

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 SOUTHAMPTON

NOTICE OF SANITARY CONDITION OF SHELLFISH LANDS IN QUANTUCK BAY, SHINNECOCK BAY, AND NORTH SEA HARBOR, ADJACENT TO THE TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, NEW YORK

The New York State Department of Environmental Conservation, Shellfisheries Section has determined that water quality in sections of Quogue Canal, Shinnecock Bay, Sag Harbor Cove, and Flanders Bay, adjacent to the Town of Southampton has changed, requiring reclassification to protect public health.

Due to this change in water quality, 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, which changes the dates of harvest and/or descriptions of uncertified shellfish lands in Quogue Canal, Shinnecock Bay, Sag Harbor Cove, and Flanders Bay.

The New York State Department of Environmental Conservation, Shellfisheries Section has also determined that water quality in a section of Western Long Island Sound meets criteria to allow the harvest of shellfish in in 6150-acres of state-owned underwater lands, providing a new opportunity for all shellfish harvesters in New York State. Due to these changes in water quality, the Department has included this change to certify the area for the harvest of shellfish in the filed Notice of Emergency Adoption and Proposed Rulemaking to amend Title 6 of the New York Code of Rules and Regulations, Part 41.2, "Sanitary Condition of Shellfish Land," in Nassau County.



Highlights of changes are:

Quogue Canal: 5-acres of Shinnecock Bay in the Quogue Canal were downgraded from certified year-round to seasonally uncertified during April 1 – December 14.

Shinnecock Bay:

- The year-round uncertified closure in Penniman Cove was designated as its own subclause.
- Less than 1-acre of Stone Creek was downgraded from certified year-round to uncertified year-round.
- 31-acres of Shinnecock Bay near the mouth of Stone Creek and Phillip Creek were downgraded from certified year-round to seasonally uncertified during May 1 – October 31.
- Less than 1-acre of Phillips Creek was upgraded from uncertified year-round to seasonally uncertified during May 1 – October 31.
- Less than 1-acre of Daves Creek was upgraded from uncertified year-round to certified year-round.
- Less than 1-acre of Smith Creek was upgraded from uncertified year-round to certified year-round.
- 1-acre of Tiana Bay, near the Colonial Shores Cottages, was downgraded from certified year-round to seasonally uncertified during May 1 – October 31.
- Less than 1-acre of Shinnecock Bay near Smith Creek was downgraded from certified year-round to uncertified year-round.
- Less than 1-acre of Old Fort Pond was downgraded from certified year-round to seasonally uncertified during May 1 – October 31.
- Less than 1-acre of Old Fort Pond was upgraded from seasonally uncertified to certified year-round.

Sag Harbor:

- Less than 1-acre of Sag Harbor near the breakwater was downgraded from certified year-round to uncertified year-round.
- Less than 1-acre of Sag Harbor Cove was upgraded from seasonally uncertified during May 15 – October 31 to certified year-round.
- The seasonally uncertified area in Sag Harbor Cove near Sag Harbor Villas was expanded by less than 1-acre to a total of 36-acres and the seasonal closure dates were extended from May 15 – October 31 to May 1 – October 31.
- The seasonally uncertified areas in Redwood Boat Basin and Ship Ashore Marina were expanded by 1.5-acres to a total of 4-acres and the seasonal closure dates were extended from May 15 – October 31 to May 1 – October 31.
- 26-acres near the outlet of Ligonee Brook in Sag Harbor, also known as The Little Narrows, were downgraded from certified year-round to seasonally uncertified during May 1 – October 31.
- Less than 1-acre of Paynes Creek was downgraded from certified year-round to uncertified year-round.

Flanders Bay: 37-acres of Flanders Bay near Goose Creek were downgraded from certified year-round to seasonally uncertified during May 1 – October 31.

Long Island Sound: 6,150-acres of state-owned underwater land in Long Island Sound, east of Prospect Point and south of the Nassau-Westchester County Line were upgraded from uncertified year-round to certified year-round.

Technical Changes:

- For all described uncertified year-round closures in Shinnecock Bay, Sag Harbor, and Flanders Bay added, “During January 1 through December 31, both dates inclusive,” for clarification.
- Quantuck Bay- Clarified the description of the seasonal closure reference.
- Shinnecock Bay- The existing clauses within Shinnecock Bay were renumbered to reduce complexity and improve readability of the regulations.
- Shinnecock Bay - Clarified the description of the year-round closure reference points associated with Penniman Creek, Weesuck Creek, Carter Creek, and Tiana Bay
- Shinnecock Bay- A *Note* was added to describe the location of Carter Creek Inlet.
- Shinnecock Bay- Clarified the description of the seasonal closure reference points for Heady Creek and Taylor Creek.
- Sag Harbor- The existing clauses within Sag Harbor were renumbered to improve readability of the regulations.
- Upper Sag Harbor- Clarified the description of the year-round closure reference points.
- Flanders Bay- Clarified the description of the year-round closure reference points.
- Flanders Bay- Clarified the description of the year-round closures for Goose Creek, Birch Creek, and Mill Creek.
- Flanders Bay- Clarified the description of the seasonal closure for Hubbard Creek.

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**The new regulations are EFFECTIVE on November 22, 2021 and should appear in the NYS Register on December 8, 2021, 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]).

**(4) Town of Southampton**

Subparagraph 41.3(b)(4)(ii) is amended to read as follows:

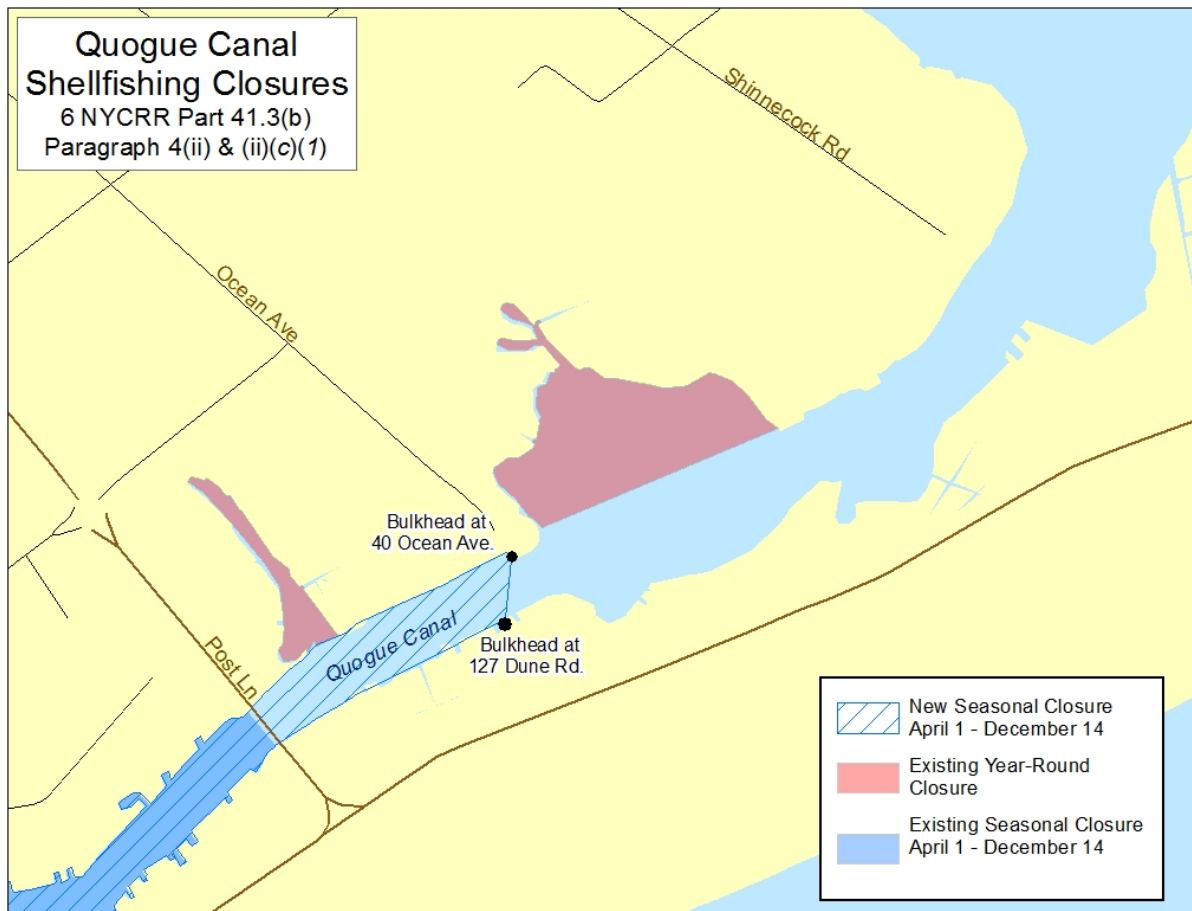
(ii) Quantuck Bay. Unless otherwise described in this subparagraph, from April 1 through December 14, both dates inclusive, all that area of Moneybogue Bay, Quantuck Canal, Quantuck Bay, Aspatuck Creek, Quantuck Creek, Ogden Pond, and Quogue Canal lying easterly of the west side of the Jessup Lane bascule bridge in Westhampton Beach and westerly [of the Post Lane bascule bridge in Quogue.] of a line extending southerly from the southwesternmost corner of the bulkhead serving the property of 40 Ocean Avenue,

Quogue, to the northeastern corner of the bulkhead serving the property of 127 Dune Road, Quogue.

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Subclause 41.3(b)(4)(ii)(c)(1) is amended to read as follows:

(1) Quogue Canal. During the period January 1 through December 31, both dates inclusive, all canals on the northern shoreline of Quogue Canal east of Quogo Neck Lane, Quogue and west of [the Post Lane bascule bridge, Quogue.] Shinnecock Road, Quogue; and, all that area of the unnamed cove between Ocean Avenue and Shinnecock Road in Quogue.



Subparagraph 41.3(b)(4)(iii) is amended to read as follows:

(iii) Shinnecock Bay. Except as otherwise described in this subparagraph, during the period January 1 through December 31, both dates inclusive, all creeks, canals, and boat basins located along the mainland shoreline of Shinnecock Bay, Tiana Bay, and Ramspasture Bay (local name) lying east of Shinnecock Road in Quogue, and west of the Ponquoge Bridge in Hampton Bays.

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Clause 41.3(b)(4)(iii)(a) is repealed.

A new clause 41.3(b)(4)(iii)(a) is added to read as follows:

(a) Penniman Creek to Pine Neck Point.

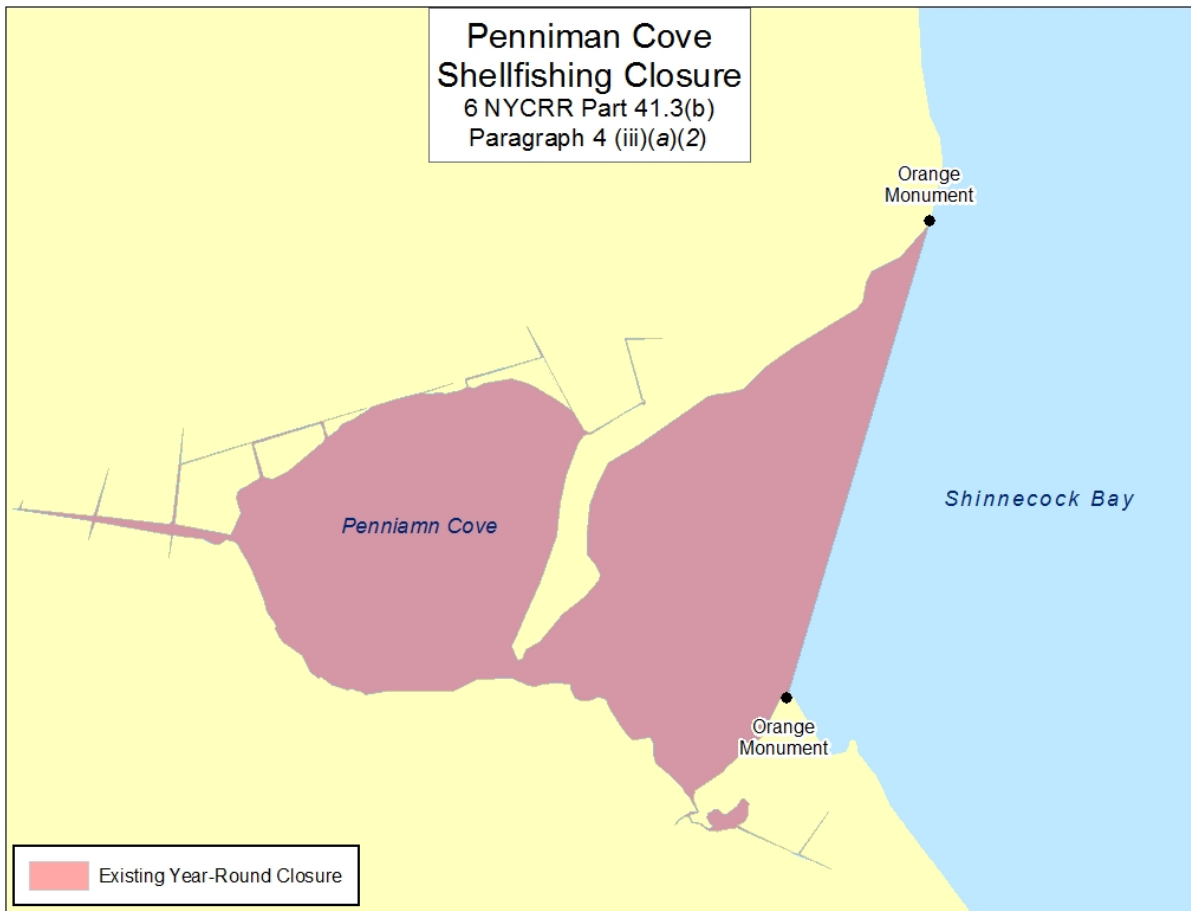
A new subclause 41.3(b)(4)(iii)(a)(1) is added to read as follows:

(1) Penniman Creek. During the period January 1 through December 31, both dates inclusive, all that area of Penniman Creek and tributaries lying northerly and westerly of a line extending northeasterly from the southeastern corner of the bulkhead serving the Shinnecock Yacht Club to the southernmost corner of the fixed dock located on the opposite eastern shoreline serving the residence at 41 Second Neck Lane, Quogue, and continuing along the southeastern edge of said dock to the shoreline.

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A new subclause 41.3(b)(4)(iii)(a)(2) is added to read as follows:

(2) Penniman Cove. During the period January 1 through December 31, both dates inclusive, all that area of Penniman Cove and tributaries lying west of a line extending northerly from the orange monument on the property of 36 Second Neck Lane, Quogue, to the orange monument on the property of 32 Bay Road, Quogue.



A new subclause 41.3(b)(4)(iii)(a)(3) is added to read as follows:

(3) Stone Creek. During the period January 1 through December 31, both dates inclusive, all that area of Stone Creek lying westerly of a line extending northerly from the southeasternmost corner of the dock located at 27 Bay Road, Quogue, to the flagpole located on the opposite northern shoreline at the residence of 19 Stone Lane, Quogue (local landmarks).

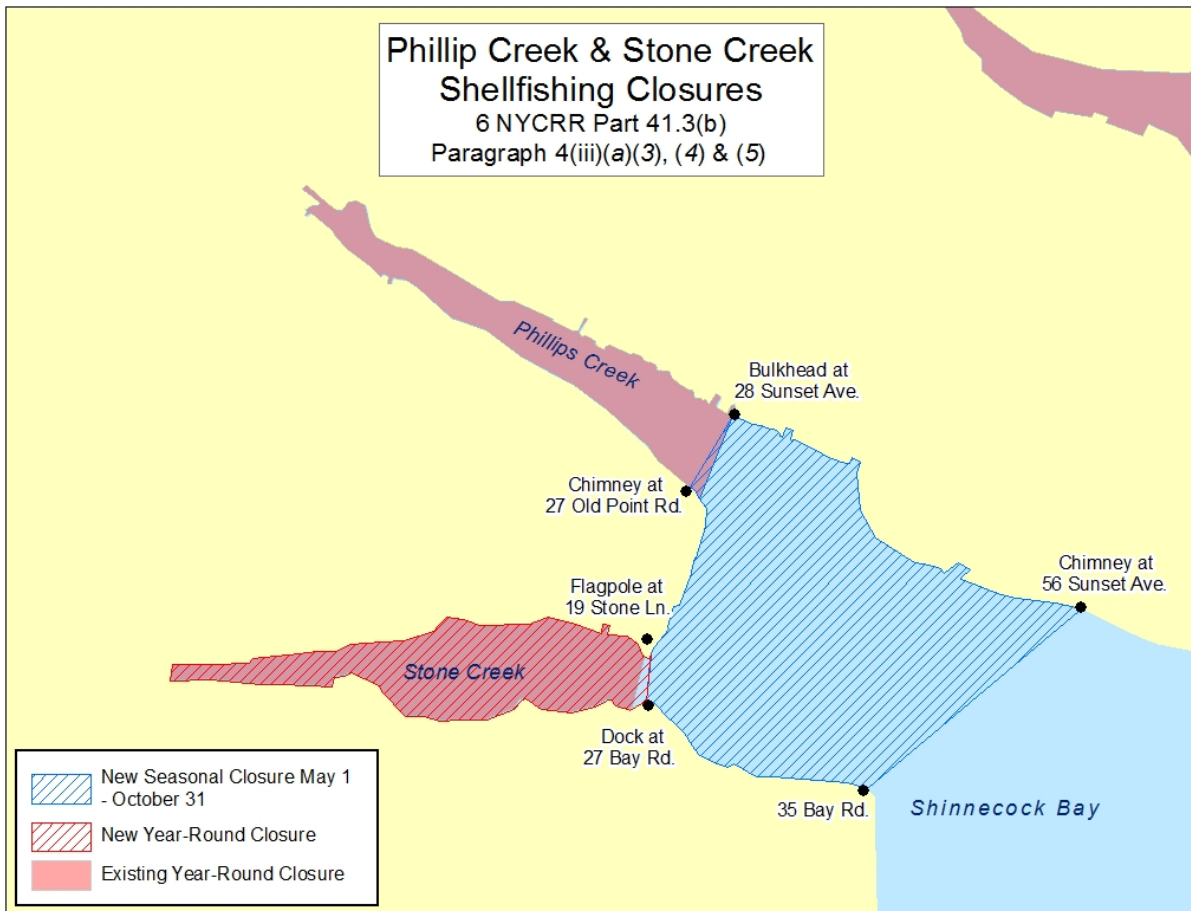
A new subclause 41.3(b)(4)(iii)(a)(4) is added to read as follows:

(4) Phillips Creek. During the period January 1 through December 31, both dates inclusive, all that area of Phillips Creek and tributaries lying northerly and westerly of a line extending northeasterly from the southeastern chimney of the residence at 27 Old Point Road, Quogue, to the southwesternmost corner of the easternmost bulkhead serving the residence of 28 Sunset Avenue, East Quogue (local landmarks).

A new subclause 41.3(b)(4)(iii)(a)(5) is added to read as follows:

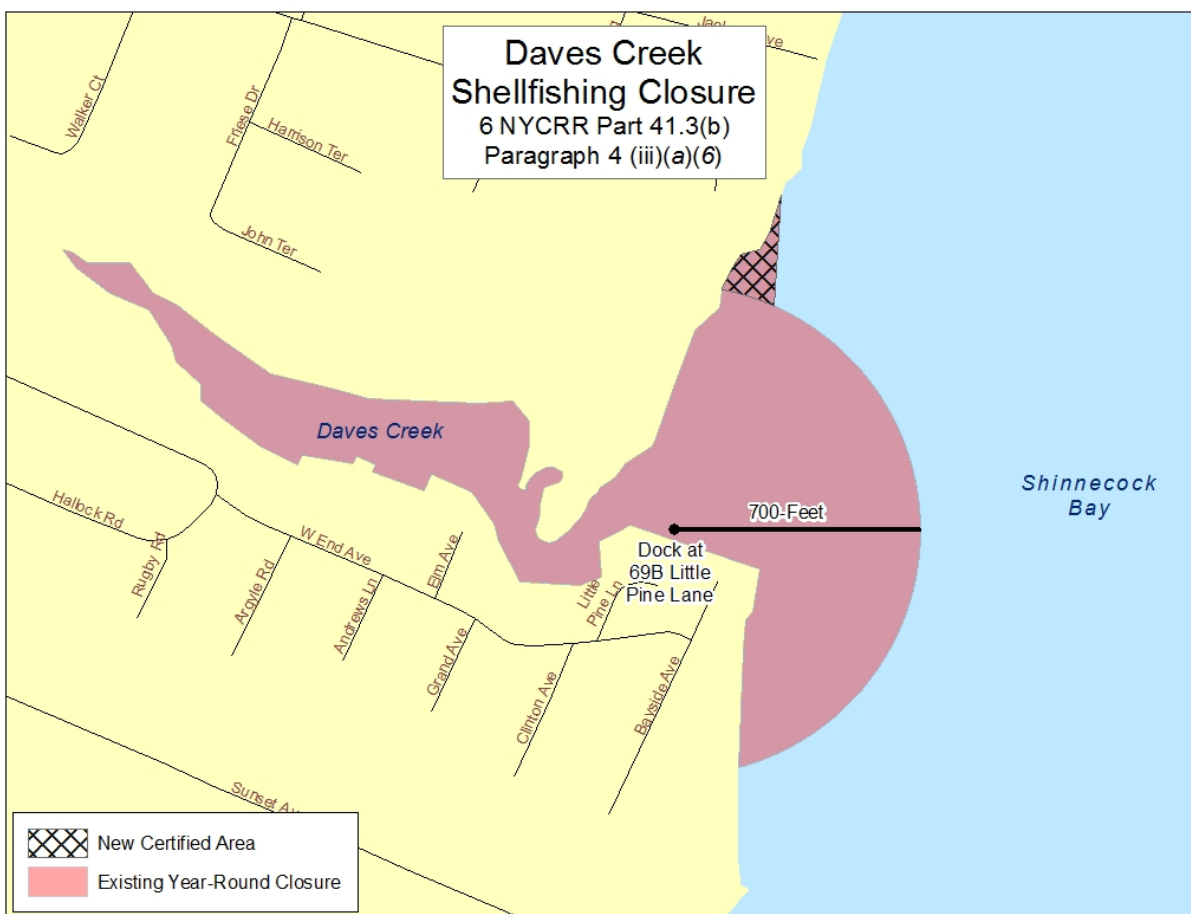
(5) Stone Creek and Phillips Creek. During the period May 1 through October 31, both dates inclusive, all that area west of a line extending northeasterly from the northeasternmost point of land at 35 Bay Road, Quogue, to the middle chimney of the residence at 56 Sunset Avenue, East Quogue; and, east of a line extending northeasterly from the southern chimney of the residence at 27 Old Point Road, Quogue, to the southwesternmost corner of the easternmost bulkhead serving the residence of 28 Sunset Avenue, East Quogue (local names and local landmarks); and east of a line extending northerly from the southeasternmost corner of the dock located at 27 Bay Road in Quogue, to the flagpole located on the opposite northern shoreline at the residence of 19 Stone Lane, Quogue (local landmarks).

(see reference map on next page)



A new subclause 41.3(b)(4)(iii)(a)(6) is added to read as follows:

(6) Daves Creek. During the period January 1 through December 31, both dates inclusive, all that area of Daves Creek; and all that area of Shinnecock Bay lying within a 700-foot radius in all directions from the easternmost point of the fixed dock located at the residence of 69B Little Pine Lane, East Quogue.



A new subclause 41.3(b)(4)(iii)(a)(7) is added to read as follows:

(7) Weesuck Creek. During the period January 1 through December 31, both dates inclusive, all that area of Weesuck Creek and its tributaries lying northerly of a line extending northeasterly from the northeasternmost corner of the bulkheaded town pier at the foot of Bay Avenue in East Quogue (local names and local landmarks), to the southwesternmost point of land in the Pine Neck Sanctuary.

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Clause 41.3(b)(4)(iii)(b) is repealed.

A new clause 41.3(b)(4)(iii)(b) is added to read as follows:

(b) Pine Neck Point to Ponquogue Bridge.

A new subclause 41.3(b)(4)(iii)(b)(1) is added to read as follows:

(1) Carter Creek. During the period January 1 through December 31, both dates inclusive, all that area of Carter Creek in its entirety; and all that area of Tiana Bay within a 250-yard radius of the inlet to Carter Creek.

A new subclause 41.3(b)(4)(iii)(b)(1) *Note* is added to read as follows:

*Note:* The inlet to Carter Creek is located approximately 1,300-yards north of Pine Neck Point.

A new subclause 41.3(b)(4)(iii)(b)(2) is added to read:

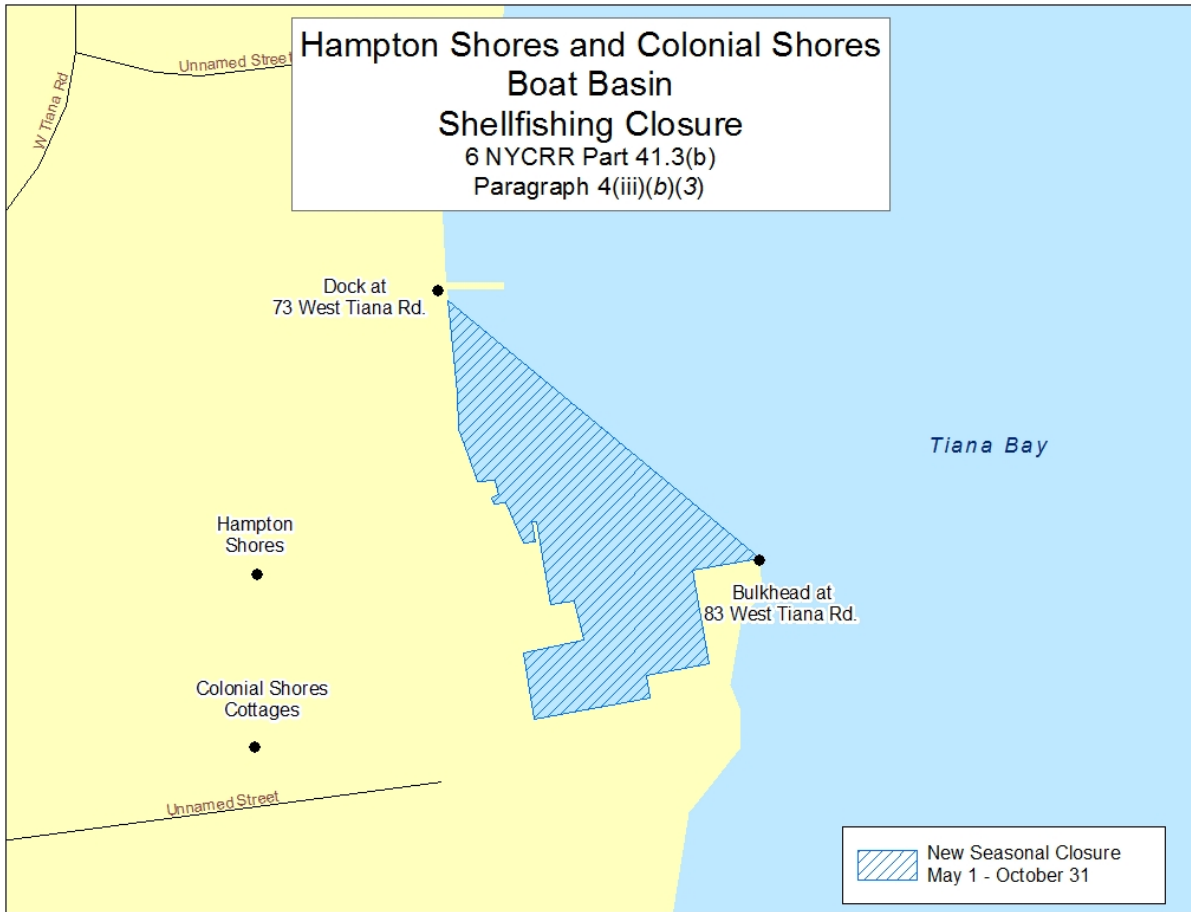
(2) Romana Creek. During the period January 1 through December 31, both dates inclusive, all that area of Romana Creek in its entirety; and all that area of Tiana Bay lying within a 500-foot radius of the southernmost point of the bulkhead on the eastern shoreline of the inlet to Romana Creek.

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A new subclause 41.3(b)(4)(iii)(b)(3) is added to read as follows:

(3) Hampton Shores and Colonial Shores Boat Basin. During the period May 1 through October 31, both dates inclusive, all that area south and west of a line extending northwesterly from the northeasternmost corner of the bulkhead serving the property of 83 West Tiana Road, East Quogue to the southwestern corner of the fixed dock serving the property of 73 West Tiana Road, East Quogue.

(see reference map on next page)



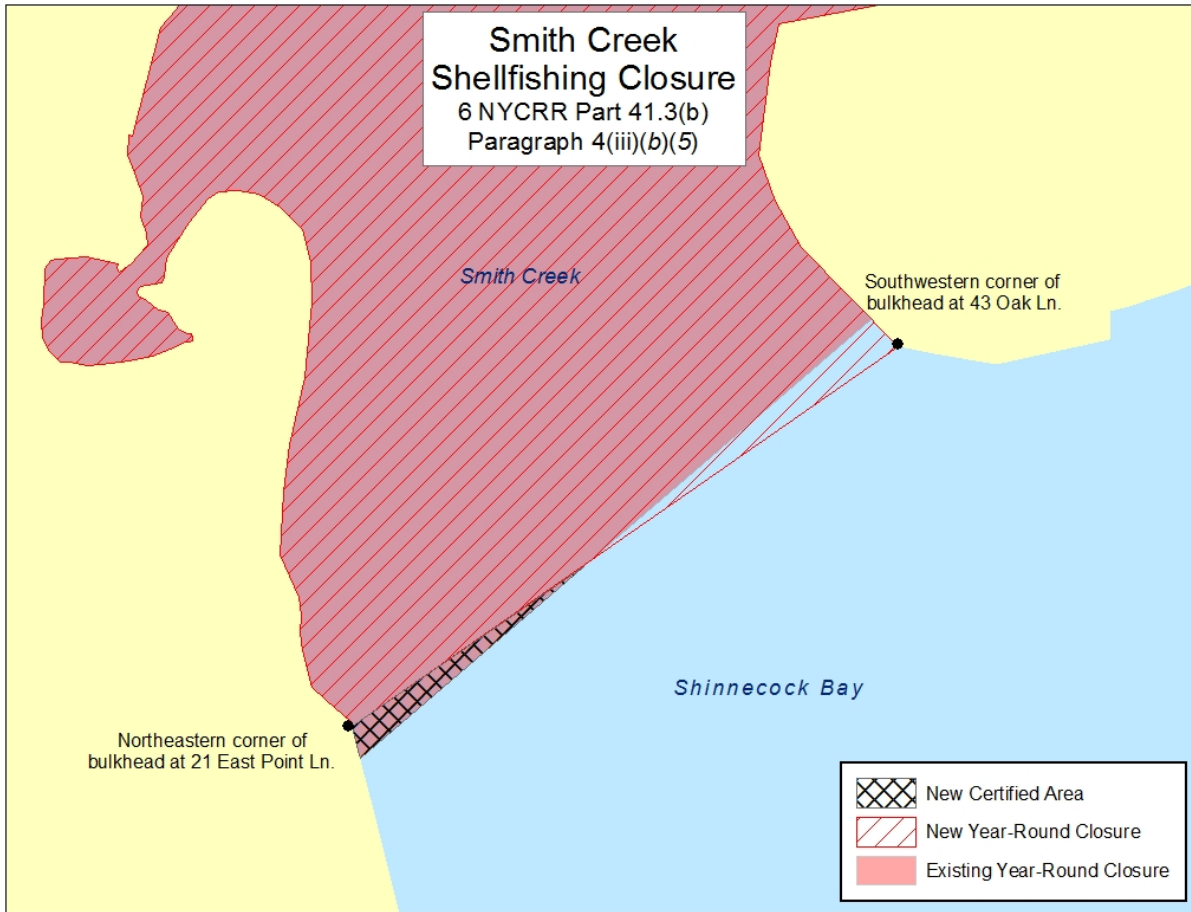
A new subclause 41.3(b)(4)(iii)(b)(4) is added to read as follows:

(4) Tiana Bay. During the period January 1 through December 31, both dates inclusive, all that area of Tiana Bay and tributaries lying northerly of a line extending easterly from the southernmost corner of the bulkhead protecting the shoreline at the residence of 39 West Tiana Road, East Quogue, to the westernmost point of land of the sandspit extending from the opposite eastern shoreline (local landmark).

A new subclause 41.3(b)(4)(iii)(b)(5) is added to read as follows:

(5) Smith Creek. During the period January 1 through December 31, both dates inclusive, all that area of Smith Creek and tributaries lying northerly of a line extending northeasterly from the northeasternmost corner of the bulkhead serving the property of 21 East Point Lane, Southampton, to southwesternmost corner of the bulkhead serving the residence of 43 Oak Lane, Southampton.

(see reference map on next page)



Clause 41.3(b)(4)(iii)(c) is repealed.

A new clause 41.3(b)(4)(iii)(c) is added to read as follows:

(c) Far Pond and Old Fort Pond.

A new subclause 41.3(b)(4)(iii)(c)(1) is added to read as follows:

(1) Far Pond. During the period May 1 through October 31, both dates inclusive, all that area of Far Pond in its entirety; and all that area of Shinnecock Bay lying within a 275-yard radius from the northwestern corner of the foot of Far Pond Road in the hamlet of Shinnecock Hills.

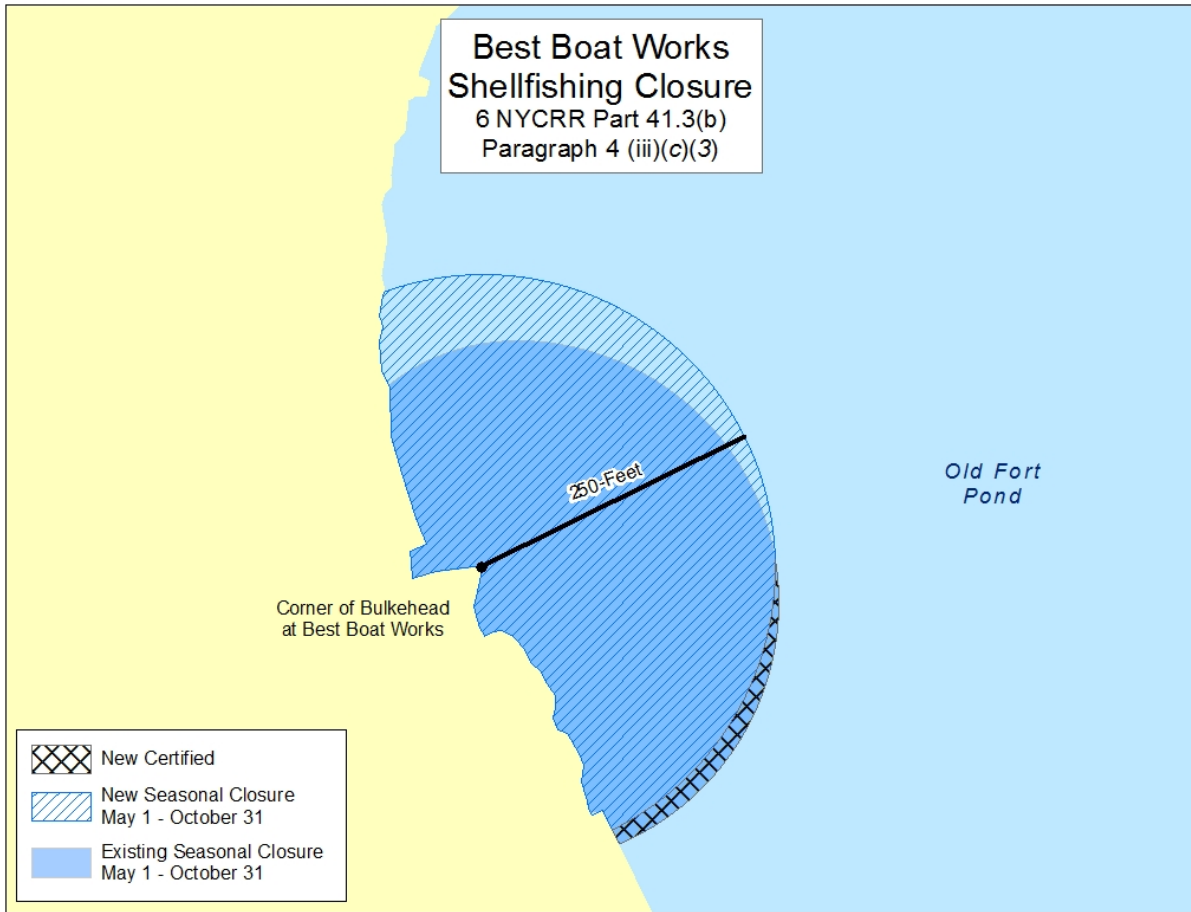
A new subclause 41.3(b)(4)(iii)(c)(2) is added to read as follows:

(2) Southampton Yacht Club. During the period May 1 through October 31, both dates inclusive, all that area of Old Fort Pond lying within a 65-yard radius from the junction of the bulkhead serving Southampton Yacht Club and the northern edge of the gangway connecting the southern dock to the bulkhead.

A new subclause 41.3(b)(4)(iii)(c)(3) is added to read as follows:

(3) Best Boat Works Marina. During the period May 1 through October 31, both dates inclusive, all that area of Old Fort Pond lying within a 250-foot radius from the northeasternmost corner of the bulkhead serving Best Boat Works Marina.

(see reference map on next page)



A new subclause 41.3(b)(4)(iii)(c)(4) is added to read as follows:

(4) Club on the Bay Condominiums. During the period May 1 through October 31, both dates inclusive, all that area of Old Fort Pond lying within a 65-yard radius from the southeasternmost corner of the northern building complex of the "Club on the Bay" Condominiums (local name).

Clause 41.3(b)(4)(iii)(d) is repealed.

A new clause 41.3(b)(4)(iii)(d) is added to read as follows:

(d) Heady Creek and Taylor Creek.

A new subclause 41.3(b)(4)(iii)(d)(1) is added to read as follows:

(1) Heady Creek. During the period May 1 through November 30, both dates inclusive, all that area including tributaries of Heady Creek, lying north of a line extending due west from the southernmost point of land on the western point of Ruth Wales Dupont Sanctuary (said sanctuary is at the foot of Captain Neck Lane, Southampton) directly across to the opposite shoreline.

A new subclause 41.3(b)(4)(iii)(d)(2) is added to read as follows:

(2) Taylor Creek. During the period May 1 through November 30, both dates inclusive, all that area including tributaries of Taylor Creek lying northeast of a line extending southeasterly from the southernmost point of land on the western point of Ruth Wales Dupont Sanctuary (said sanctuary is at the foot of Captain Neck Lane, Southampton) to the chimney of the residence at 501 Meadow Lane, in the Village of Southampton.

Clause 41.3(b)(4)(iii)(e) is repealed.

A new clause 41.3(b)(4)(iii)(e) is added to read as follows:

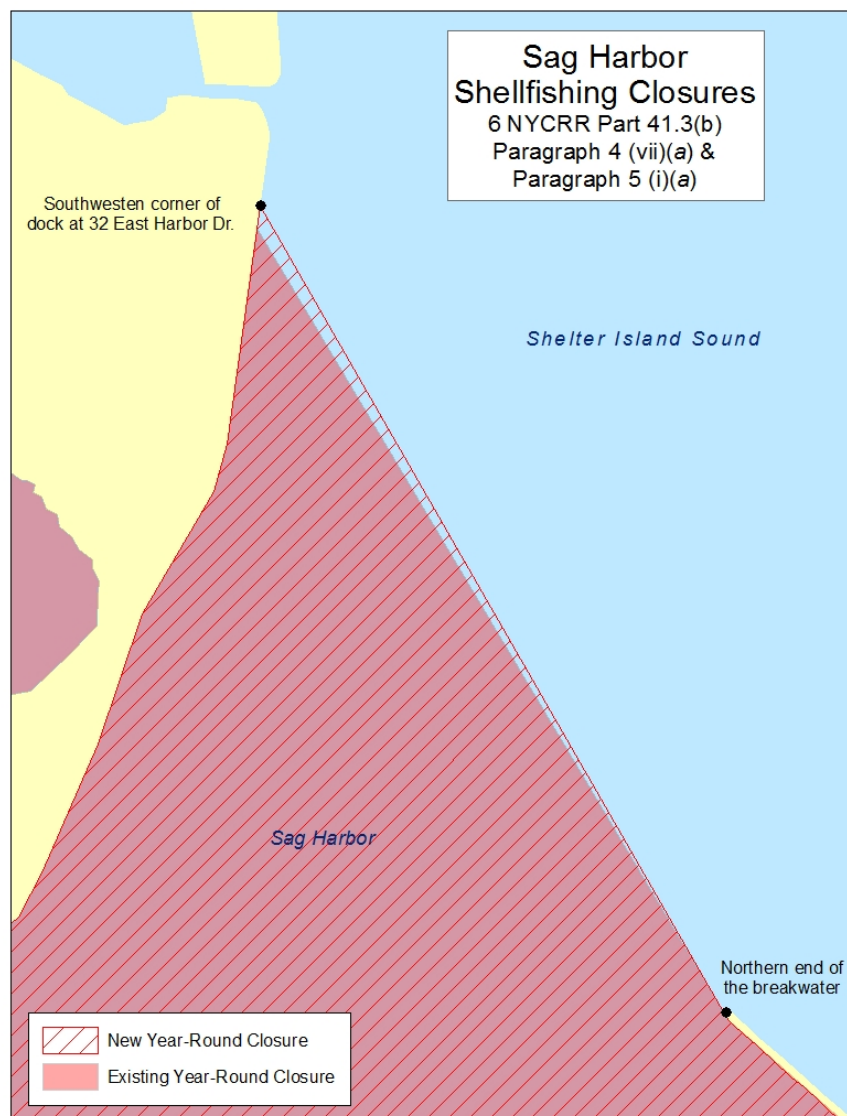
(e) Shinnecock Commercial Docks. During the period January 1 through December 31, both dates inclusive, all that area of Shinnecock Bay bounded by a line extending northwesterly from the northwesternmost point of the rock pile, adjacent to the westernmost

corner of bulkhead serving the Shinnecock Commercial Dock, local name and local landmark, to Shinnecock Inlet Buoy "6" (R N "6"); thence continuing easterly to the Shinnecock Inlet Lighted Buoy "4" (FI R 4 sec "4"); thence extending southwesterly to the northernmost corner of the western jetty of Shinnecock Inlet; and, thence continuing along the shoreline westerly to the point of beginning.

Clauses 41.3(b)(4)(iii)(f) through (o) are repealed.

Clause 41.3(b)(4)(vii)(a) is amended to read as follows:

(a) [All] During the period January 1 through December 31, both dates inclusive, all that area, including tributaries, lying [westerly] south and west of a line extending northwesterly along the breakwater located at the entrance to Sag Harbor (local landmark) and thence continuing northerly from the northern end of the breakwater to the [northeasternmost extremity the timber bulkhead protecting the shoreline adjacent to 28 East Harbor Drive, North Haven (local landmark); and, easterly of the westernmost portions of the fixed bridge] southwestern corner of the fixed dock serving the property of 32 East Harbor Drive, North Haven; and northerly of the south side of the Ferry Road Bridge connecting North Haven Peninsula and Sag Harbor (local landmark).



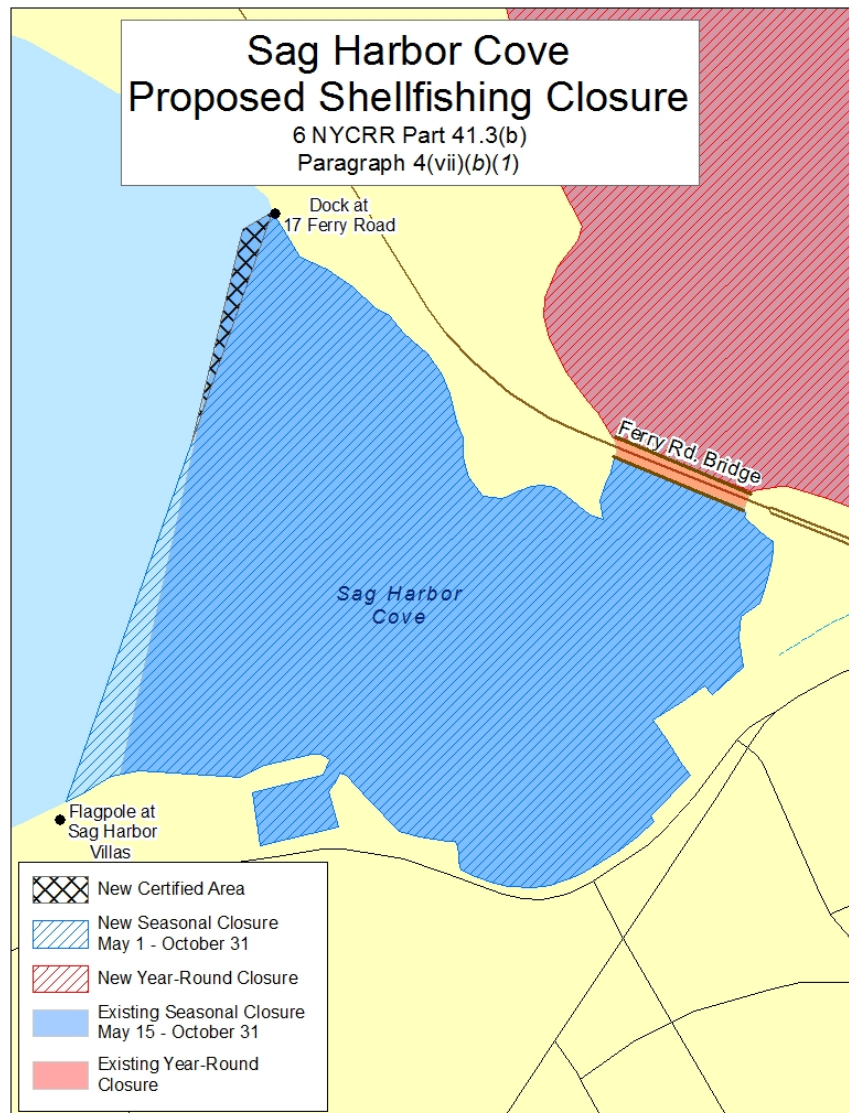
Clause 41.3(b)(4)(vii)(b) is repealed.

A new clause 41.3(b)(4)(vii)(b) is added to read as follows:

(b) Sag Harbor Cove.

A new subclause 41.3(b)(4)(vii)(b)(1) is added to read as follows:

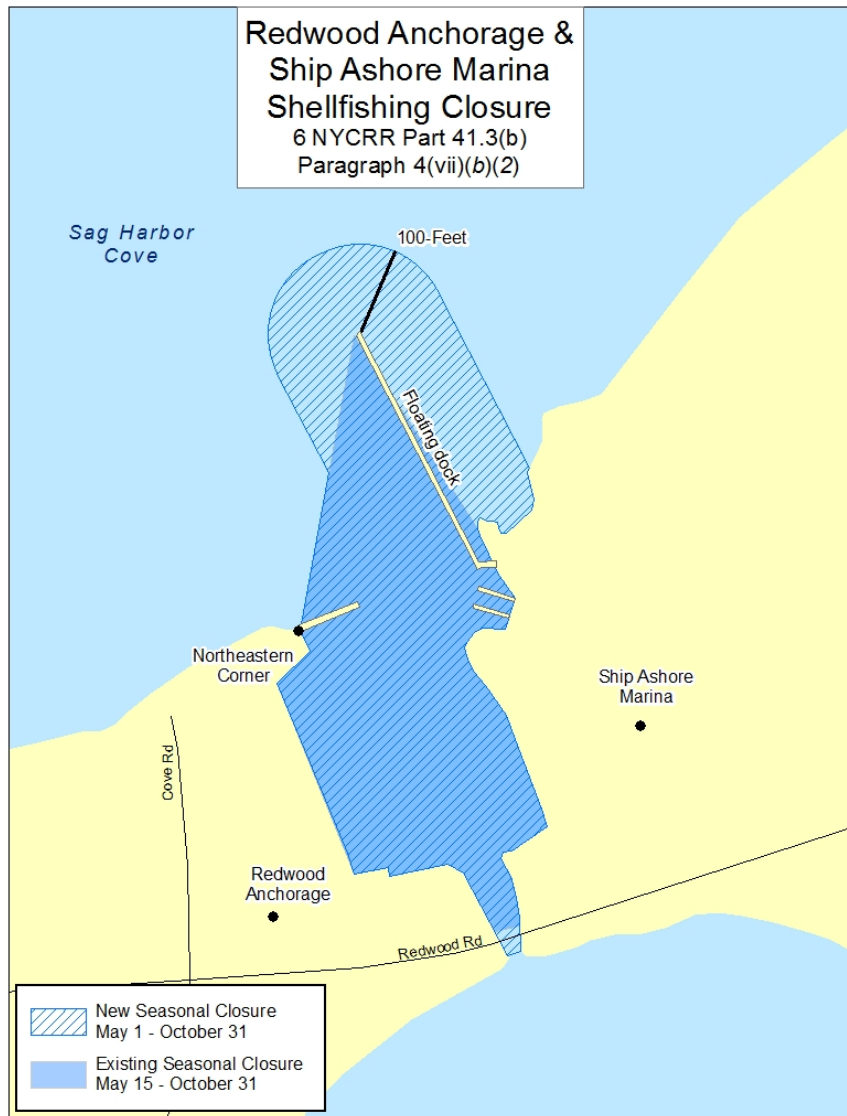
(1) Sag Harbor Cove. During the period of May 1 through October 31, both dates inclusive, all that area lying south and west of the south side of the Ferry Road Bridge connecting North Haven Peninsula and Sag Harbor (local landmark); and east of a line extending northeasterly from the flagpole located along the shoreline of the Villas at Sag Harbor (local name and local landmark) condominiums property to the southeastern corner of the fixed dock serving the property of 17 Ferry Road, North Haven.



A new subclause 41.3(b)(4)(vii)(b)(2) is added to read as follows:

(2) Redwood Anchorage and Ship Ashore Marina. During the period of May 1 through October 31, both dates inclusive, all that area lying northerly of the southern edge of Redwood Road and southerly of a line extending easterly from the northeasternmost corner of the bulkhead at the western side of the entrance of the boat basin to the northwestern corner of the easternmost floating dock serving Ship Ashore Marina; and all that area of Sag Harbor Cove within 100-feet of the eastern most floating dock serving Ship Ashore Marina.

(see reference map on next page)

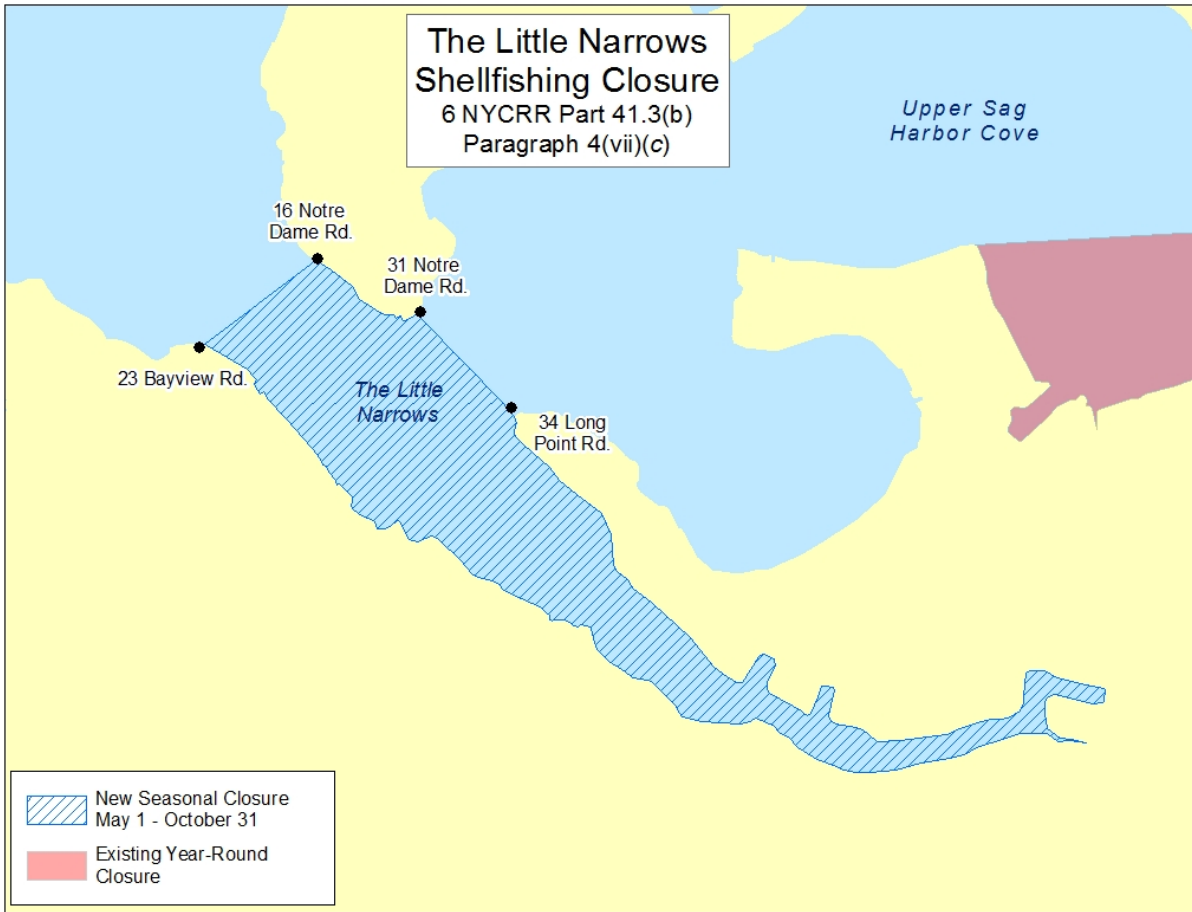


Clause 41.3(b)(4)(vii)(c) is repealed.

A new clause 41.3(b)(4)(vii)(c) is added to read as follows:

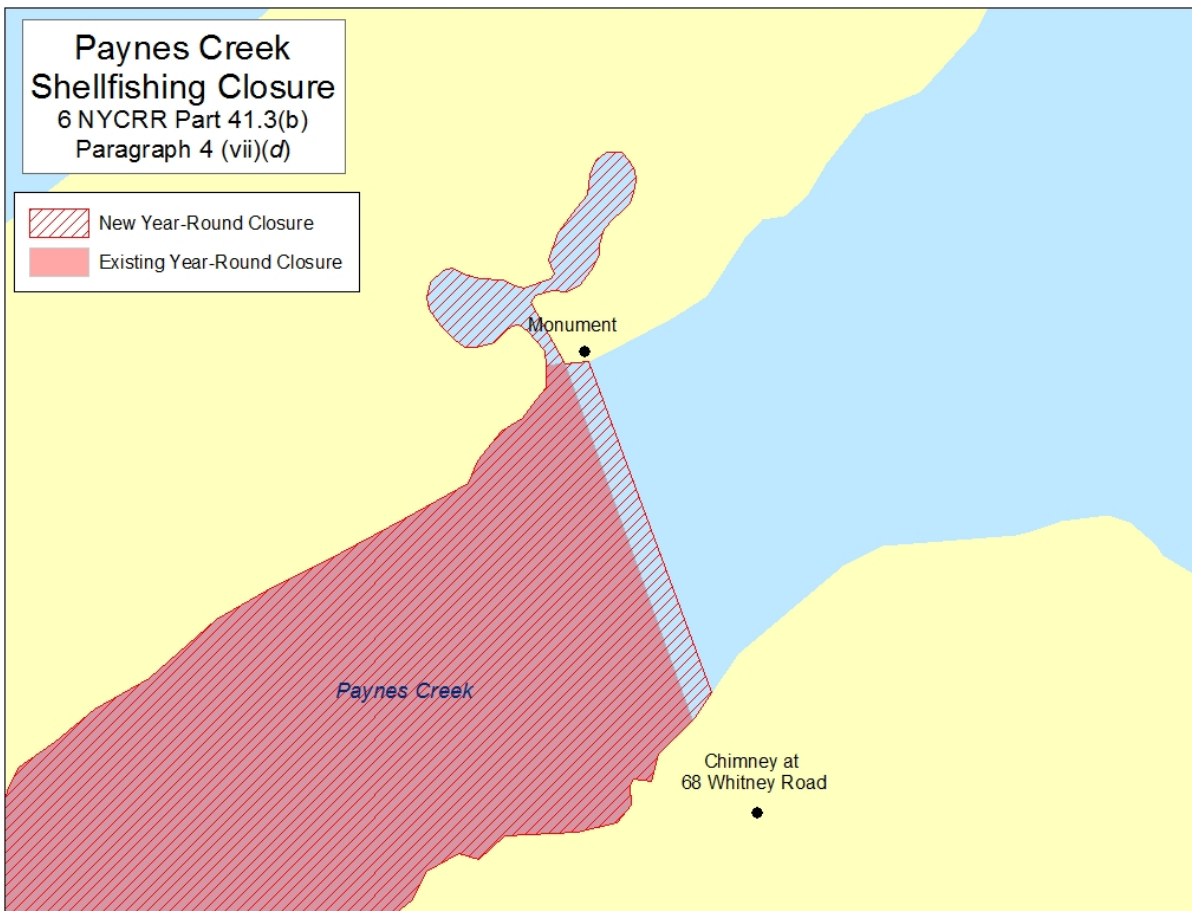
(c) The Little Narrows (local name). During the period of May 1 through October 31, both dates inclusive, all that area lying south and east of a line extending northeasterly from the northwest corner of the bulkhead at 23 Bayview Road, Southampton, to the chimney of the residence at 16 Notre Dame Road, Sag Harbor; and lying southwest of a line extending southeasterly from the southernmost corner of the house at 31 Notre Dame Road, Southampton, to the westernmost corner of the house at 34 Long Point Road, Southampton.

(see reference map on next page)



Clause 41.3(b)(4)(vii)(d) is amended to read as follows:

(d) [All] Paynes Creek. During the period January 1 through December 31, both dates inclusive, all that area of Paynes Creek, including tributaries, lying westerly of a line extending northerly from [utility pole NYT 11 (said utility pole is the northernmost utility pole on the eastern side of Whitney Road, local name and local landmarks) to a wooden pole painted orange (located on the opposite northern shoreline, local landmark).] the chimney at 68 Whitney Road, Southampton, to the orange monument located on the opposite northern shoreline.



Clause 41.3(b)(4)(vii)(e) is amended to read as follows:

(e) [All] Upper Sag Harbor Cove. During the period January 1 through December 31, both dates inclusive, all that area of Upper Sag Harbor Cove including tributaries lying south of a line extending easterly from the [easternmost] northeasternmost point of land at Bluff Point to the [western end] northeastern corner of the fixed wooden dock [of] servicing the residence at 15 [Greene Street, a one-story natural wood shingled home,] Green Street, Sag Harbor, located at the foot of and on the south side of [Greene] Green Street (local names, local landmarks).

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Clauses 41.3(b)(4)(ix)(a) through (e) are repealed.

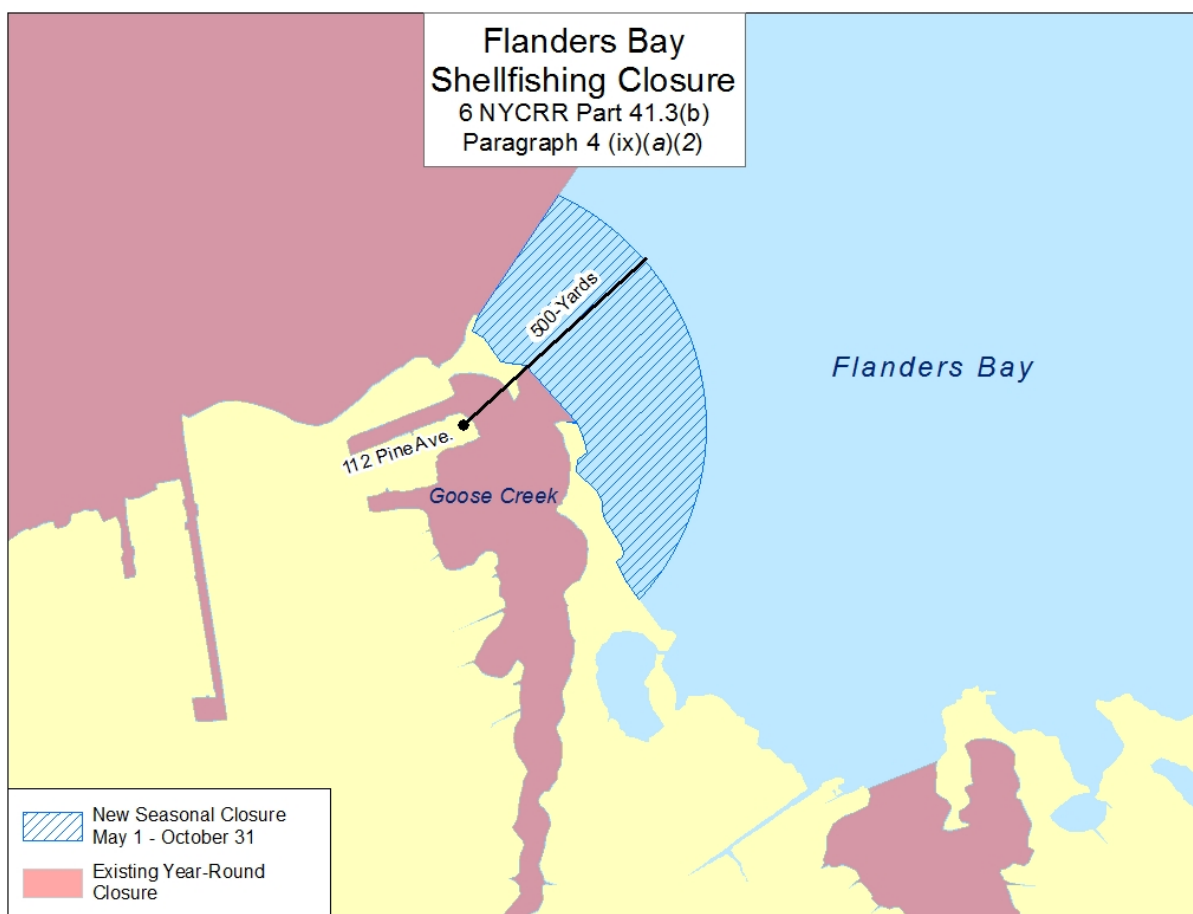
A new clause 41.3(b)(4)(ix)(a) is added to read as follows:

(a) During the period January 1 through December 31, both dates inclusive, all that area of Flanders Bay and Reeves Bay, including their tributaries, lying westerly of a line extending northeasterly from the northernmost point of land at Goose Creek Point to the southernmost point of land at Simmons Point.

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A new clause 41.3(b)(4)(ix)(b) is added to read as follows:

(b) Except as otherwise described in subparagraph (ix) of this paragraph, during the period May 1 through October 31, both dates inclusive, all that area of Flanders Bay lying within a 500-yard radius from the northeastern corner of the residence at 112 Pine Avenue, Flanders (said residence is the easternmost house at the foot of Pine Avenue).



A new clause 41.3(b)(4)(ix)(c) is added to read as follows:

(c) Goose Creek, Birch Creek, and Mill Creek. During the period of January 1 through December 31, both dates inclusive, all that area of Goose Creek, Birch Creek, Mill Creek and their tributaries.

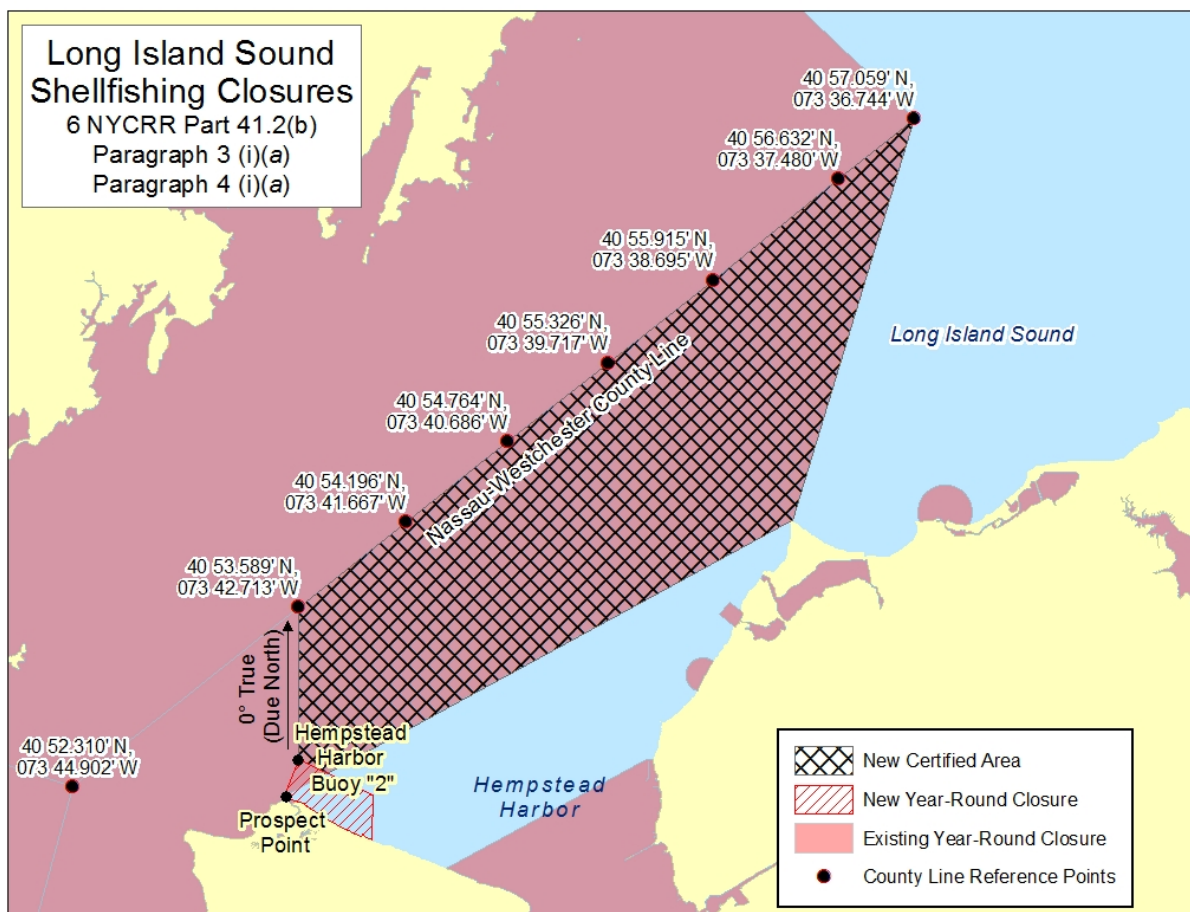
A new clause 41.3(b)(4)(ix)(d) is added to read as follows:

(d) Hubbard Creek. During the period of May 1 through November 30, both dates inclusive, all that area of Hubbard Creek and its tributaries.

### (3) Town of North Hempstead

Clause 41.2(b)(3)(i)(a) is amended to read as follows:

(a) [All] During the period January 1 through December 31, both dates inclusive, all that area of Long Island Sound, including tributaries, lying northerly and westerly of a line extending [northeasterly] northerly from the northernmost point of land at Prospect Point to [the northernmost point of land at Matinecock Point; and,] Hempstead Harbor Buoy "2" (R N "2"), and thence continuing [in a northeasterly direction on a true bearing north 18 degrees east (magnetic bearing north 30 degrees east) from Matinecock Point to the New York-Connecticut State boundary.] due North (0 degrees true) to the Nassau-Westchester County Line at coordinates 40° 53.589' N, 073° 42.713' W.



A new clause 41.2(b)(3)(i)(a) *Note* is added to read as follows:

*Note:* For the purposes of clause 41.2(b)(3)(i)(a), the Nassau-Westchester County Line is defined as a line drawn northeasterly through the following series of coordinates originating at 40° 52.310' N, 073° 44.902' W, to 40° 53.589' N, 073° 42.713' W, to 40° 54.196' N, 073° 41.667' W, to 40° 54.764' N, 073° 40.686' W, to 40° 55.326' N, 073° 39.717' W, to 40° 55.915' N, 073° 38.695' W, to 40° 56.632' N, 073° 37.480' W, and terminating at 40° 57.059' N, 073° 36.744' W.

Dated: November 22, 2021  
Kings Park, New York

Debra Barnes, Chief  
Bureau of Shellfisheries