

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Division of Marine Resources

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**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 Title 6 of the New York Codes, Rules and Regulations (NYCRR) Part 41, "Sanitary Condition of Shellfish Lands" required modification to allow electronic communication to be an authorized form of distribution when notifying holders of a NYS shellfish diggers permit of changes to the classification of shellfish lands.

The Department has also determined that water quality in portions of Napeague Harbor, adjacent to the Town of East Hampton has changed, requiring reclassification to protect public health. Additionally, technical changes were required to improve enforcement and readability of the regulations in portions of Napeague Harbor.

Due to these determinations, the Department has filed a Notice of Emergency Adoption and Proposed Rulemaking to amend 6NYCRR, Sections 41.0 and 41.3, "Sanitary Condition of Shellfish Lands," in Suffolk County.

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**Highlights of changes are:**

The Department updated portions of 6NYCRR, Part 41, "Sanitary Condition of Shellfish Lands" to allow notice of classification changes to be distributed by electronic communication to holders of a shellfish digger permit.

**Highlights of changes are:**

**Napeague Harbor:** 36-acres of Napeague Harbor will be downgraded from certified year-round to seasonally uncertified from May 1 through October 31.

**Technical Changes:**

- Napeague Harbor – The existing clause within Napeague Harbor is being renumbered to reduce complexity and improve readability of the regulations.

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**The new regulations are EFFECTIVE on May 29, 2024 and should appear in the NYS Register on June 18, 2024, see: [State Register | Department of State \(ny.gov\)](#)**

The following changes were made to Part 41, "Sanitary Condition of Shellfish Lands" (new text is underlined, old text that was removed is [bracketed]).

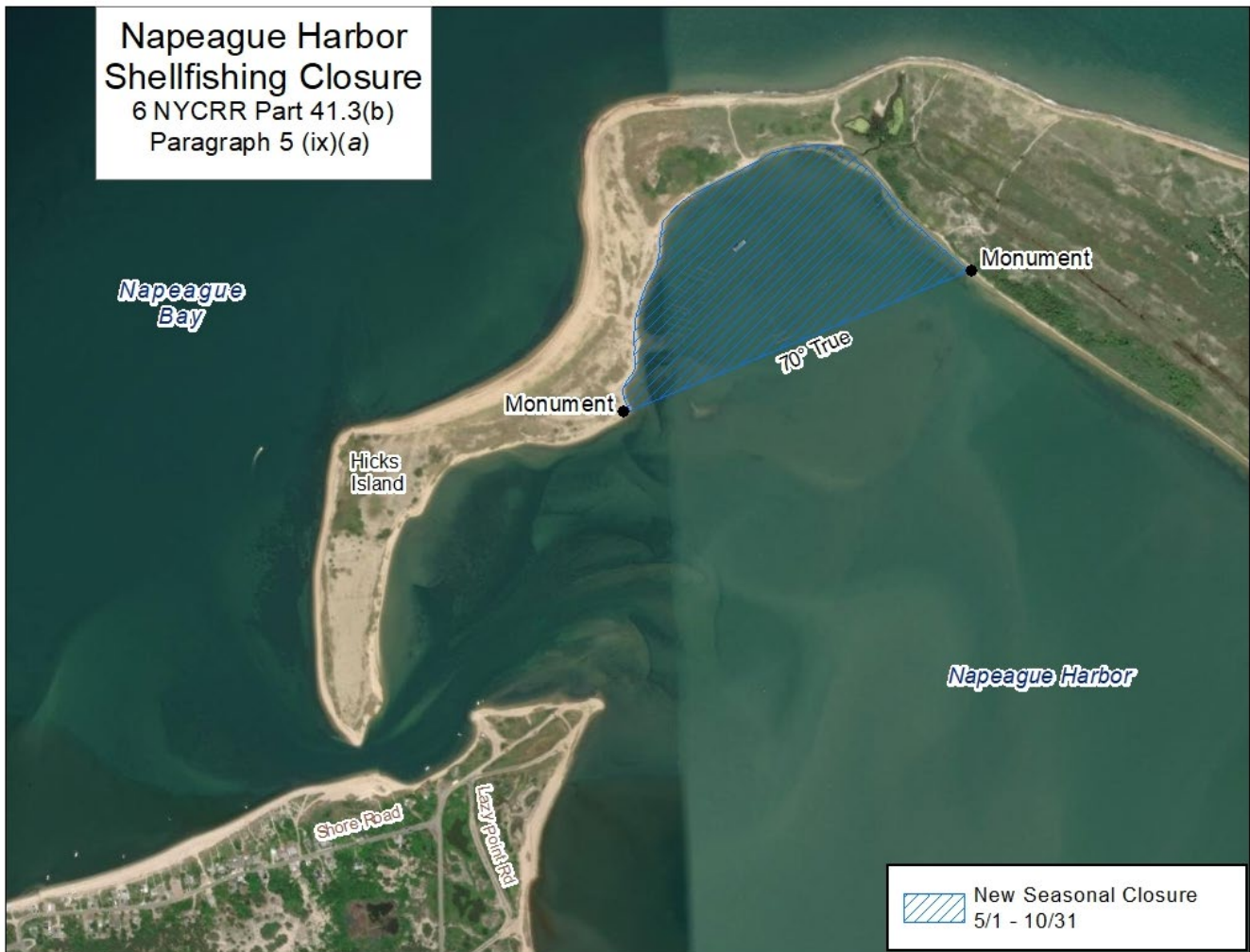
Section 41.0. Introduction was amended to read as follows:

The following is a statement of sanitary condition of shellfish lands in New York State. Notice of changes in classification will be posted online at <https://dec.ny.gov/regulatory/regulations/proposed-emergency-recently-adopted-regulations> and sent to [baymen] holders of a New York State shellfish diggers permit by electronic communication or by mail as and when they may occur.

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**

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



Subparagraph 41.3(b)(5)(ix) is amended to read as follows.

(ix) Napeague Harbor. [During the period May 1 through October 31, both dates inclusive, all that area of Napeague Harbor and its tributaries lying west of a line extending northwesterly from LIPA telephone pole number 14 on Napeague Meadow Road (said telephone pole has an osprey platform on top) to the southeasternmost point of land on the western side of the outlet creek of Napeague Pond (said creek outlet is southwest of Shore Drive West).]

A new clause 41.3(b)(5)(ix)(a) is adopted to read as follows:

(a) During the period of May 1 through October 31, both dates inclusive, all that area of Napeague Harbor lying northerly of a line (70 degrees True) extending northeasterly from a monument located on the southeastern shoreline of Hicks Island to a monument located on the eastern shoreline of Napeague Harbor at 41°01'09"N, 72°02'54"W.

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

(b) During the period May 1 through October 31, both dates inclusive, all that area of Napeague Harbor and its tributaries lying west of a line extending northwesterly from LIPA telephone pole number 14 on Napeague Meadow Road (said telephone pole has an osprey platform on top) to the southeasternmost point of land on the western side of the outlet creek of Napeague Pond (said creek outlet is southwest of Shore Drive West).

Dated: May 29, 2024  
Kings Park, New York

Debra Barnes, Chief  
Bureau of Shellfisheries