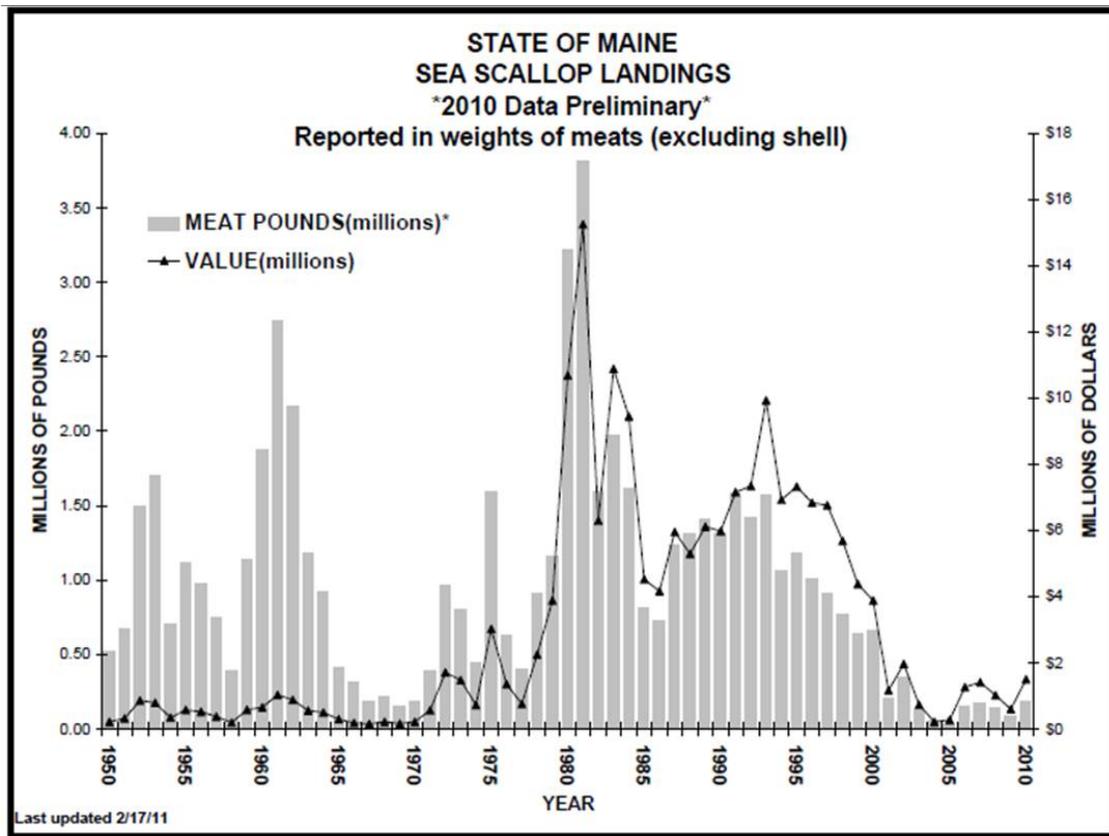


Figure 1. Maine scallop landings from 1950 to 2010.

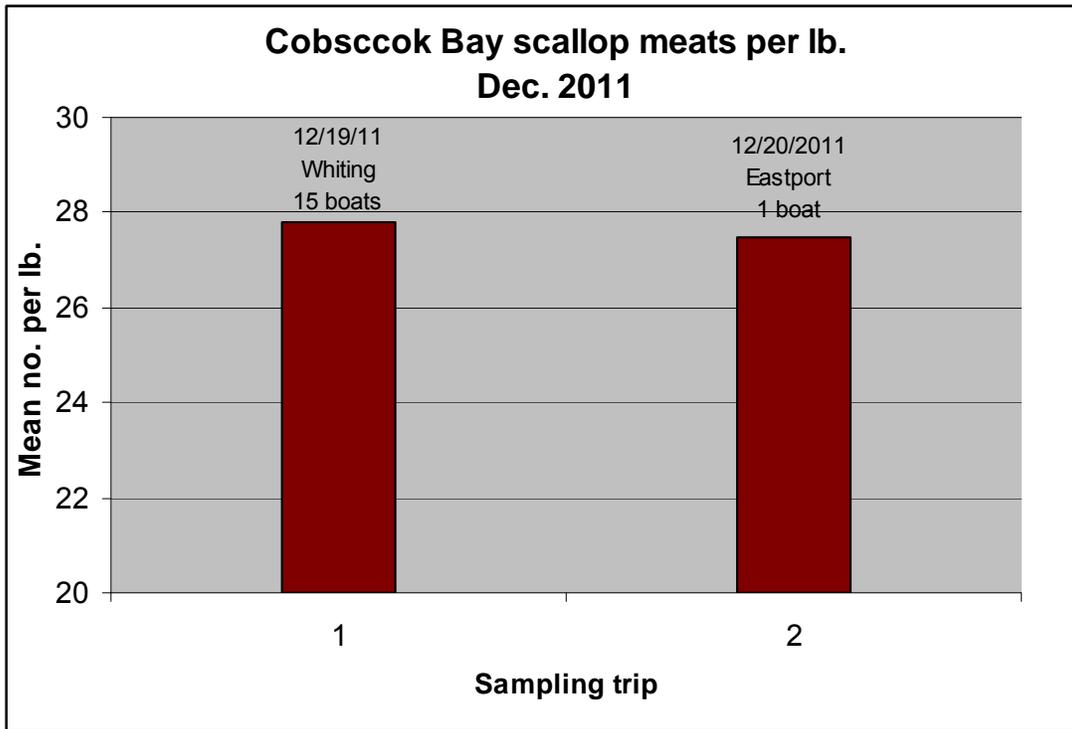


Figure 2. Mean number per lb. of scallops sampled from Cobscook Bay vessels on 12/19/11 and 12/20/11.

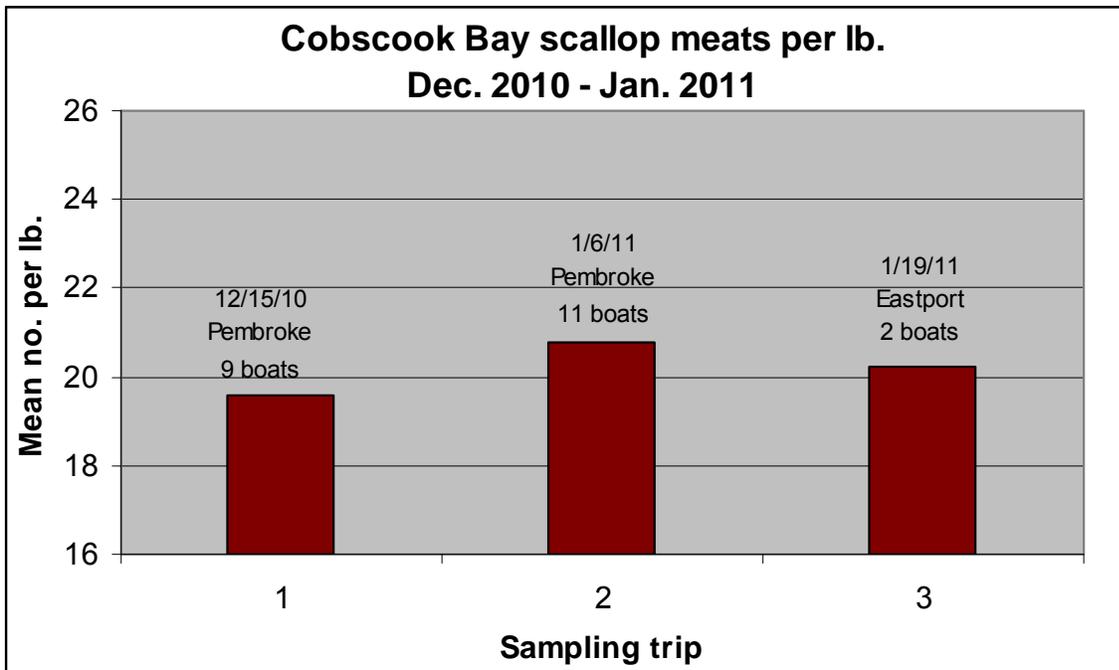


Figure 3. Mean number per lb. of scallops sampled from Cobscook Bay vessels on 12/15/10 (Pembroke), 1/6/11 (Pembroke) and 1/19/11 (Eastport).

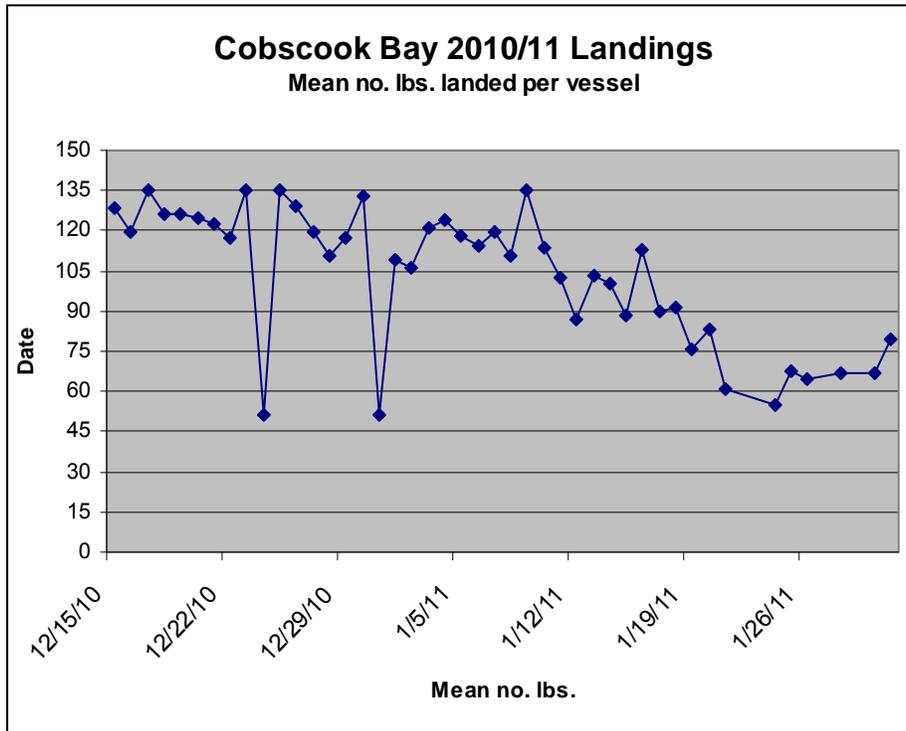


Figure 4. Mean number of lb. of scallops landed from Cobscook Bay vessels in the 2010/11 season.

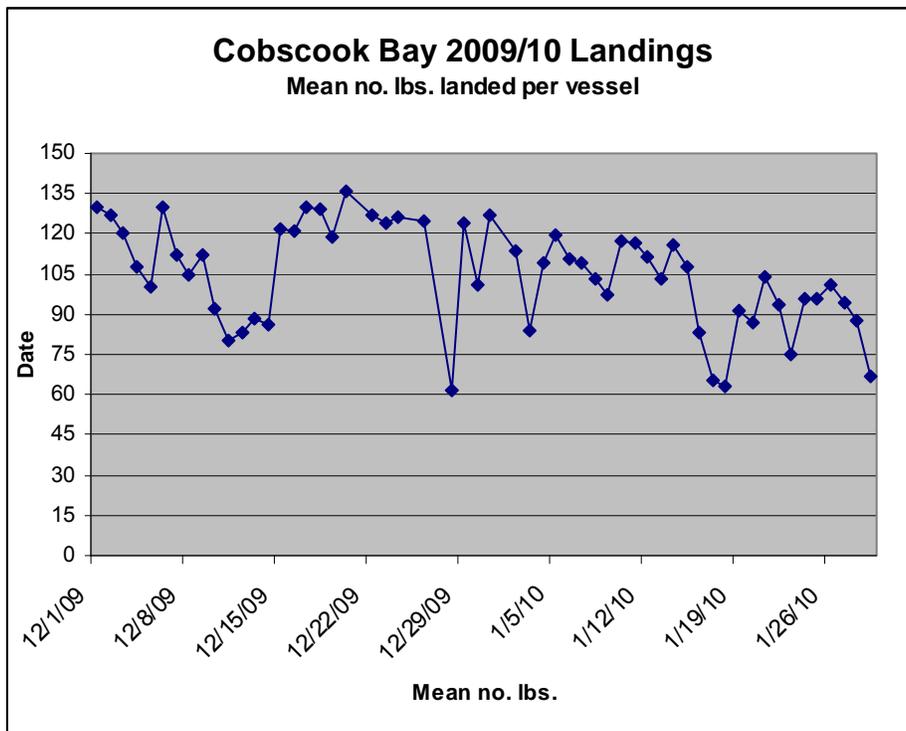


Figure 5. Mean number of lb. of scallops landed from Cobscook Bay vessels in the 2009/10 season.

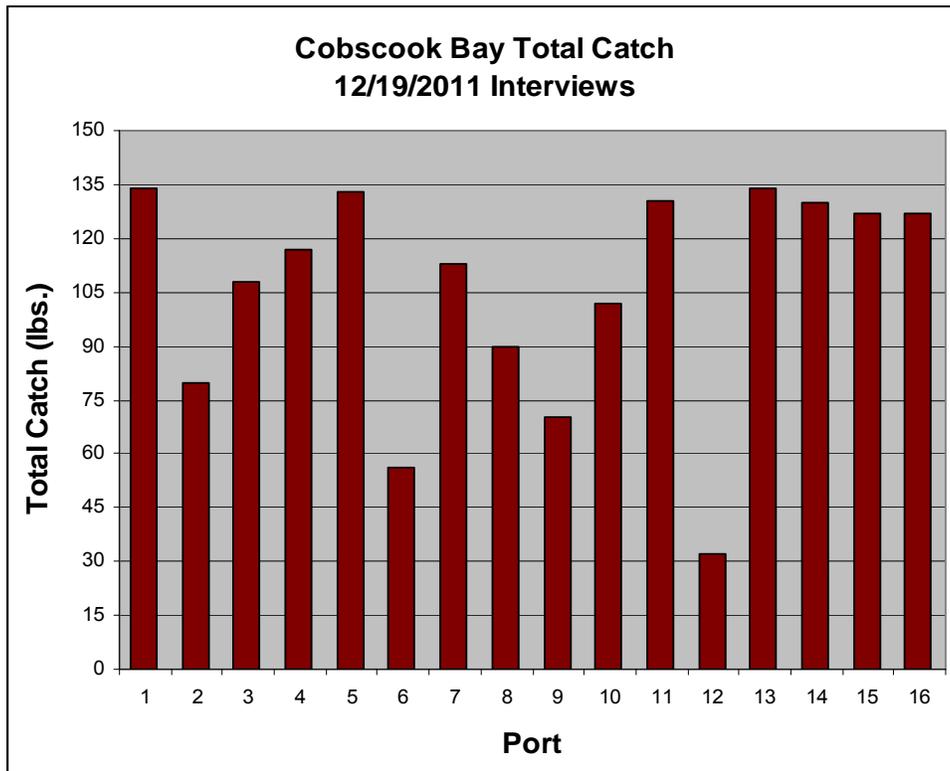


Figure 6. Total catch in lbs. of scallops landed from Cobscook bay reported in port sampling interviews conducted on 12/19/11.

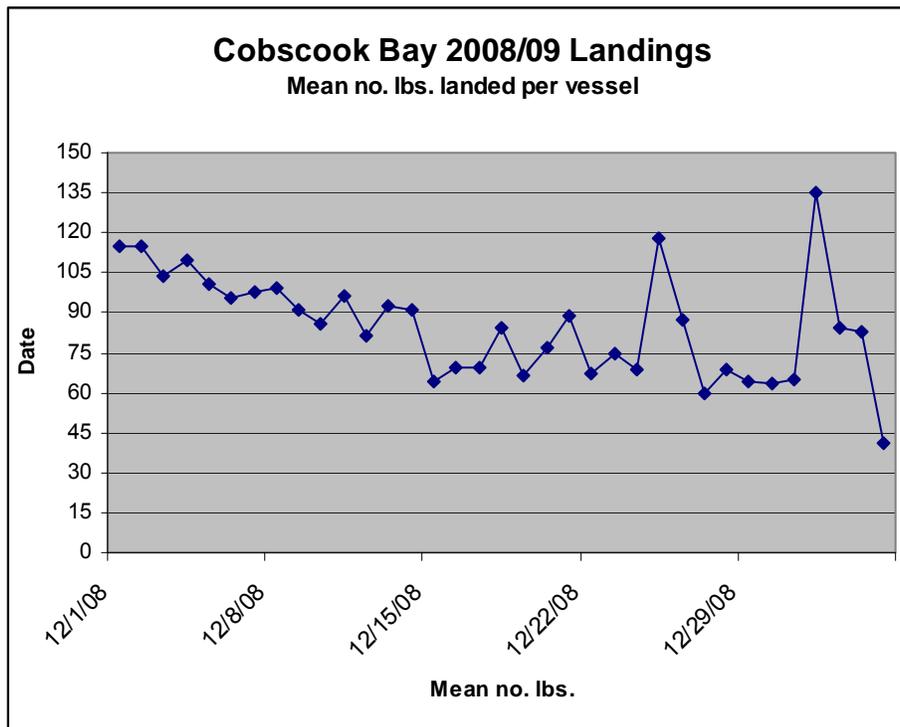


Figure 7. Mean number of lb. of scallops landed from Cobscook Bay vessels in the 2008/09 season before the fishery was shut down.

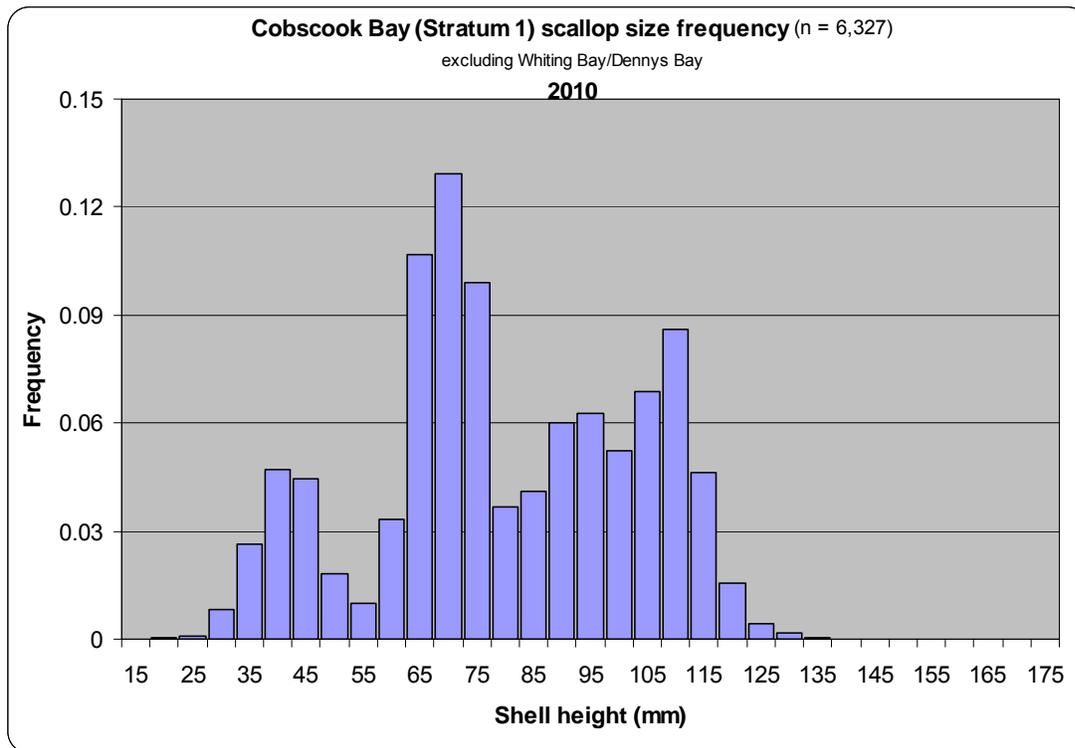


Figure 8. Size frequency (5 mm increments) of scallops in Cobscook Bay, 2010. The 4" minimum shell height is equal to 101.6 mm.