

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Marine Resources  
123 Kings Park Blvd. (Nissequogue River State Park), Kings Park, NY 11754  
P: (631) 444-0430 | F: (631) 444-0434 | FW.marine@dec.ny.gov  
www.dec.ny.gov

SPECIAL NOTICE TO ALL SHELLFISH HARVESTERS IN  
THE TOWN OF EAST HAMPTON

NOTICE OF CHANGES TO THE SANITARY CONDITION OF SHELLFISH LANDS IN AND  
ADJACENT TO THE TOWN OF EAST HAMPTON, SUFFOLK COUNTY, NEW YORK

The New York State Department of Environmental Conservation, Shellfisheries Section (Department) has determined that water quality in portions of Montauk Lake, Three Mile Harbor, Hog Creek, Napeague Bay, and Accabonac Harbor adjacent to the Town of East Hampton has changed, requiring reclassification to protect public health. The Department has also determined that it was necessary to make technical changes to improve enforcement and readability of the regulations in portions of Montauk Harbor, Three Mile Harbor, Hog Creek, Fresh Pond, Napeague Bay, Northwest Harbor, Northwest Creek, Accabonac Harbor and Georgica Pond.

Due to these determinations, the Department has filed a Notice of Emergency Adoption and Proposed Rulemaking to amend Title 6 of the New York Code of Rules and Regulations, Part 41.3, "Sanitary Condition of Shellfish Land," in Suffolk County.

~~~~~  
**Highlights of changes are:**

**Montauk Lake:**

- 57-acres of Montauk Lake had the existing seasonal closure dates shortened from April 1 through December 14 to May 1 through October 31.
- 4-acres near Star Island were downgraded from seasonally uncertified May 1 through November 30 to uncertified year-round.

**Three Mile Harbor:**

- 11-acres of Sunset Cove were downgraded from certified year-round and seasonally uncertified May 15 through October 15 to seasonally uncertified from May 1 through November 30.
- Less than 1-acre of Three Mile Harbor was downgraded from certified year-round to seasonally uncertified April 1 through November 30.
- Less than 1-acre of Hands Creek was downgraded from seasonally uncertified April 1 through November 30 to uncertified year-round.
- 3-acres of Three Mile Harbor near Hands Creek were downgraded from certified year-round to seasonally uncertified April 1 through November 30.

**Hog Creek:**

- 2 acres were upgraded from seasonally uncertified May 1 through November 30 to certified year-round.
- Less than 1 acre was upgraded from uncertified year-round to seasonally uncertified May 1 through November 30.
- 2.5 acres near Lion Head Beach Marina were downgraded from certified year-round and seasonally uncertified May 15 through October 15 to seasonally uncertified May 1 through November 30.

**Napeague Bay:**

- 24-acres near Devon Yacht Club were downgraded from certified year-round to seasonally uncertified from May 1 through November 30.

**Accabonac Harbor:**

- 17-acres of northern Accabonac Harbor were downgraded from certified year-round to seasonally uncertified May 1 through November 30.

- 10-acres near Merrill Lake Sanctuary were downgraded from certified year-round to seasonally uncertified May 1 through November 30.
- 1-acre near Sage Island was upgraded from seasonally uncertified May 1 through November 30 to certified year-round.
- 1-acre near Sage Island was downgraded from certified year-round to seasonally uncertified May 1 through November 30.

**Technical Changes:**

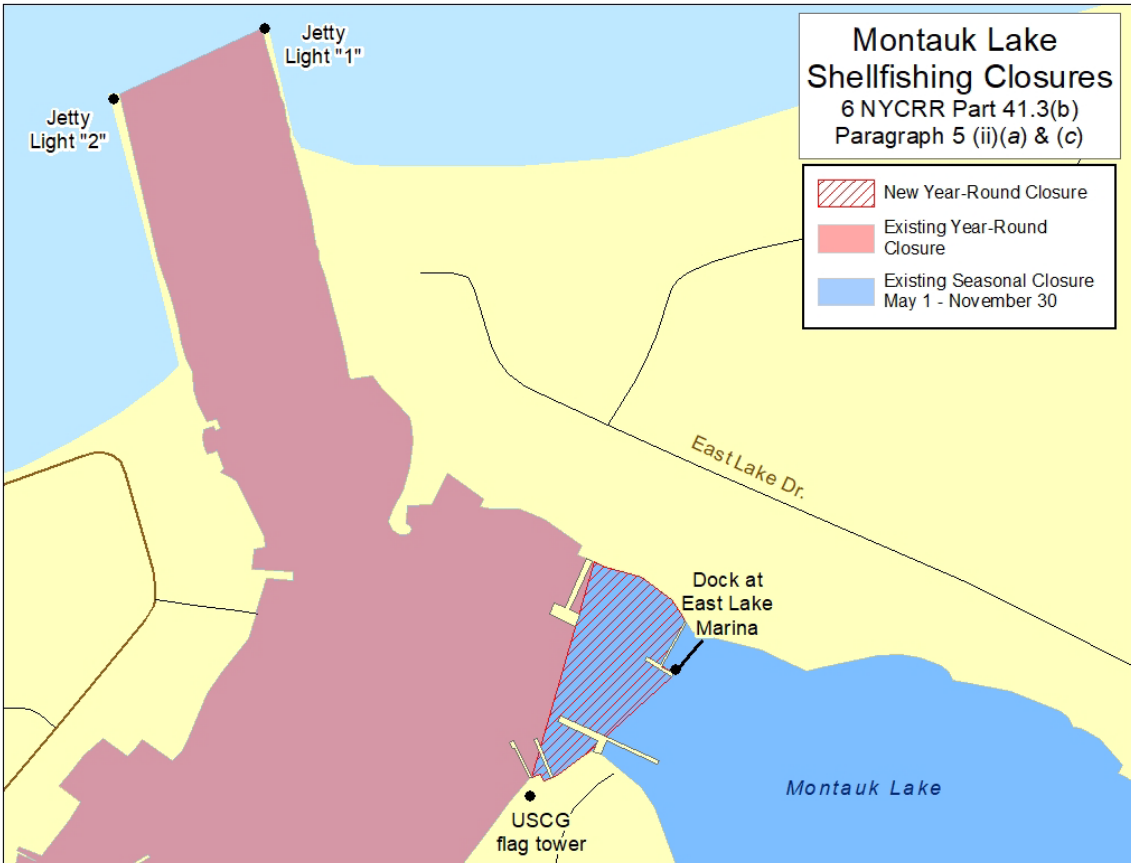
- Montauk Lake, Three Mile Harbor, Hog Creek, Fresh Pond, Napeague Bay, Northwest Harbor, Accabonac Harbor and Georgica Pond – Updated the text of the year-round uncertified areas to include the closure dates and renumbered existing subparagraphs and clauses.
- Three Mile Harbor – Updated the name of East Hampton Point Marina to EHP Resort and Marina.
- Northwest Harbor and Northwest Creek – Removed ordinal indicators from closure dates.

~~~~~

The new regulations are **EFFECTIVE on June 27, 2022** and should appear in the NYS Register on July 13, 2022, see: [State Register](#) | [Department of State \(ny.gov\)](#)

The following shellfish lands are in such sanitary condition that shellfish thereon shall not be taken for use as food and such lands are designated as uncertified areas (new text is underlined, old text that was removed is [bracketed]).

**(5) Town of East Hampton**



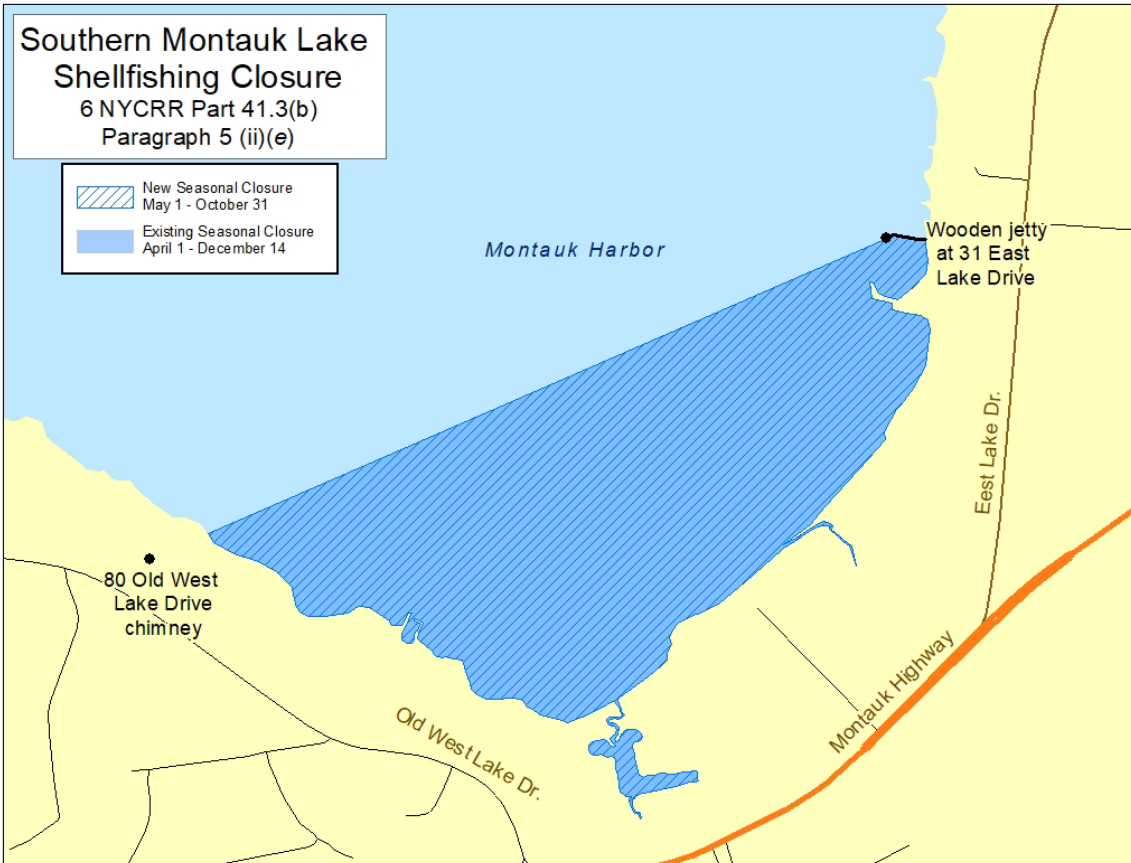
Clause 41.3(b)(5)(ii)(a) was amended to read as follows:

(a) [All] During the period January 1 through December 31, both dates inclusive, all that area of Montauk Lake (Montauk Harbor) and Coonsfoot Cove lying south of a line extending easterly from [the flashing red light on the jetty on the western side of the entrance to Montauk Harbor (Lake Montauk) to the flashing green light on the jetty on the eastern side of the entrance to said harbor; and all that area, including tributaries, northerly of the causeway to Star Island and] Montauk West Jetty Light “2” to Montauk East Jetty Light “1” and lying northerly and westerly of a line extending easterly from the flag tower at the U.S. Coast Guard Station on Star Island to the southernmost extremity

of the dock serving [Deep Water Seafood, Inc. (local landmark) and] East Lake Marina located on the eastern shore of [Montauk Harbor (Lake Montauk).] Montauk Lake (Montauk Harbor) and continuing along the eastern side of said dock to the shoreline.

Clause 41.3(b)(5)(ii)(c) was amended to read as follows:

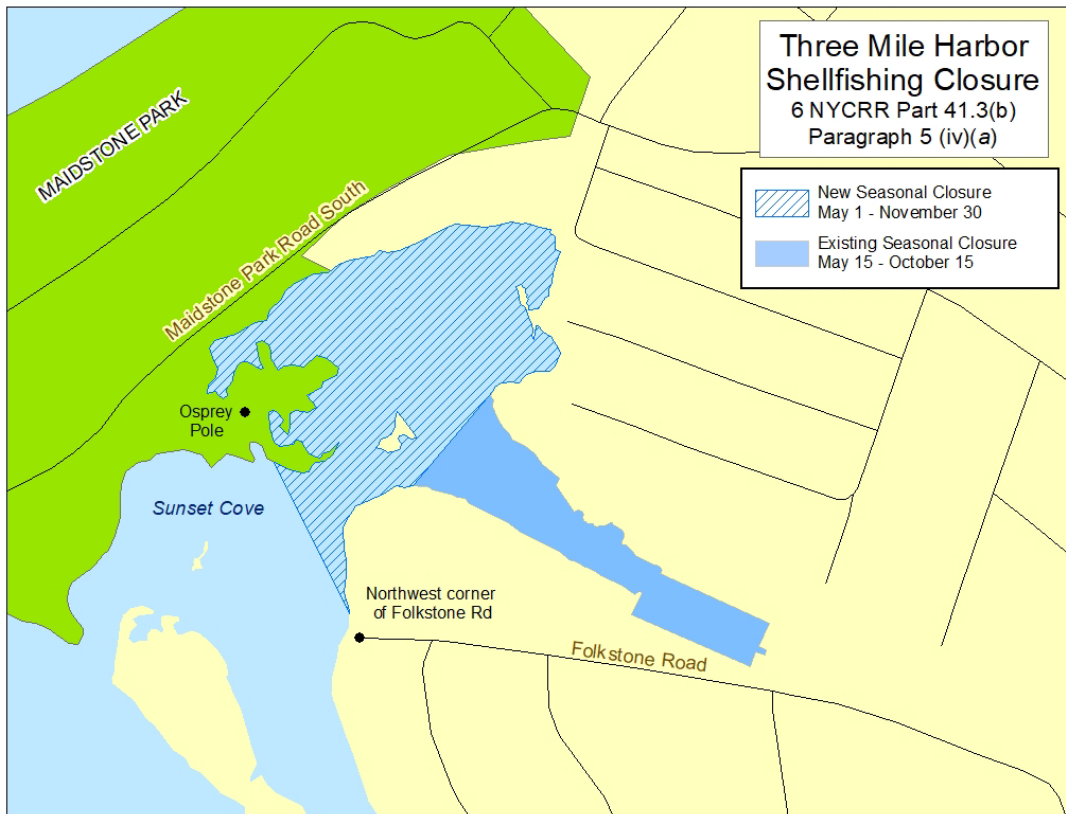
(c) During the period May [1st] 1 through November [30th] 30 (both dates inclusive), all that area of [Montauk Harbor (Montauk Lake)] Montauk Lake (Montauk Harbor) lying south of a line extending easterly from the flag tower at the U.S Coast Guard Station on Star Island to the southernmost extremity of the dock serving [Deep Water Seafood, Inc. (local name, local landmark), on the western shore] East Lake Marina located on the eastern shore of Montauk Lake (Montauk Harbor) and continuing along the eastern side of said dock to the shoreline and lying northwest of a line extending northeasterly from the white flagpole located on the shoreline at 18 Star Island Road (local name), to a white flagpole at 395 East Lake Drive on the opposite shoreline (local landmark).



Clause 41.3(b)(5)(ii)(e) was amended to read as follows:

(e) Southern Montauk Lake. During the period [April 1 through December 14,] May 1 through October 31, both dates inclusive, all that area of Montauk Lake (Montauk Harbor) and tributaries lying southerly of a line extending easterly from the highest point of the stone chimney serving the residence of 80 Old West Lake Drive, Montauk, to the northwestern corner of northernmost wooden jetty extending from the shoreline of the Bridgeford Cottage Colony at 31 East Lake Drive, Montauk (local landmarks, local names); then proceeding along the northern edge of said jetty to the shoreline.

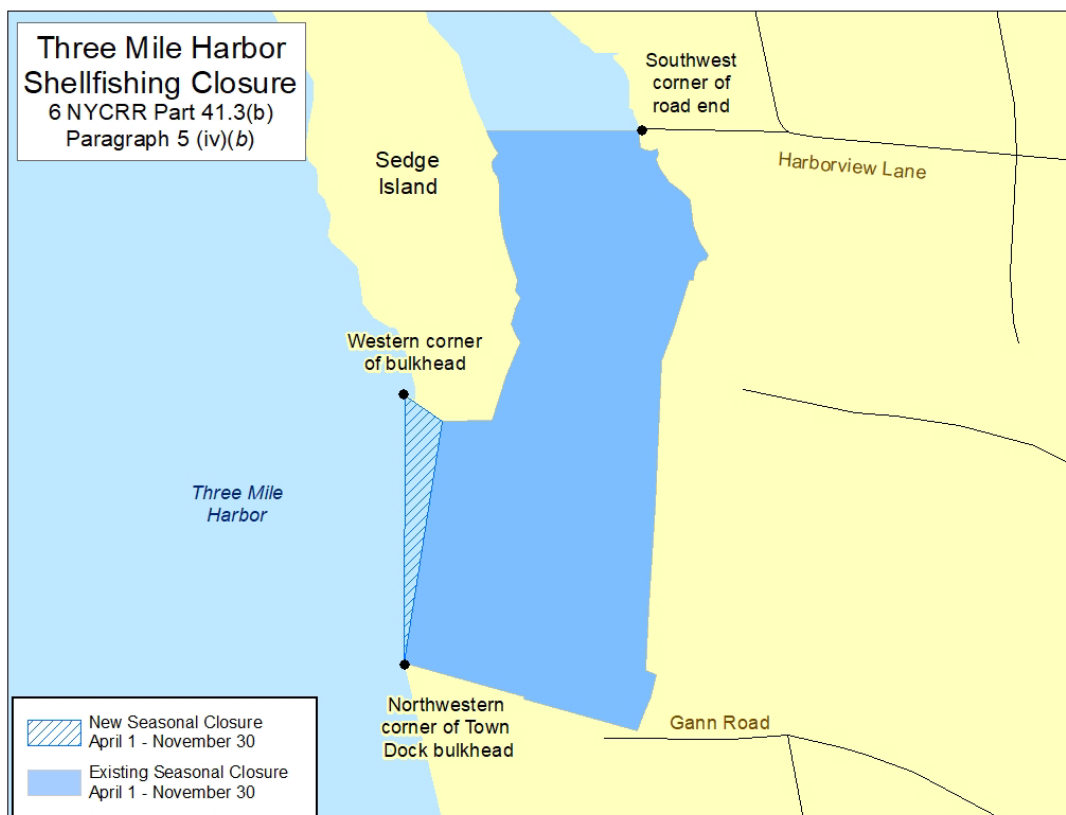
(continued on next page)



Clauses 41.3(b)(5)(iv)(a) through 41.3(b)(5)(iv)(h) were repealed.

A new clause 41.3(b)(5)(iv)(a) was adopted to read as follows:

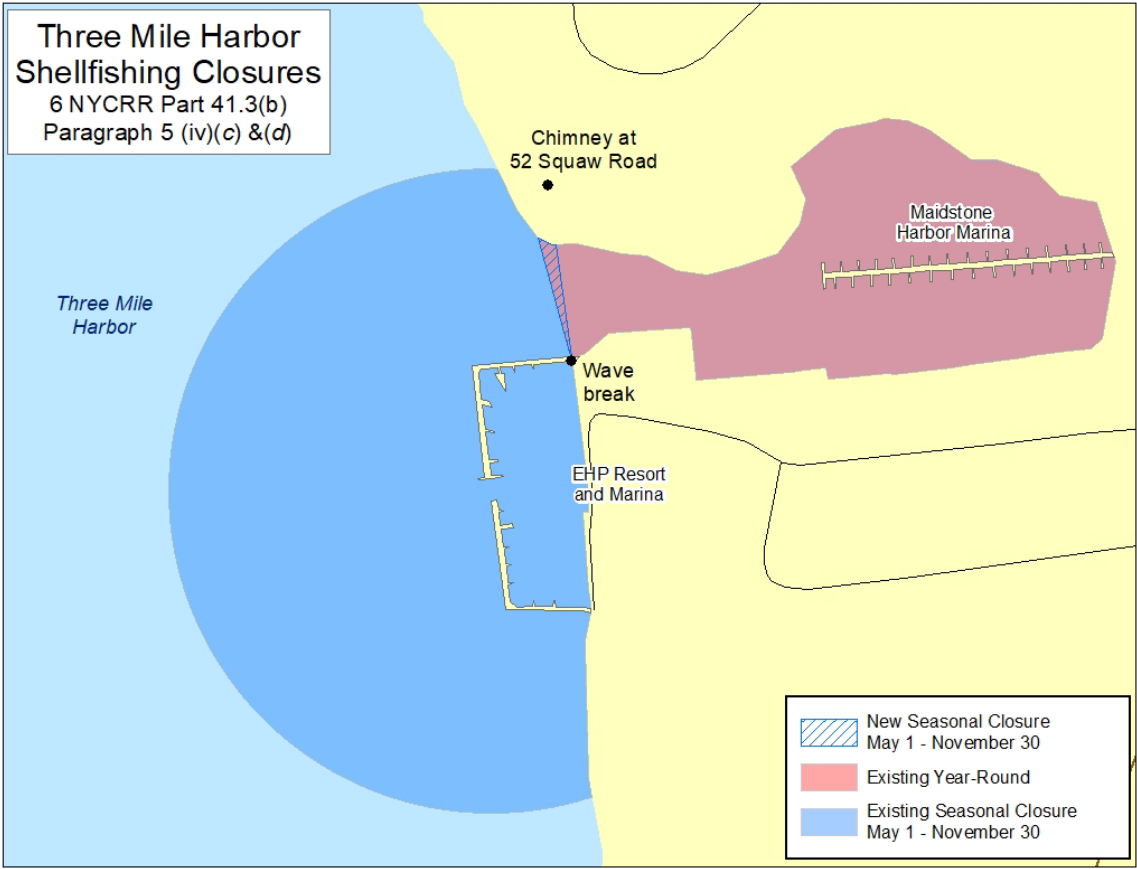
(a) Sunset Cove. During the period May 1 through November 30, both dates inclusive, all that area of Sunset Cove (local name) and its tributaries lying north and east of a line extending northerly from the northwesternmost corner of the western terminus of Folkstone Road, East Hampton, to the osprey nest pole located on the shore of Maidstone Park on the opposite shoreline.



A new clause 41.3(b)(5)(iv)(b) was adopted to read as follows:

(b) Harbor Marina. During the period April 1 through November 30, both dates inclusive, all that area lying southerly of a line extending due west (true) from the southwesternmost

corner of the foot of Harborview Lane, East Hampton, to the opposite eastern shoreline of Sedge Island (local name, local landmark); and west of a line extending northerly from the northwesternmost point of the bulkhead serving the Town of East Hampton, Town Dock (local name), to the westernmost corner of the bulkhead protecting the southern shoreline of Sedge Island.



A new clause 41.3(b)(5)(iv)(c) was adopted to read as follows:

(c) Maidstone Harbor Marina. During the period January 1 through December 31, both dates inclusive, all that area of Maidstone Harbor Marina lying east of a line extending northerly from the landward end of the northern wave break serving EHP Resort and Marina, to the southwesternmost corner of the chimney serving the property of 52 Squaw Road, East Hampton.

A new clause 41.3(b)(5)(iv)(d) was adopted to read as follows:

(d) EHP Resort and Marina. Except as otherwise described in clause (‘c’) of this subparagraph, during the period May 1 through November 30, both dates inclusive, all that area of EHP Resort and Marina and Three Mile Harbor lying within a 500-foot radius from the entrance into EHP Resort and Marina.

A new clause 41.3(b)(5)(iv)(e) was adopted to read as follows:

(e) Shagwong Marina. During the period May 1 through November 30, both dates inclusive, all that area of Shagwong Marina and Three Mile Harbor lying within a 500-foot radius from the northern corner of the bulkhead on the south side of the entrance to Shagwong Marina.

A new clause 41.3(b)(5)(iv)(f) was adopted to read as follows:

(f) Head of the Harbor (local name).

A new subclause 41.3(b)(5)(iv)(f)(1) was adopted to read as follows:

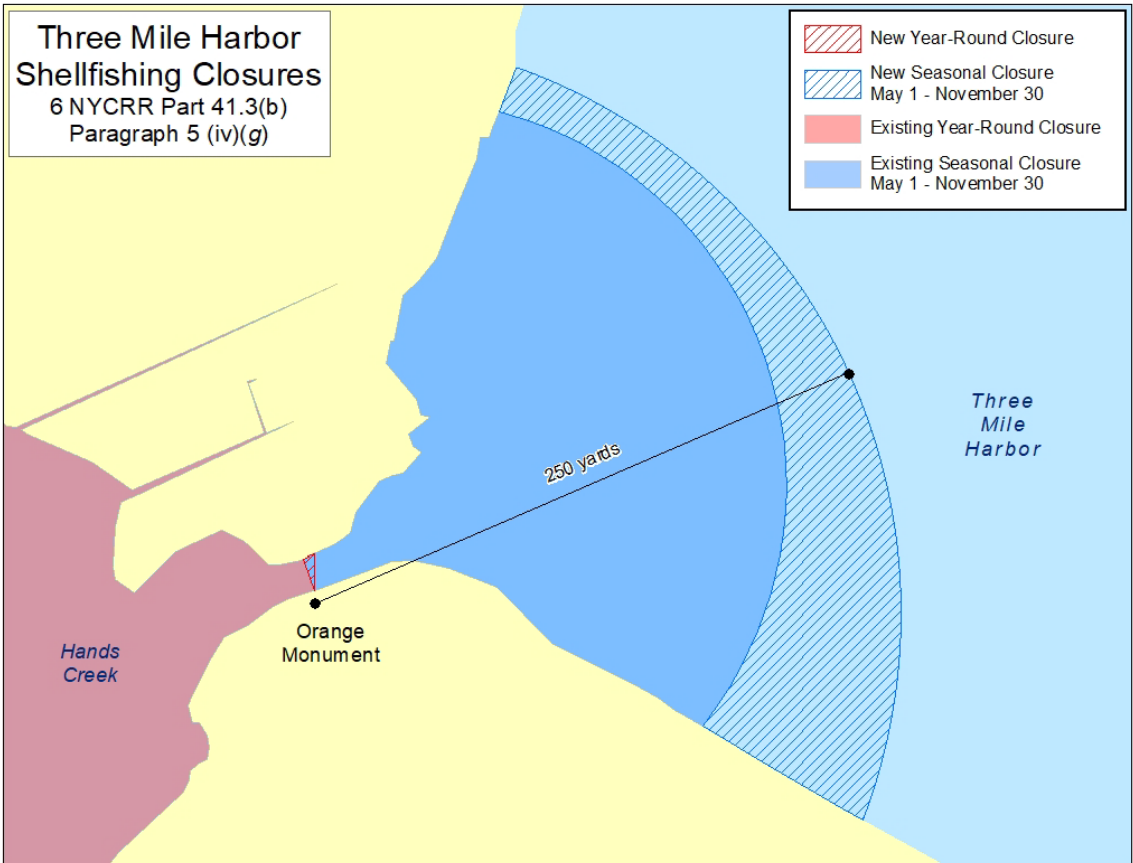
(1) During the period January 1 through December 31, both dates inclusive, all that area of Head of the Harbor (local name), including tributaries, lying south of a line extending



northeasterly from the northernmost corner of the residence located at 5 South Pond Road, East Hampton, to the northern side of the entrance to an unnamed creek on the opposite eastern shoreline. Said entrance to this creek is located approximately 350 feet northwest of the entrance to Gardiner’s Marina.

A new subclause 41.3(b)(5)(iv)(f)(2) was adopted to read as follows:

(2) Except as otherwise described in subclause (1) of this clause, during the period May 1 through November 30, both dates inclusive, all that area of the Head of the Harbor (local name), including tributaries, lying south of a line extending northeasterly from the northeasternmost point of land on the peninsula located on the western side of the entrance into Head of the Harbor (local name) to the westernmost corner of the western terminus of Breeze Hill Road, East Hampton.



A new clause 41.3(b)(5)(iv)(g) was adopted to read as follows:

(g) Hands Creek.

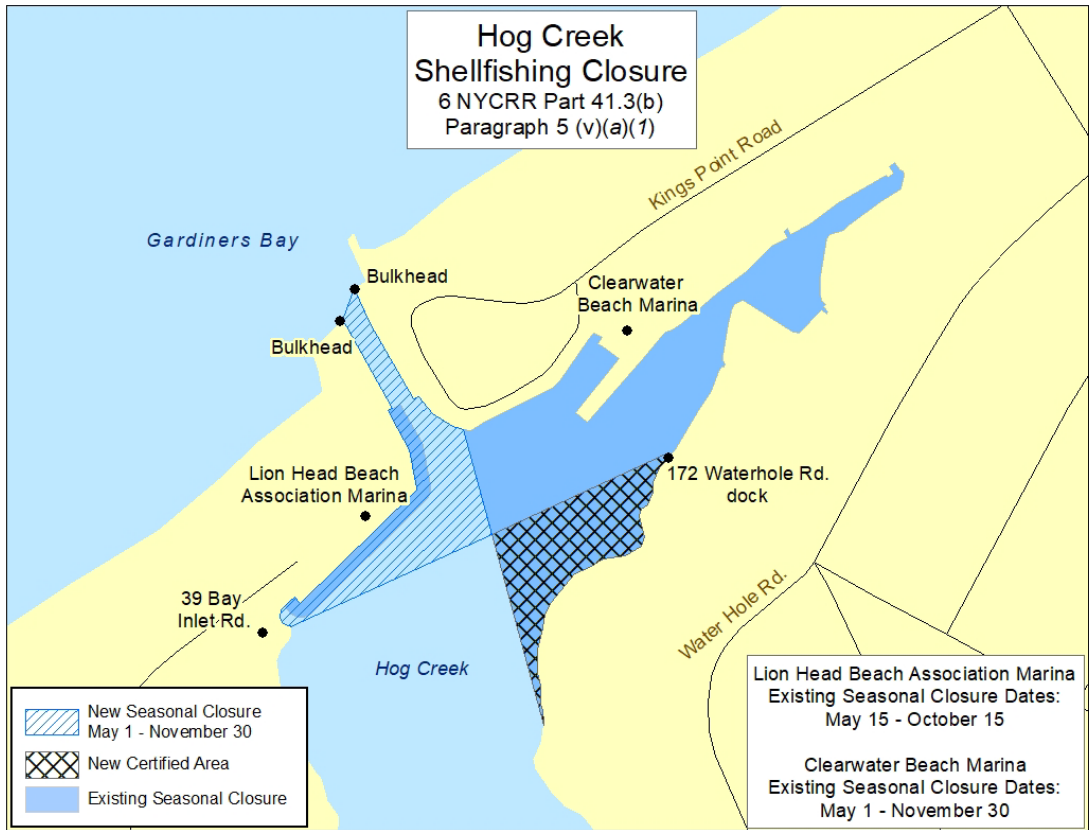
A new subclause 41.3(b)(5)(iv)(g)(1) was adopted to read as follows:

(1) During the period January 1 through December 31, both dates inclusive, all that area of Hands Creek and its tributaries lying west of a line extending due north (true) from an orange monument located on the southern shoreline of the entrance to Hands Creek, to the opposite northern shoreline.

A new subclause 41.3(b)(5)(iv)(g)(2) was adopted to read as follows:

(2) Except as otherwise described in subclause (1) of this clause, during the period May 1 through November 30, both dates inclusive, all that area of Three Mile Harbor lying within a 250-yard radius from the orange monument located on the southern shoreline at the entrance to Hands Creek.

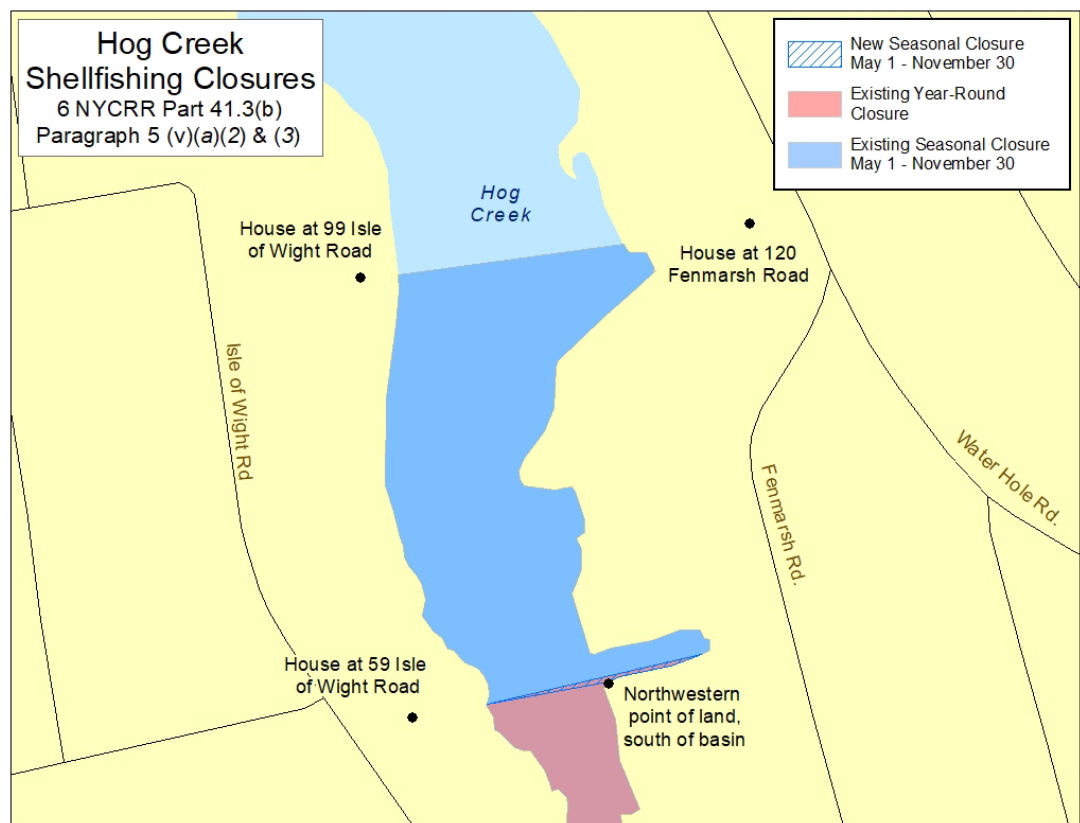
(continued on next page)



Subclauses 41.3(b)(5)(v)(a)(1) and 41.3(b)(5)(v)(a)(2) were repealed.

A new subclause 41.3(b)(5)(v)(a)(1) was adopted to read as follows:

(1) During the period May 1 through November 30, both dates inclusive, all that area of Hog Creek lying south of a line extending northeasterly from the northeasternmost corner of the western bulkhead at the entrance to Hog Creek to the northwesternmost corner of the eastern bulkhead at the entrance to Hog Creek and north of a line extending easterly from the northeasternmost corner of the residence on the property of 39 Bay Inlet Road, East Hampton, to the westernmost corner of the fixed dock serving the residence of 172 Waterhole Road, East Hampton, and continuing along the southern edge of said dock to the shoreline.



Subclause 41.3(b)(5)(v)(a)(4) was renumbered subclause 41.3(b)(5)(v)(a)(2) and amended to read as follows:

(2) During the period May [1st] 1 through November [30th (both dates inclusive),] 30, both dates inclusive, all that area of Hog Creek lying north of a line extending easterly from the highest point of the [white] center peak of the residence located at 59 Isle of Wight Road to the [red brick chimney on the north facing side of the residence located at 50 Fenmarsh Road] northwesternmost point of land on the south side of the dug basin on the opposite [shoreline,] shore, and lying south of a line extending easterly from the highest point of the center peak of the [grey] residence located at 99 Isle of Wight Road to the northerly corner of the [whitish-grey,] hexagon shaped residence located at 120 Fenmarsh Road on the opposite shoreline.

Subclause 41.3(b)(5)(v)(a)(3) was amended to read as follows:

(3) [All] During the period January 1 through December 31, both dates inclusive, all that area of Hog Creek lying south of a line extending easterly from the highest point of the [white] center peak of the residence located at 59 Isle of Wight Road to the [red brick chimney on the north facing side of the residence located at 50 Fenmarsh Road on the opposite shoreline.] northwesternmost point of land on the south side of the dug basin on the opposite shore.

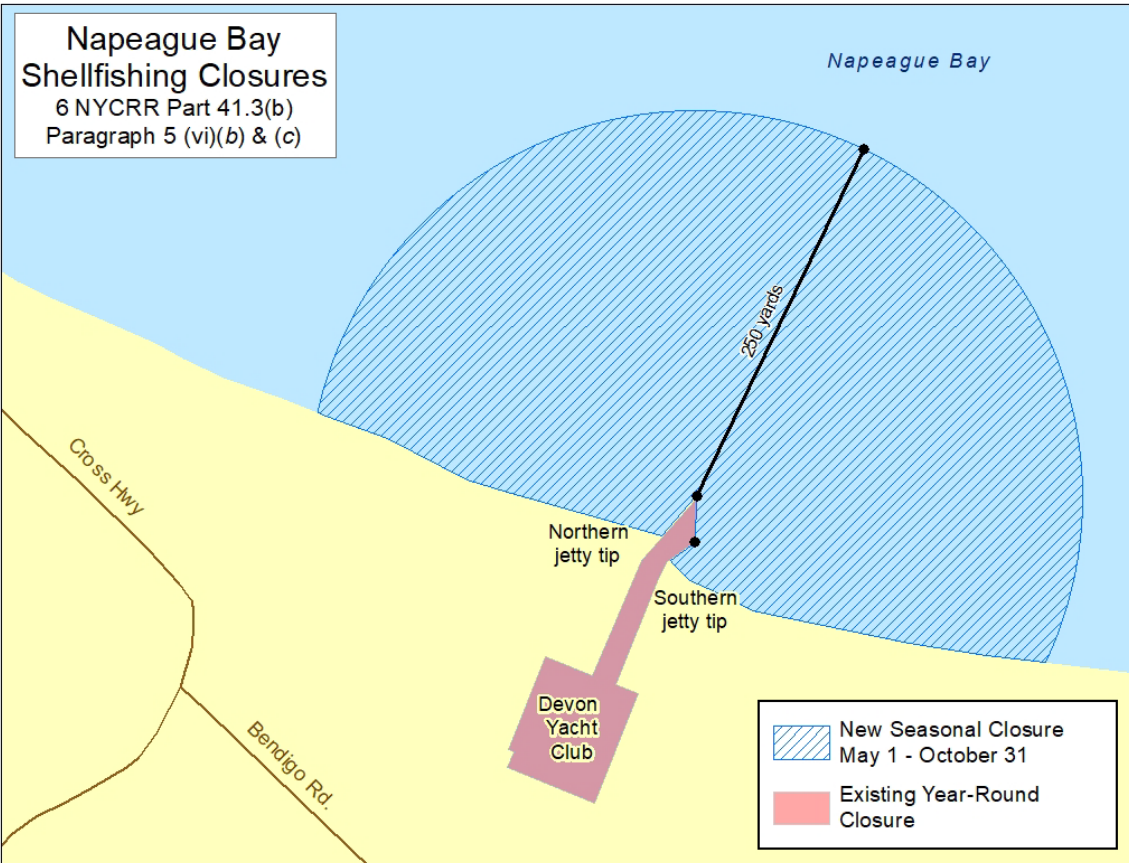
Subparagraphs 41.3(b)(5)(vi) and 41.3(b)(5)(vii) were repealed.

A new subparagraph 41.3(b)(5)(vi) was adopted to read as follows:

(vi) Napeague Bay.

A new clause 41.3(b)(5)(vi)(a) was adopted to read as follows:

(a) Fresh Pond. During the period January 1 through December 31, both dates inclusive, all that area of Fresh Pond, including tributaries and its outlet to Napeague Bay.



A new clause 41.3(b)(5)(vi)(b) was adopted to read as follows:

(b) Devon Yacht Club. During the period January 1 through December 31, all that area of the Devon Yacht Club Boat Basin (local name, local landmark) south and west of a line extending southerly from the northernmost point of the northern jetty at the entrance to Devon Yacht Club Boat Basin to the northernmost point of the southern jetty at the entrance to Devon Yacht Club Boat Basin.



A new clause 41.3(b)(5)(vi)(c) was adopted to read as follows:

(c) During the period May 1 through October 31, both dates inclusive, all that area of Napeague Bay within a 250-yard radius from the northern most point of the northern jetty at the entrance to the Devon Yacht Club Boat Basin (local name, local landmark); except, all that area of Devon Yacht Club and its entrance channel described in clause (b) of this subparagraph.

---

Subparagraph 41.3(b)(5)(viii) was renumbered 41.3(b)(5)(vii).

Renumbered clause 41.3(b)(5)(vii)(a) was amended to read as follows:

(a) Alewife Pond. [All] During the period January 1 through December 31, both dates inclusive, all that area of Alewife Pond, including its entrance channel and all that area of Northwest Harbor, within 300 yards in all directions from the inlet of Alewife Pond.

Renumbered clause 41.3(b)(5)(vii)(b) was amended to read as follows:

(b) During the period May [1st] 1 through December [14th,] 14, both dates inclusive, all that area of Northwest Harbor within a [200 yard] 200-yard radius from the western point of the spit of land on the southerly side of the entrance to the old Mile Hill Marina (local name), including the old Mile Hill Marina and the unnamed creek located immediately south of the old marina, which are all located [southerly] southwesterly of Mile Hill Road..

Subparagraph 41.3(b)(5)(ix) was renumbered 41.3(b)(5)(viii).

Renumbered clause 41.3(b)(5)(viii)(a) was amended to read as follows:

(a) During the period January [1st] 1 through December [31st,] 31, both dates inclusive, all that area of Northwest Creek and its tributaries lying south of a line extending between two orange [markers] monuments located approximately 750 yards south of the inlet into Northwest Creek.

Renumbered clause 41.3(b)(5)(viii)(b) was amended to read as follows:

(b) During the period May [1st] 1 through December [14th,] 14, both dates inclusive, all that area of Northwest Creek lying south of a line extending due east (true) from the [northernmost tip of land, exposed at mean high water,] easternmost point of land on the western side of the inlet [connecting the creek into Northwest Harbor] to Northwest Creek to the opposite shoreline, and northerly of the line described in clause (a), of this subparagraph.

Renumbered clause 41.3(b)(5)(viii)(c) was amended to read as follows:

(c) In the absence of one or both [painted markers,] orange monuments, all of Northwest Creek is uncertified.

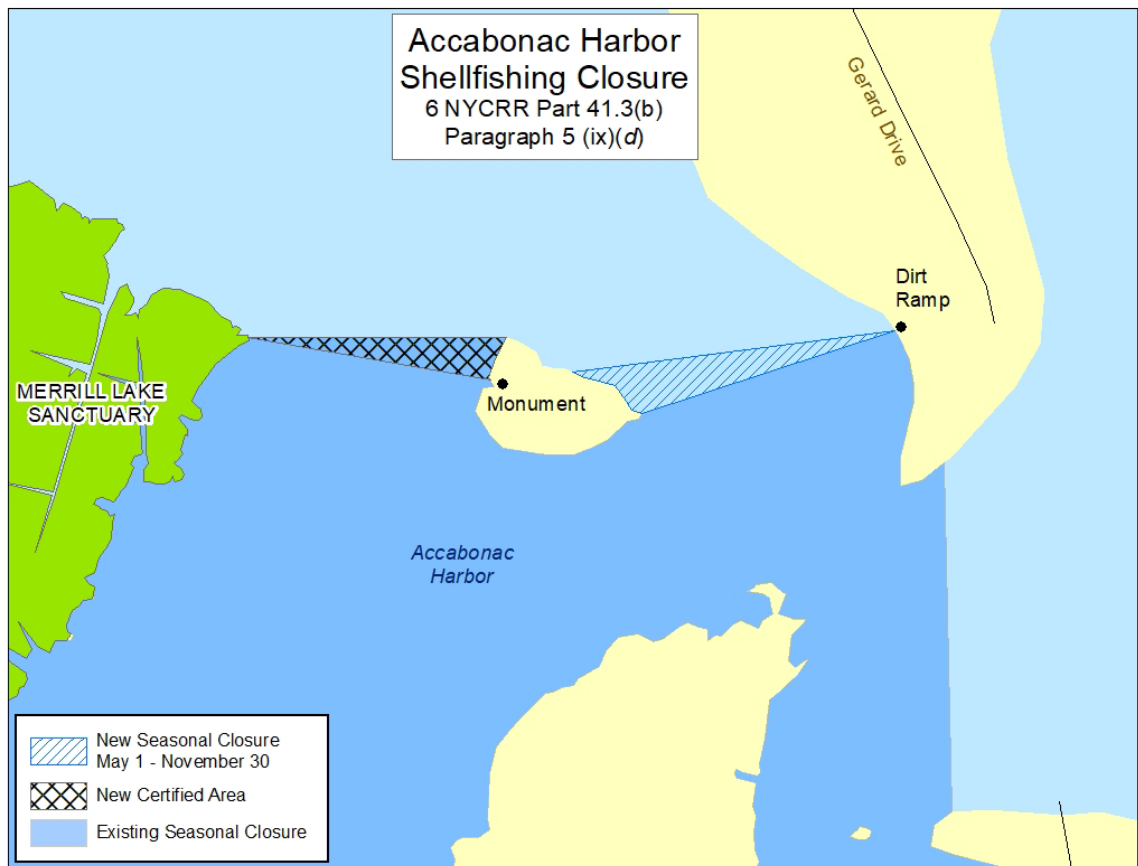
Subparagraph 41.3(b)(5)(x) was renumbered 41.3(b)(5)(ix).

Renumbered clause 41.3(b)(5)(ix)(a) was renumbered clause 41.3(b)(5)(ix)(f) and amended to read as follows:

(f) [All] During the period January 1 through December 31, both dates inclusive, all that area of East Harbor (located in the southernmost portion of Accabonac Harbor) lying south of a line extending [northwesterly] westerly from the southernmost [point] corner of the southernmost bulkhead located on the property at 73 Louse Point Road, to [a] an orange monument on the opposite western shoreline.

Renumbered clause 41.3(b)(5)(ix)(d) was renumbered clause 41.3(b)(5)(ix)(a) and amended to read as follows:

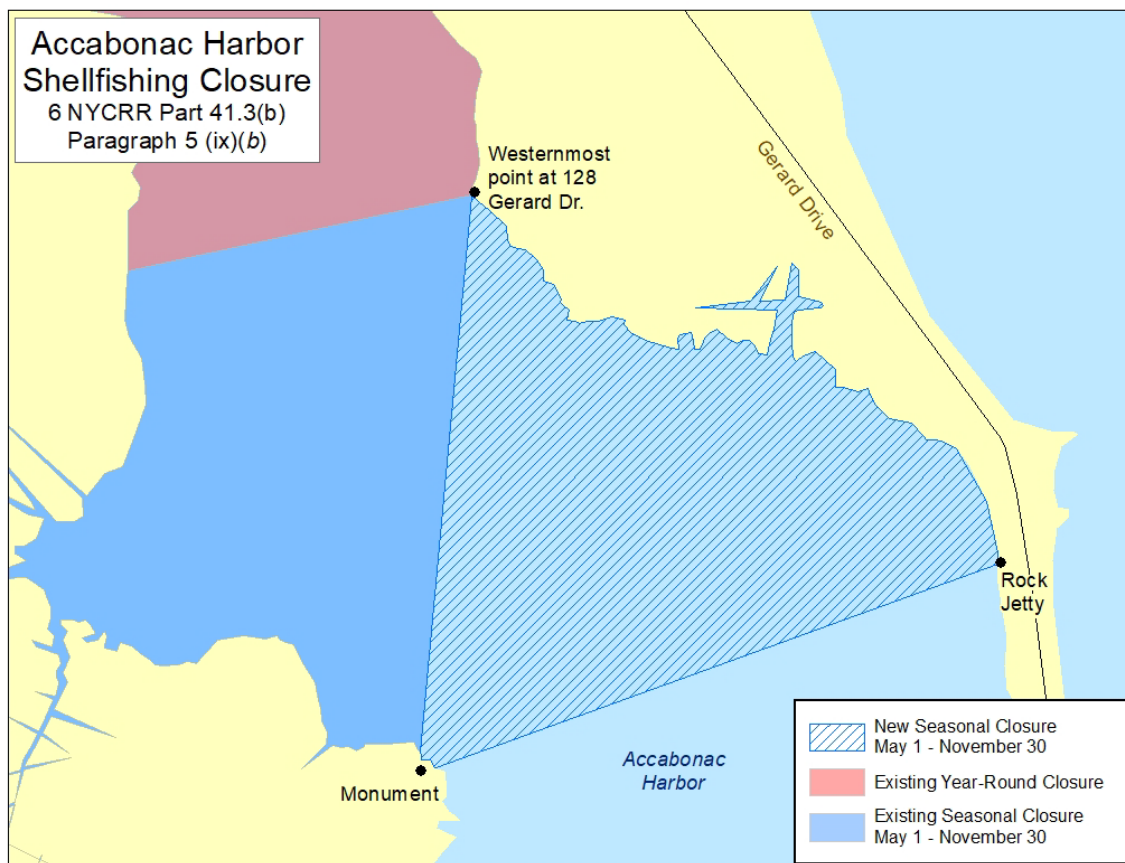
(a) During the period January 1 through December 31, both dates inclusive, all that area of the northernmost portion of Accabonac Harbor, including tributaries, lying north of a line extending westerly from the westernmost point of land of the property at 128 Gerard Drive to [a] an orange monument on the opposite western shoreline.



Renumbered clause 41.3(b)(5)(ix)(b) was renumbered clause 41.3(b)(5)(ix)(d) and amended to read as follows:

(d) During the period May 1 through November 30, both dates inclusive, all that area of Accabonac Harbor and East Harbor lying south of a line extending easterly from the [northeasternmost] easternmost point of land at the Merrill Lake Sanctuary to the [westernmost point of land at Sage Island (local name) and continuing southeasterly along the northern shoreline of Sage Island (a monument is located at the northernmost point of said island) to its easternmost point, heading] orange monument on Sage Island, then continuing easterly to the foot of the dirt launch area at Gerard Point (local [landmark) and all the area] landmark), and all that area lying west of a line extending southerly from the southernmost point of land at Gerard Point (located at the northern side of the entrance of Accabonac Harbor) to the northernmost point of land at Louse Point (located at the southern side of the entrance to Accabonac Harbor).

(continued on next page)



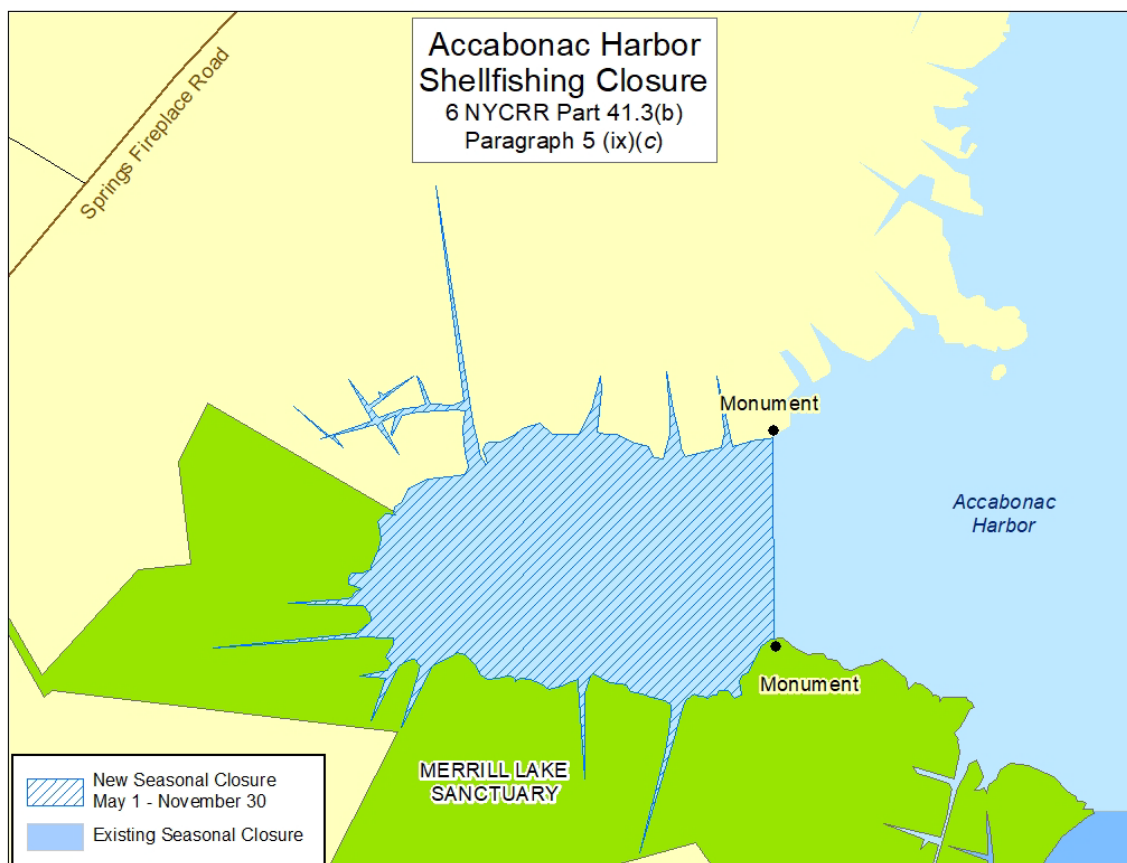
Renumbered clause 41.3(b)(5)(ix)(e) was renumbered clause 41.3(b)(5)(ix)(b) and amended to read as follows:

(b) During the period May 1 through November 30, both dates inclusive, all that area of Accabonac Harbor lying [west of a line extending southwesterly from the westernmost point of land of the property at 128 Gerard Drive to a] north and west of a line extending westerly from the westernmost point of the southern rock jetty (said jetty is protecting the Gerard Drive culvert) to an orange monument located on the opposite western shoreline, and south of the line described in clause [(‘d’)] (‘a’) of this subparagraph.

Renumbered clause 41.3(b)(5)(ix)(c) was renumbered clause 41.3(b)(5)(ix)(e) and amended to read as follows:

(e) [All] During the period January 1 through December 31, both dates inclusive, all that area of Accabonac [Harbor, Pussy’s Pond and an unnamed cove,] Harbor and Pussy’s Pond, including tributaries, lying west of a line heading north from [a] an orange monument (approximately 350 yards east of Shipyard Lane) on the southern shore to [a monument] an orange monument (located on the shoreline of Merrill Lake Sanctuary) on the opposite northern shoreline. [Said unnamed cove lies southerly of the Merrill Lake Sanctuary and northerly of Harbor Lane and Shipyard Lane (local landmarks in Springs).]

(continued on next page)



A new clause 41.3(b)(5)(ix)(c) was adopted to read as follows:

(c) During the period May 1 through November 30, both dates inclusive, all that area of Accabonac Harbor lying west of a line extending southerly from an orange monument on the property of 950 Springs Fireplace Road, East Hampton, to an orange monument on the northern shoreline of Merrill Lake Sanctuary.

Subparagraph 41.3(b)(5)(xi) was renumbered 41.3(b)(5)(x) and amended to read as follows:

(x) [All] During the period January 1 through December 31, both dates inclusive, all that area of Georgica Pond, a brackish embayment and its tributaries, including any inlet when open to the Atlantic Ocean.

Dated: June 27, 2022  
Kings Park, New York

Debra Barnes, Chief  
Bureau of Shellfisheries