

SECTION IV

COMMERCIAL FISHING POLICY #10/10A

A. INTRODUCTION

Commercial fishing is part of the lifeblood of the East Hampton community, providing an important food source and a significant component of the Town and New York State economies. The fishing industry is not just an economic input. It is also an essential part of the Town's cultural history and contributes to its attraction for tourism and to its resort economy. Commercial fishing adds to the picturesque waterfront, and to the appeal of the many restaurants and retail stores that promote and serve fresh local seafood.

Tourism and fishing both depend directly on the Town's environmental resources. Therefore, any development activities in the Town, including efforts to expand commercial fisheries, must also protect the coastal and marine habitats on which the fish depend for spawning and for nursery areas.

East Hampton and Long Island have a unique and fortuitous geography relative to fisheries. Long Island is near the southern end of the range of traditionally northern species (cod, whiting, winter flounder, yellowtail flounder, etc.), and at the same time near the northern end of the range of more southern mid-Atlantic species (scup, fluke, squid, weakfish, bluefish, etc.). Long Island fishermen can pursue fish species from both geographical ranges, providing them with more opportunities than fishermen to the north or to the south, and the advantage of reducing effort on depleted species and instead pursuing more abundant species with levels suitable for harvest.

This mixed trawl fishery, where fishermen can switch target species, has in many respects saved local offshore fishermen from the extreme economic duress experienced by single-species or groundfish dependent fishermen of New England, where the governor of Massachusetts recently sought to declare the state's fishing industry a natural disaster (New York Times 3/22/95, p. A14). However, the stock depletions and resulting closures of prime fishing grounds, such as Georges Banks, are reportedly forcing boats from those areas into the waters surrounding Long Island, putting increased pressure on local stocks.

The commercial fishing industry is one of the few year-round industries in the Town providing permanent employment opportunities at a level sufficient to support a family in an area with a relatively high cost of living. Additionally, the dollars generated by the commercial fishing industry are 100% return, i.e. few of the dollars are exported out of Town for the "cost" of the fishery resources, and most are spent locally.

The traditional fishing methods used in East Hampton represent a unique way of life, a cultural as well as an economic resource. Ocean haul-seining, for instance, is no longer practiced anywhere else except on the Outer Banks of North Carolina. Exhibits in the Town Marine Museum on Bluff Road in Amagansett trace the evolution of local fisheries from aboriginal weirs and colonial whaling (the first documented in the United States) to the skilled baymen and high-tech fish harvesters of today. Both inshore and offshore fishing are part of East Hampton's cultural heritage, with generations of local families working the water since colonial times.

The Town's inshore fisheries also have a significant economic role, and provide a great variety of species for local market. Inshore fishing and shellfishing in the harbors and bays, coastal ponds, and along the ocean beaches, are primarily carried out by small trawlers and by baymen using small boats and traditional fishing methods such as pound traps, seines, handlines, fykes, gill nets, pots, dredges, spears, tongs, and rakes. Many of the baymen moor their boats in and work out of the Town's sheltered inner harbors, especially Three Mile Harbor, Accabonac Creek and Napeague Harbor.

B. REACH INVENTORY

The following is an inventory of existing commercial fishing facilities and resources in the various reaches of the Town. Locations of these facilities and resources are denoted on maps for other policy sections of this report, therefore a separate map was not prepared for this section. Information on these maps includes: access points in [Maps VII-1A/-1B](#) in **Public Access and Recreation Policies #9 & #19-22**, shellfish closure areas on [Map XII-2A/-2B](#) in **Water and Air Resources Policies #30-44**, and Waterfront (WF) zones including shoreside fishing facilities on Existing Land Use, [Maps II-1A/-1B](#) in **Development Policies #1-6**.

1. Reach 1, Northwest Harbor

The launch ramp in Northwest Creek is used frequently by baymen, who also moor sharpies and other small craft in the boat basin. The baymen also launch off the beach from the spit opposite the ramp. The County dock adjoining the ramp is used occasionally for offloading quantities of fish such as herring, which may be caught by the ton during their fall run. Northwest Creek is a fyke fishery for eels, also for potting blue crabs, and in the past has been a good source of bay scallops and clams. It is presently closed year round to shellfishing because of coliform pollution, but the north end is opened conditionally in winter on a rainfall related basis.

Northwest Harbor is considered one of the prime scallop nurseries in the northeast, and has been a focal point for seeding programs aimed at reviving the bay scallop fishery decimated by the Brown Tide algal bloom. Several pound traps are installed every year along the Northwest Harbor shore.

Alewife Pond, as its name implies, is a habitat for this small anadromous fish species, and also home to blue crab, eels, perch, and a nursery area for other species. It is, however, closed year round to shellfishing.

2. Reach 2, Three Mile Harbor/Hog Creek

The Town's Commercial Dock at the end of Gann Road on Three Mile Harbor serves 5-6 bay trawlers (druggers), 3-5 lobster boats, and three or more trap fishermen, who may also work at runaround gill netting. The dock is a key offloading site for fish caught in the bay, and the launch ramp is heavily used by baymen. The several launch ramps around the Three Mile Harbor perimeter, including the one at Gann Road between the Town commercial dock and a marina, one near the Town Dock at the end of Boat Yard Road with marinas on either side, and one at Hands Creek, provide primary access to the prolific shellfish beds in the harbor. An additional number of smaller semi-public access points also provide access to baymen working the harbor shores, at Dominy

Point, Springy Banks, the north side of Hands Creek, Sammy's Beach, Marina Lane, Will Curl Highway, Breezy Hill, Shagwong, Squaw Road, Folkstone Drive, and Twillingate Road (near the former fishing station). Some of these access points in private ownership are threatened by development, closure by property owners associations or individuals, or environmental factors such as erosion, even though in some cases they may be traditional public access points, or owned by the Town Trustees. At some of these points the Town may wish to seek easements or acquire land to maintain public access. See recommendations in **Public Access and Recreation Policies #9 & 19-22**.

Several recreational marinas in Three Mile Harbor also supply haul-out and maintenance services to the commercial fishing fleet, generally to the smaller trawlers and other boats under about forty-five feet. Harbor Marina, East Hampton Point and Three Mile Harbor Boatyard are among those providing services.

A number of areas in Three Mile Harbor are closed seasonally to shellfishing because of the presence of coliform bacteria, or because of National Shellfish Sanitation Program (NSSP) standards for potential discharges from marina activity, as around the Folkstone area. Hands Creek, the south end of the harbor, and the east side including the mooring areas are all closed seasonally. New York State Department of Environmental Conservation (NYS DEC) may also close down the entire harbor for brief periods following extraordinary rainfall or popular events, such as the influx of overnight boaters at the annual Boys Harbor fireworks display, which may bring upward of a thousand pleasure boats into the harbor for a single evening. See [Water Resources Maps XII-2A/-2B](#).

Hog Creek is an important nursery area and is included in the seeding program carried out by the Town's shellfish hatchery. The northeast portion of the creek in the area of the Clearwater Association marina is closed seasonally to shellfishing and the rest is open year round. Hog Creek is also a source for eels, bay scallops, whitebait and perch. It could become a more productive resource but is hampered by lack of access, particularly in summer, and the shallow draft in the southern portion.

3. Reach 3, Accabonac

The anchorage and public launch ramp at Louse Point in Accabonac Harbor is another primary staging area for baymen working a variety of fisheries, including trap fishing, gill netting, lobstering, conch fishing, etc. The mooring area requires a permit from the Town Trustees, and is managed by the Town Harbormaster. 8-10 fishing boats moor there on a more or less permanent basis and many others launch from trailers or use the harbor occasionally. Other launching ramps at Landing Lane and Marina Lane are in use less frequently but are still consistently used. The harbor itself is a source for hard and soft clams and scallops, and crabbing and eeling go on year round. East Harbor is closed year round to shellfishing because of coliform contamination, although the south end of East Harbor is open on a conditional basis from mid-December to the end of April. Baitfishing for sand eels and spearing is active in Accabonac as well as the other small harbors. Horseshoe crabs are also harvested, primarily during their spring mating and migration time, and used for baiting conch (scungilli) and eel pots.

Several pound traps are generally set at intervals along the Reach 3 shoreline to catch the spring and fall migrations of squid and finfish along the bay shores.

Fresh Pond at the south end of Reach 3 is a source for blue crabs, whitebait and some soft clams from the flat outside the gut, but the pond itself is closed to shellfishing year round because of coliform pollution.

4. Reach 4, Napeague North

The private Multi-Aquaculture facility next to the old fish factory site at Promised Land is also a fish wholesaler and has a small retail fish market. They buy and ship fish and lobster, and have pioneered a live-shipping business in cooperation with a number of local fishermen to land and transport live fish directly into Chinatown and other ethnic markets in New York City.

The launch ramp and mooring area at Lazy Point in Napeague Harbor are heavily used, with eight or more commercial boats generally moored in the Trustee mooring area, including trap fishermen, gillnetters, and lobstermen. The launch ramp was reconstructed by the Town following extensive damage and undermining from Hurricane Bob in August 1991. The Town Trustees have sought to have the launching ramp revised to afford a more manageable access and to reduce erosion to the west of the ramp constructed in 1991. Napeague Harbor is utilized year round for shellfishing, both hard and soft clams, and occasional forays after small bluefish and snappers. Hard clamming is done primarily on the east side, at Strong's Point south of Lazy Point, and in Eel Pond (Pond O' Pines). Water quality is excellent and it is the only one of the Town's inner harbors which presently has no waters closed to shellfish harvesting. The Town Shellfish Hatchery, located in Reach 5, has extensive grow-out arrays in Napeague Harbor because of the excellent water quality and sheltered conditions, which form an important component of the hatchery's growing cycle.

Other access points for Napeague Harbor are at Pond O' Pines, Beamons Creek, the Art Barge, Napeague Harbor Road, and a sand road that leads to Goff Point, sometimes used for clamming.

Seasonal pound traps dot the shore along Water Fence east of Napeague Harbor.

5. Reach 5, Hither Woods/Fort Pond Bay

Fort Pond Bay is an important gillnetting, trapping and trawling fishery. School bluefish, striped bass and other species can be found there in seasonal abundance. Access points along Old Navy Road and through a Town-owned parcel next to the Port Royal Motel provide launching, although most fishing in Fort Pond Bay is by boats emanating from Lake Montauk or Napeague Harbor.

Duryea's lobster business on Tuthill Road along Fort Pond Bay is a long-established wholesaler and shipper of lobster, also dealing in Maine lobster. It has an approximately 250' pier extending into the bay, with storage pounds, fishpacking and shipping facilities.

The Town's municipal shellfish hatchery is situated on the southwest shore of Fort Pond Bay. It shares a building with the Blue Lobster Project, a survivor of the NY Ocean Science Laboratory which formerly occupied the site. The hatchery supplies juvenile hard clams, oysters and scallops

for seeding in Town and State waters, to maintain and enhance stocks for commercial and recreational shellfishing. Scallop seed from the hatchery has been used in trials to reintroduce bay scallops to sections of the Peconic Estuary where Brown Tide has eliminated them.

The waters of Fort Pond Bay generally lend themselves well to these water-dependent uses, located at the cusp where waters of the Peconic Bay system and the ocean mingle, an ideal condition for lobsters. The more estuarine-oriented shellfish culture activities of the hatchery also use grow-out sites in the harbors to counter the strong oceanic influence.

6. Reach 6, Montauk North Side, Culloden Point to Shagwong

Montauk, according to the National Marine Fisheries Service (NMFS) in 1989, was "the largest commercial fishing port in New York State in terms of landed value and numbers of vessels." The total ex-vessel value of finfish and shellfish to the Town in 1988 was approximately 14 million pounds of seafood valued at \$15.5 million. NMFS figures for 1990, 1991 and 1992 remain consistent at 14.2, 14.2, and 14.1 million pounds, valued at \$15.4, \$15.0, and \$14.9 million respectively (Source: Fisheries of the United States, 1992, US Dept. of Commerce). 1993 figures for the Port of Montauk (which also includes available data for other landings in East Hampton) were 15.7 million pounds valued at \$15.2 million. Landings declined over the next few years: in 1994 landings of 10.9 million pounds were valued at \$14.7 million; in 1995 landings of 10.4 million pounds were valued at \$14.8 million; and 1996 landings decreased to 8.9 million pounds valued at \$10.1 million (Source: NMFS local office). Target species include striped bass, bluefish, weakfish, porgies (scup), cod, squid, whiting, tilefish, blowfish, winter flounder, seabass, fluke (summer flounder), blackfish, butterfish, [bigeye, yellowfin and giant bluefin] tuna, swordfish, shark, hard clams, soft clams, bay scallops, conch and lobster. Other economic activities related to the fishing industry are considered to multiply this amount by three to four times, for a total input to the Town's economy of approximately \$45-60 million (Source: Cornell Cooperative Extension Marine Agent Emerson Hasbrouck, 1989 study, and personal communication).

Not only are the landed values and numbers of vessels in Montauk the highest in the state, Montauk also represents the greatest variety of offshore fisheries, including trawlers, longliners, lobster, charter and party boats, not to mention the large number of private recreational boats. Montauk is home to almost all the Town's offshore fishing fleet which includes trawler, longline and lobster boats, as well as charter boats for offshore sport fishing. The larger vessels are equipped with highly sophisticated electronic gear for locating and harvesting fish. As many as 30 transient long-liners from Florida and the Carolinas use Montauk annually. The boats generally remain in New York from mid-July through early November, seeking swordfish and bigeye and yellowfin tuna (Source: Development of a Commercial Fisheries Industry Strategy for the State of New York, prepared by A.T. Kearney for the NYS DOS Division of Coastal Resources and Waterfront Revitalization, December 1989).

The 1989 Kearney study, conducted at the peak of fleet expansion in the 1980's, lists the fishing fleet in Montauk as comprised of 44 ground fish trawlers, 12 inshore and 7 offshore lobster boats, and 53 pelagic longliners. The report states, "The labor pool for trawlers is generally considered to be inadequate, so many captains are forced to use foreign or temporary crews. Boats in the 80 foot

range generally operate with a crew of three including the captain. These larger boats are highly sophisticated operations and require crew members with years of experience."

Commercial dock space is available at two municipal and four private docks on Star Island and on West Lake Drive, at the commercial fishpacking docks of Inlet Seafood and Deep Water Seafood on the east side of the inlet, and at Duryea's and Gosman's on the west side. Retail seafood markets include Gosman's, Captain Keller's and Darenberg's, and a number of docks or marinas which occasionally sell fish as landed.

Basic services for the fleet include four ice suppliers, one with a capacity of more than 40 tons daily and the rest smaller, and two commercial diesel fuel sellers. Commercial boats also may purchase diesel fuel direct from trucks at the dock. Others travel to Rhode Island to purchase fuel, because of a price differential due to fuel taxes of approximately .50 a gallon, even though buying locally saves probably a day a month in travel. Recently, NY State has begun to rebate the fuel sales tax, though on a monthly basis rather than at the dock as Rhode Island presently does. This fuel tax cost differential was the subject of a recommendation from the East End Task Force report (1994). Maintenance services noted in the Kearney report include limited facilities for electronics, diesel, and gear repairs, while for most major repairs and hull maintenance work most boats travel to Connecticut or Rhode Island.

The inshore fisheries of Lake Montauk are also of considerable economic importance, although significant portions of the Lake are closed to shellfishing on either a seasonal or year round basis because of coliform contamination or National Shellfish Sanitation Program requirements surrounding marinas. In past years it has been one of the primary bay scallop and hard clam sources for local baymen, and hosts a variety of commercial fishing activities year round from scalloping and baiting to traditional fyking for winter flounder. Lake Montauk is unique in the Town in that a portion of its underwater lands are privately owned, and shellfishing could potentially be restricted by the owners of these parcels.

The Lake and its adjoining wetland and pond systems (Stepping Stones Pond on the southwest, and Big and Little Reed Ponds on the east side) are important nursery areas for many finfish and shellfish species. Access to the Lake is via public launch ramps at East and West Lake Drives (the East Lake ramp is in the process of being relocated), opposite Stepping Stones Pond for clamming, through Town property at the south end of East Lake Drive, and over private property at the southwest end of Star Island causeway.

7. Reach 7, Oyster Pond/North Montauk Point

Oyster Pond, though closed year round to shellfishing, has long been a source of shellfish, mainly oysters, for transfer to other Town and State waters. Perch and bait are also caught in the pond according to season and conditions.

8. Reaches 8, 9, 10; Montauk Bluffs, Hamlet of Montauk/Hither Hills, Napeague South/Amagansett

The south shore ocean reaches of the Town are a staging area for a number of traditional fisheries, including haul-seining, ocean gillnetting, and trawling or dragging. For the two former techniques, which involve launching boats and landing fish from nets on the beach, public access is essential. The various road-ends leading to the ocean beach between the Village of East Hampton and Napeague State Park to the east are all used at times for these commercial fishing activities, especially haul-seining which may occur anywhere along the beach where fish schools venture in close enough to shore. Currently New York State limits beaches adjoining state parklands to recreational fishing, and does not permit commercial haul-seining for bass anywhere on the south shore. For public access points and accompanying recommendations for these reaches see **Public Access and Recreation Policies #9 and #19-22**.

Ocean haul-seining, formerly a way of life for many local fishermen, declined precipitously following restrictions on the striped bass harvest and the haul-seine fishery. The fishermen and their families have been movingly recorded in a book, "**Mens Lives**", by the naturalist Peter Matthiessen. Striped bass limitations have removed most of the incentive from haul-seining. However, a rebound of the bass population and change in NYS DEC regulations may eventually revive this traditional fishery.

Stuart's Fishmarket on Oak Lane in Amagansett, though outside the coastal zone boundary, is an important shipping, wholesale and retail fish market for the commercial fishermen, especially baymen.

9. Reach 11, Wainscott

On the south shore, besides the Atlantic, Georgica Pond is the primary commercial fishing resource in Reach 11. The pond is used year round for blue claw crabbing, as well as fishing for eels, perch and baitfish. Access is primarily from the launch point on Montauk Highway near the intersection with Wainscott Stone Road, or via the beach extending from Beach Lane to the gut where the pond periodically empties or is opened to the ocean. One or two other access points are also used occasionally by baymen, however, these are over private property and by permission only.

The Seafood Shoppe on Montauk Highway in Wainscott, also outside of the boundary of the coastal zone, is an important shipping and retail sales point for the baymen.

10. Reach 12, Gardiner's Island

Because the island is private and isolated from the mainland, access is by boat only and limited to the beach below mean high tide. The creeks and ponds on the island are important nursery areas and marine habitat, some with prolific shellfish stocks, though lacking public access. Great Pond is the only one with a relatively permanent opening gut, whereas the others open and close depending on tide and storm conditions. The entire island remains private and cannot be considered a commercial resource; however, many traditional fisheries such as trapping, lobstering and gillnetting, take place along its shores.

C. ANALYSIS

Management decisions for commercial deepwater fisheries, their productivity and economics, are made primarily by state and federal agencies. However, nearly all commercially and recreationally important species are estuarine dependent during some phase of their life cycle. Land use and water quality in and around the coastal zone are vital to the health of these estuaries and thus the fisheries, and fall within the purview of the Town. Creeks and harbors are directly affected by development in the Town, and the actions of its citizens and business community. Marine habitat, saltmarshes and fish spawning grounds must be preserved to have viable fisheries. With that aim the Town should use the full range of tools at its disposal, including planning and zoning controls for waterfront land use, as well as measures to maintain and improve surface water quality.

Government agencies, developers and private businesses often do not adequately take into account the economic, cultural and biological impacts of development or management decisions on traditional fisheries. Pristine surface water quality and preservation of the wetland, harbor and coastal pond environments that are spawning grounds and nurseries for finfish and shellfish should be high priorities for all federal, state and local agencies with jurisdiction in the coastal zone. The Town has undertaken a number of initiatives in this area including road runoff remediation, a Harbor Protection Overlay District, and a proposed No-Discharge Zone designed to limit pollution of the inner harbors. For details see **Development Policies #1-6, Significant Habitats Policy #7, and Water and Air Resources Policies #30-44**. The Town is also an active participant in the Peconic Estuary Program, a multi-year federal research and management program to improve water quality throughout the Peconic Bay system.

Although the most significant offshore fishing port for the Town and New York State, Montauk's shoreside support infrastructure is adequate at best. There are a limited number of these support facilities in the Town, most of them in Montauk, which according to local commercial fishermen are sufficient for the present needs of the fishery. However, future needs for shoreside infrastructure are uncertain, and may be affected by changes in fishing activity, land use, expiration of leases, and changes in ownership, management or equipment at existing facilities.

The commercial fishing fleet is dependent on the availability of maintenance and fueling facilities, gear suppliers, boat yards, commercial dock space, and fish-packing, ice, shipping, and retail and wholesale marketing operations.

Additional freezing and/or processing facilities would help distribution of the local catch. In Montauk two public and four private docks provide dockage for commercial fishing boats, and can presently accommodate between 50 and 60 boats. The only other dockage for commercial fishing vessels is in Three Mile Harbor at the Town's Commercial Dock, with space for only 4-5 smaller boats to tie up alongside. For major repairs most of the larger boats put in to Stonington or New London in Connecticut, Point Judith in Rhode Island or New Bedford in Massachusetts. Limited repair services are available in Montauk, and some gear is available from Gear Works in Riverhead.

While the level of facilities in Montauk supports current fishing activity, the 1989 Kearney survey identified a number of problems and concerns for the commercial fishing industry, most of which affect the industry throughout Long Island. These include: generally high operating and maintenance costs in New York which are uncompetitive with neighboring states, inadequate market information, lack of opportunity to harvest locally, declining catch in nearby waters, and competition from recreational boaters and tourism for land, facilities, and services. Other potential concerns are deteriorating packing-out facilities, management problems, unavailability of dock space at packing out facilities for smaller boats, and changes to resort-oriented uses through non-renewals of existing leases. The East End Task Force (1994) report contains additional recommendations for improving infrastructure. Future need for additional facilities and use of existing resources should be evaluated periodically by the Town in conjunction with the local commercial fishermen, with the common goal of maintaining this vital segment of the Town's economy.

Land use issues related to fisheries are primarily addressed under Water-dependent Uses in **Development Policies #1-6**. Waterfront real estate remains at a premium in the parts of the harbors most easily accessible for fishery support uses, and dock space for commercial vessels must compete with recreational and other water-dependent and water-enhanced uses. Therefore, it remains important for the Town to preserve commercial fishing uses and prevent their displacement by other recreational or tourism related uses. Although existing commercial fishing facilities appear adequate for the present, the Town should identify potential sites at Montauk and Three Mile Harbors where land may be acquired or otherwise reserved for future fish packing, dockage, or other commercial fishing uses.

While the present Waterfront (WF) zone, as delineated in **§153-4-39B**, **§153-3-45D** and **§153-5-50** [Fish Processing accessory use] of the Town Code, gives priority to "water related" uses, it may not distinguish adequately between water-dependent and water-enhanced uses (e.g. a commercial fishing dock or fish packing operation from a restaurant or retail shop), and may not sufficiently protect shoreside commercial fishing support facilities against changes to non-water-dependent uses. **Harbor Management Plans (Section XIV)** for each harbor will examine existing facilities and pressures on Waterfront (WF) zone uses, and may consider a sub-zone for fish packing, docking or other commercial fishing uses. Provisions might include fewer requirements for the land-related uses, e.g. parking, coupled with specific land use constraints and/or incentives to maintain the commercial fishing uses. The Town may also consider a local law parallel to a Right to Fish Law enacted by Suffolk County in 1988, although such activities are also covered in Article 42 of State law. Other issues related to the future health of the Town's commercial fisheries will be developed in the **Fisheries Shoreside Support Infrastructure Project, Section XIV** in a cooperative effort with the local fishing industry. Land use issues relevant to commercial fishing are also discussed in **Section II, Development Policies #1-6**.

Access to markets for the Montauk catch is primarily via fish transfer facilities where the commercial boats pay an "over the dock" fee to unload and ship fish to dealers at Fulton Fish Market in New York or elsewhere, who pay the fishermen directly after consignment sale. There are also fish buyers who may purchase fish at the dock for direct export or air-freight to other parts of the country and overseas. Gosman's is the only facility that purchases and currently processes fish in Montauk, about

a third of which is sold through the family owned restaurant or gourmet fish market, and the remaining two thirds to local wholesalers. Other operations in the Town do a minimal amount of processing for local restaurant and wholesale markets.

Marketing and distribution of seafood is a regional issue, and a number of innovative schemes have been tried, including direct export (e.g. of giant tuna), sale to foreign factory ships of underutilized species, a marketing cooperative at Shinnecock, and the live shipping scheme from Multi-Aquaculture described in Reach 5 above. However, the bulk of the commercial catch not sold through local retail outlets or export agents continues to be sold as landed through the Fulton Fish Market in New York City, where wholesaling practices and supply and demand limit financial returns to the fisherman. Despite repeated attempts at reform the Fulton Fish Market retains a reputation for corruption and inefficiency (New York Times, 2/1/95, p. A1, and 3/28/95, p. B3). Geography is one of the major limiting factors in getting access to other markets from the east end by truck.

The Town should work with fishermen and other agencies to encourage formation of a more equitable regional distribution system (see Local Fishery Assistance in **Projects**). Onsite local fish processing or freezing facilities could improve prospects for export sales and distribution alternatives to the Fulton Fish Market, and incidentally also encourage harvest and marketing of presently underutilized species. If government should become involved in financing or operating any new facilities, care should be taken not to compete with or displace existing commercial fishing enterprises, but to focus on expanding overall marketing opportunities.

Prospects for further development of the offshore commercial fishing industry in East Hampton are limited by regional stock depletions and intense competition among highly efficient harvesters for too few resources. Commercial captains also complain of unfair competition from sports fishermen who sell their catch illegally, especially high value fish such as tuna and swordfish. Conservation measures such as the recent closures of Georges Banks, catch limits, federal buyouts of boats or permits to limit numbers, and diversifying the catch to include presently underutilized species, are probably the best hopes for maintaining a viable offshore industry.

The Town's inshore fisheries have been under intense pressure in recent years. Starting in the mid-1980's the local baymen suffered a double blow to two species of traditional economic importance, bay scallops and striped bass. The advent of the Brown Tide algal bloom in the bays virtually wiped out the bay scallop harvest, and a NYS DEC ban on commercial harvest of striped bass, originally instituted because of PCB contamination, removed a high value species from the fishery. The local East Hampton Baymen's Association went from approximately 150 active and about 120 full-time baymen in 1980 to about 40 full-time baymen at present. The ocean haul-seine crews went from 40 men working eight months out of the year, to a single crew of five men performing occasional sampling hauls for NYS DEC (Source: East Hampton Baymen's Association Secretary Arnold Leo, personal communication, 2/1/95).

A small scallop harvest in the Town in 1994, and partial easing of the striped bass restrictions in recent years has helped the remaining baymen to a modest resurgence. Because of more abundant

stocks the Atlantic States Marine Fisheries Commission recently proposed increasing the 1995 commercial bass quota for New York from 180,000 to 681,745 pounds per year. Although NYS DEC has considered the option of restoring the commercial haul-seine fishery, which formerly accounted for the bulk of the inshore commercial bass harvest in East Hampton, as of the present date (12/97) it has not done so.

Scallops and bass notwithstanding, baymen are leaving the water for a number of reasons including the high cost of living in East Hampton, declining catches for other valuable species, increased regulation and conflicts with other users such as sport fishermen, boaters and waterfront homeowners (Source: 1994 grant proposal by Cornell Cooperative Extension of Suffolk County).

Inshore commercial fishing and shellfishing within the Town, particularly in the enclosed harbors and ponds and from the beaches, is directly dependent on adequate public access. In some areas improved access is desirable and would enhance commercial fishing; in others access for commercial fishing may be incompatible with other uses or with existing development. In Montauk, the Town should consider acquiring the private underwater lands in Lake Montauk for shellfishing, as well as the now private access on the southwest end of the Star Island causeway (see **Public Access/Recreation Policies #9 & #19-22**). Access points to the water used by commercial fishermen in the Town include the road-ends offering access to beaches and harbors, launch ramps, docks, mooring areas and marinas, and traditional paths and trails leading to the harbors and bays. Access to the water has become more problematic as development has increased and traditional access points have been lost, especially around the inner harbors. Please refer to **Public Access/Recreation Policies #9 & #19-22** for a comprehensive list of available access points with accompanying recommendations.

Inshore fishermen and baymen use a variety of time honored techniques and gear, now adapted for modern netting materials, outboard motors, and power equipment. For both cultural and economic reasons the Town should help to preserve the practice and techniques of these traditional fisheries, which represent an important legacy of skill and know-how passed on through generations of local fishing families. While conducted on a small scale individually, in the aggregate these fisheries represent an important year-round input, which since colonial times has been a foundation of East Hampton's economy. Today these traditional inshore fisheries still represent a viable alternative to the resort/service economy for a significant segment of the Town's year-round population. Fishing allows local people to maintain an independent way of life by cultivating an intimate relationship with the Town's extraordinary marine environment. With the advent of modern materials and transportation, these baymen have managed to preserve a rich cultural history and to survive, sometimes sparsely, in today's cash economy. The Town advocates management decisions and regulations that encourage their continuation as, for instance, in a recent Town Board resolution (No. 432, 4/21/95) supporting restoration of haul-seining.

Some of the gear types that continue to be used inshore and in the bays include:

Otter trawls	Lobster pots
Haul seines	Gill nets
Power seines	Runaround gill nets
Bait seines	Handlines
Pound nets	Set lines
Fyke nets	Spears
Conch pots	Dredges
Crab pots	Tongs
Eel pots	Rakes
Fish pots	Eel combs
	Crab trawls

Source: Economic Value of the Commercial Fisheries in East Hampton Town, Emerson Hasbrouck, Cornell Cooperative Extension, 1989

Town officials receive occasional complaints about the impacts of commercial bay and inshore fishing methods, for instance, the effects of scallop dredging on eelgrass beds, or of jet pumps used to drive fish trap stakes into the sandy bay bottom. By and large these are minimal disturbances to the environment that are an acceptable cost of maintaining traditional fishing. Eelgrass, for example, is a subaquatic perennial plant that dies back and regenerates annually from its roots, so the damage from the fall scallop harvest is inconsequential to the subsequent year's growth. Concerns that scallop dredges pull up the eelgrass roots are generally unfounded since a dug-in dredge would virtually bring the scallop boat to a stop. Similarly, the low-horsepower jet pumps used to drive trap stakes in the bay have minimal impact since the stakes are placed at relatively wide intervals, and at 4-6" diameter have proportionately less effect than driving a dock piling 12" or more across.

The Town issues permits for shellfishing in its waters under **§ 125-1 through -22** of the Town Code, through a cooperative arrangement between the Town Board and the Town Trustees, whose authority over and ownership of much of the Town's bottoms derives from the colonial Dongan Patent with subsequent affirmation by the New York State legislature. The current Town statute, revised and adopted 5/20/94, specifies catch limits on blue claw crabs, bay scallops, hard clams, lobsters, oysters, and soft clams. According to the Town Clerk's office, 84 commercial permits and 1862 recreational permits were issued in 1992, 164 commercial permits and 1884 recreational permits in 1993, 170 commercial permits and 1978 recreational permits in 1994, 138 commercial and 2916 recreational permits in 1995, and 115 commercial and 2063 recreational permits in 1996. As indicated by the membership figures for the Baymen's Association above, a relatively large number of the commercial shellfishing permits issued may not represent full-time baymen.

Shellfishing is limited by closures of shellfishing grounds due to coliform bacteria pollution in the Town's enclosed harbors, which in 1991 amounted to approximately 29% of bottomlands closed either seasonally or year round. In some cases closures are due to a change in standards under the National Shellfish Sanitation Program administered by NYS DEC rather than exceeding testing

standards for coliform levels. For instance, NSSP requires routine closures around areas of marina activity or mooring areas under a formula of expected discharges. The Town has applied for *No-Discharge Zone* designations for its inner harbors to improve water quality and limit shellfish closures (see **Water and Air Resources Policies #30-44 and Projects**).

The Town has more opportunities in its local inshore fisheries to provide recreational and commercial harvests, particularly of shellfish. Aquaculture and other initiatives to restore or enhance the productivity of local waters should preserve the public interest in the resource, on the general principle that these resources should be managed on a renewable basis and available for the benefit of all Town residents (see **Policy #10A** below). The Town Trustees have long been involved in efforts to restore and enhance the productivity of their waters and have often taken an innovative approach. In 1932, the Town Trustees adopted the first ordinance in the town regulating the taking of shellfish. Over the years, they have initiated, sponsored and conducted numerous programs for transplanting shellfish, including oysters, clams and scallops. They approved, and retain oversight of, the Shellfish Mariculture Training Program for oyster mariculture started in 1995. With the Town Natural Resources Department, the Trustees played a critical role in developing the Open Marsh Water Management program. In an effort to reduce the area of productive bottomland closed to shellfishing, they developed a mooring grid and regulations in Three Mile Harbor.

The Town operates a municipal shellfish hatchery on Fort Pond Bay initiated under an agreement with New York State. The hatchery began production in 1990 and provides seedstock for Town and State waters used to enhance both commercial and recreational shellfishing. Under the agreement approximately 10% of annual production is allocated to the State for research purposes or seeding in State waters. The hatchery currently produces seed clams and oysters and a limited quantity of bay scallops. 1996 annual production output totaled approximately 14,175,000 clams; 967,000 oysters; and 1,100,000 scallops. Shellfish seed from the hatchery are distributed annually to various locations in the Town's inner harbors, creeks and nearshore bay areas. The hatchery actively experiments with new methods to enhance production and survivability in the wild. The hatchery personnel work cooperatively with the Town Trustees, Harbormaster, and other agencies such as Cornell Cooperative Extension to designate seeding areas and aid productivity of the local shellfishery.

The Town Shellfish Hatchery is part of an active effort by the Town to preserve traditional inshore fisheries by renewing public shellfish resources. In the aftermath of the Brown Tide and elimination of the bay scallop harvest in the Peconic Estuary, the hatchery has played a meaningful role in providing a continuing seed stock for recreational and commercial harvest. Public aquaculture of this nature has been the predominant thrust of the Town's policy toward aquaculture, to enhance public stocks and gain the maximum benefit for the whole community rather than to dedicate public waters or bottomlands to large scale aquatic entrepreneurs. Large scale private aquaculture or mariculture is inconsistent with the Town's traditional fisheries orientation. Such projects have been opposed by the Town because of environmental and habitat-related concerns. However, in the future the Town may wish to consider expanding its definition of aquaculture from shellfish and finfish to include other forms of aquaculture such as raising marine plant life like seaweed or eelgrass. There

is presently a single private aquaculture facility in the Town, Multi-Aquaculture Systems in Napeague.

The East End Economic & Environmental Task Force (1994) made a series of recommendations to enhance the area's commercial fisheries. A number of the fishing recommendations have application for East Hampton, including: stormwater runoff mitigation to preserve habitat, an oyster mariculture training program, a funding program to develop fish processing facilities, at-the-pump exemptions for boat fuel sales taxes, waiving unemployment insurance for fishing crews, new fisheries management procedures to include commercial fishermen, and support of public aquaculture.

A grant of approximately \$50,000 for a Shellfish Mariculture Training Program was received from the State in 1994 for oyster mariculture on the east end due to the efforts of the Task Force. This project began in 1995 and included five participants from East Hampton in a two year program. Participants received training in shellfish farming skills, plus growout gear and 50,000 seed oysters to be cultured on two acres of public bottomlands in Napeague Harbor, and supplied their own fuel, boats and labor. The initial program was extended an extra year to allow harvest of market-sized shellfish. Ideally, the program will result in a profitable harvest and demonstrate the potential for small scale shellfish culture to augment the earnings of fishermen who might otherwise be displaced from the water by resource degradation, regulatory burdens or other factors. As the project uses otherwise unproductive bottomlands and will enhance wild seed stock, it fits the Town's overall criteria for small scale projects which also benefit the public resource (see **Aquaculture/Mariculture Policy #10A**).

Fisheries management occurs at various levels of government from local to international. Harvesting of shellfish within Town and Town Trustee waters is managed and regulated by the Town and/or the Town Trustees by local law. Locally regulations are enforced by the Town Harbormaster and Bay Constables and NYS DEC Conservation Officers. Commercial fisheries in state waters to the three mile limit are regulated by the State Legislature directly, and by delegation of authority to NYS DEC, which also enforces regulations, and develops proposed regulations and management plans with the assistance of the Marine Resources Advisory Council.

The Atlantic States Marine Fisheries Commission is an interstate body which develops management plans in cooperation with the states and the National Marine Fisheries Service. Regional Fisheries Management Councils (Mid-Atlantic and New England) also develop management plans and proposed regulations for the fisheries in U.S. waters within the Federal Fishery Conservation Zone, extending from the three mile state boundary to 200 miles offshore. The Conservation Zone is authorized by the U.S. Fishery Conservation and Management Act of 1976 (Magnuson Act). Federal regulations are approved by the U.S. National Marine Fisheries Service and enforced by NMFS and the U.S. Coast Guard. International conventions are increasingly governing pelagic fish populations that migrate, e.g. tuna where quotas are determined by the International Commission for Conservation of Atlantic Tuna (ICCAT).

The number of overlapping governmental, regulatory and advisory bodies affecting commercial fisheries has made life increasingly complex for the fisherman. Commercial fisheries development

can only occur within an overall context of sound fisheries management, which includes continued viability of the fishery stocks, development of optimum sustainable yields for specific fish species on the basis of regional populations and population cycles, and harvest restrictions or quotas imposed by state and federal governments.

Regulators should also consider the human side of their actions, which includes a fair allocation of resources to all users. Decision making on the technological (gear) and political (user conflict) constraints on commercial fishing should also address the economic needs of fishermen. Past regulatory procedures have on occasion caused hardship and economic deprivation to local fishermen and baymen. For example, striped bass restrictions of recent years drove many local fishermen from the water through regulations considered by many to be scientifically unjustifiable. There is widespread perception on the part of commercial fishermen that the regulations unfairly favor sports fishermen.

Fishermen often complain of regulations that don't take into account practical aspects of the fishery such as bycatch or gear limitations, species quotas based on incomplete data, burdensome paperwork, and failure to involve them in formulating regulations. Local offshore fishermen report that data collection on landings has in recent years been sketchy at best, and that fluke quotas, for example, based on this "best available data" will result in unfairly low allocations to New York fishermen. Recognizing that data for fisheries management is often incomplete or imperfect, regulating agencies should insure that traditional fisheries are not suddenly or arbitrarily eliminated, and that economic mitigation is provided when necessary. As noted above, the Town should encourage regulatory measures that maintain traditional fisheries and livelihoods.

The regulatory process itself should be reformed to include more input from commercial fishermen at both the technical (scientific basis, specific conservation goals) and implementation levels (practicalities of gear and techniques) in the interests of sound resource management, better regulatory compliance, and of economic equity. With a primary goal of conservation of the resource at sustainable harvest levels, regulatory agencies should include user groups in their management decision making so that conservation becomes a more collaborative and inclusive, rather than antagonistic process. Ideally, regulation should occur at the grassroots level, with local organizations such as the East Hampton Baymen, Long Island Inshore Trawlermen's Association, and other marine trade groups voluntarily policing themselves, as the baymen currently do in allocating fish trap sites.

Input from the various components of the fishing industry should be sought in early stages of drafting regulations to forestall imposition of cumbersome or physically impractical restrictions. The role of the state's Marine Resources Advisory Council in soliciting fishermen's views should continue to be expanded to assure input from the many and various fisheries user groups. Indications from local fishermen are that fisheries regulations can be streamlined and simplified, and that this would result in improved compliance as well as efficiency for the industry. NYS DEC should review its procedures for issuing commercial permits, particularly with a view toward a unified commercial permit instead of species by species permits which may result in mortality of unpermitted by-catch species. Integration of state and federal permitting with unified issuance of permits and centralized

data recording could also provide a major reduction in redundant paperwork for fishermen, as well as improved data collection for regulating agencies.

The Town, in cooperation with other agencies, should institute short and long term monitoring programs to assist decision-making related to commercial fisheries and public mariculture. The Town should continue to act as an advocate for traditional fisheries, and as a liaison with federal and state fishery regulators for local baymen and commercial fishermen.

D. KEY ISSUES/OPTIONS FOR COMMERCIAL FISHERIES IN EAST HAMPTON

1. Harbor and channel maintenance

Maintaining adequate depths in harbor channels by dredging is an essential fisheries support function of government. In the past maintenance dredging has sometimes been attended to only on an irregular or emergency basis. Stable funding and regular maintenance, both for the federally maintained (US Army Corps of Engineers) channel in Montauk and the Suffolk County maintained channel in Three Mile Harbor, is important to insure safe access to these active harbors. Maintaining municipal docks for commercial fishing boats is another important way the Town can support the fishing industry.

2. Shoreside infrastructure

East Hampton-based commercial fishermen are dependent on shoreside fishing support facilities in Montauk and Three Mile Harbors. These water-dependent uses should be preserved and protected by the Town's planning and zoning functions, possibly including modifications to the Town's Waterfront Zone. To accommodate future needs the Town should locate and designate possible locations for future fish packing or fish processing facilities. Marketing is also a key component of the economic viability of the Town's fisheries, and the Town should assist fishermen in developing alternative marketing channels. To remain cost competitive with other nearby states, New York State should rebate its diesel fuel tax to commercial fishermen at the dock. See *Fisheries Shoreside Support Infrastructure* and *Local Fishery Assistance* in **Projects**.

3. Water quality and habitat conservation

Maintaining or enhancing surface water quality and marine habitat is critical to retaining viable commercial fisheries. While the Town has taken significant steps to control road run-off and has a Harbor Protection Overlay District and a No-Discharge Zone designed to abate pollution in inner harbors, more can be done. Significant additional steps can be taken to reduce impacts on fisheries caused by coliform and other contamination, including the following:

- Extend Open Marsh Water Management (OMWM) for saltmarsh areas to replace Suffolk County Vector Control ditch networks (pilot projects presently in place in Accabonac Harbor and Northwest Creek)
- Permit and encourage use of alternative septic systems (e.g. composting or dry toilets) in wetland or sandy low-depth-to-groundwater areas to reduce or eliminate sewage

- Further reduce non-point source pollution through public education related to the Harbor Protection Overlay District and other best management practices
- Further reduce boat discharges by establishing designated No-Discharge Zones throughout the Peconic Estuary, with accompanying public education for boaters
- Change needlessly restrictive interpretation of NSSP standards, conduct additional local monitoring to insure actual water quality standards
- Review local zoning regulations in *Harbor Management Plans* to assure compatibility with water quality and marine habitat

4. Public access

Access to the Town's 110 miles of coast is essential to allow baymen to work along inner harbors and other shorelines. The Town through its planning, zoning, and land acquisition activities should continue to preserve, advocate and where necessary acquire public access points. The Town should also seek to acquire private underwater lands in Lake Montauk to preserve traditional access for shellfishing and to avoid future conflicts over private aquaculture using public resources (water column nutrients, discharges, etc.). By the same token, no productive public bottomlands should be leased to private interests by any level of government. See also **Public Access and Recreation Policies #9 & 19-22**.

5. Regulation

Commercial fishermen should be included in the early stages of drafting proposed regulations to minimize future conflicts and inequities. Economic and social impacts on commercial fishermen should be considered in the regulatory process. The various levels of management and regulation should be integrated and simplified to improve conservation, reduce the regulatory burden and enhance compliance. Regulators should also take into account the often unintended consequences of shifting fishing pressure from one species to another.

6. Aquaculture/mariculture

Town policy is to encourage public aquaculture that enhances stocks and to discourage large scale private aquaculture/mariculture. It maintains its own hatchery to enhance public shellfish stocks. The Town's extensive concerns on permitting private aquaculture or mariculture on a large scale, particularly finfish aquaculture, include environmental, genetic, marine habitat and economic damage to traditional fisheries. Similar concerns surround transplanting shellfish from uncertified waters outside the Town, and so-called depuration of shellfish. To protect local shellfish stocks from exotic pathogens, toxic materials and genetic mutations, there should be no importation of non-local seed stocks unless certified by Town agencies.

E. KEY LOCATIONS FOR COMMERCIAL FISHING IN EAST HAMPTON

1. Critical areas

Areas of the Town critical for maintaining the vitality of commercial fisheries in East Hampton include:

- Watersheds surrounding inner harbors that may contribute nutrients and pollutants to surface waters; wetlands, creeks and saltmarshes surrounding the inner harbors and creeks that provide breeding and nursery areas for many marine species; and New York State and Local Significant Coastal Fish and Wildlife Habitats (see **Significant Habitats Policy #7 and Water and Air Resources Policies #30-44**);
- Shoreside fisheries infrastructure and support facilities, such as fish packing, fueling, gear repair on the east and west sides of Coonsfoot Cove and on East Lake Drive at Montauk Harbor; in Three Mile Harbor at Commercial Dock at Gann Road and several recreational marinas; and non-waterfront fish packing locations, as at Stuart's Fishmarket in Amagansett and The Seafood Shoppe in Wainscott;
- Public access points to the water, including launch ramps, commercial docks in Montauk and Three Mile Harbor, and road-ends and other access points, a partial list of which follows (see also **Public Access and Recreation Policies #9 & #19-22**).

2. Primary commercial fishing access points

Following are some of the access points used by baymen and other commercial fishermen (see also [Maps VII-1A/-1B](#), Public Access and Recreation, with accompanying key):

Reach 1

Northwest Landing road-end - launch ramp, dock and Northwest Creek mooring area
Mile Hill Road-end
Alewife Brook Road-end

Reach 2

Old House Landing Road-end
Sammy's Beach
Gann Road - Town commercial dock and launch ramp
Will Curl Highway/Breezy Hill Road access
Boatyard Lane launch ramp
Hands Creek launch ramp
Head of Hog Creek
Hog Creek, channel

Reach 3

Gerard Drive access
Gerard Park

Louse Point - launch ramp and mooring area
Landing Lane - launch ramp
Shipyard Lane - launch ramp

Reach 4

Lazy Point - launch ramp and mooring area
Napeague Harbor southwest (Art Barge)
Napeague Harbor Road (east side)

Reach 5

Fort Pond Bay (Navy Road)
Fort Pond (south end)

Reach 6

County Dock, Montauk Harbor
West Lake Drive - launch ramp
Town Dock, Star Island
Stepping Stones
South Lake Drive
Little Reed Pond
East Lake Drive - launch ramp

Reach 7

Oyster Pond

Reach 10

Navahoe Lane (sand road @ Driftwood Shores)
Atlantic Drive road-end (White Sands)
Marine Boulevard road-end
Napeague Lane road-end
Atlantic Avenue road-end
Indian Wells Highway road-end

Reach 11

Georgica Pond (via Beach Lane road-end and via Montauk Highway launch)

F. COMMERCIAL FISHING POLICIES

POLICY 10 FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH AND CRUSTACEAN RESOURCES IN THE COASTAL AREA BY: (i) ENCOURAGING THE CONSTRUCTION OF NEW, OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES; (ii) INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS; AND (iii) MAINTAINING ADEQUATE STOCKS AND EXPANDING

AQUACULTURE FACILITIES. SUCH EFFORTS SHALL BE IN A MANNER WHICH ENSURES THE PROTECTION OF SUCH RENEWABLE FISH RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

Explanation of policy:

From the first human habitation in East Hampton, fishing and shellfishing have been a means of subsistence and a traditional livelihood. Through the centuries Town waters have provided a sustainable and renewable food resource, which it is the Town's responsibility to pass on intact to future generations. Measures to develop commercial fisheries should be considered in light of this local heritage.

Maintaining fisheries requires preservation of spawning and nursery areas in a pristine state, and use of appropriate gear and techniques to prevent over fishing. Keeping waters free of pollution is integral to productivity and a priority for keeping shellfishing grounds open to harvest. Any efforts to further develop commercial fishing must also protect these resources. Maintaining productivity in fisheries also dictates limiting over-harvesting and use of gear or techniques that are wasteful or destructive of the resource.

The potential for expansion or new development of commercial finfish, shellfish or crustacean resources in East Hampton Town is limited by already intensive harvesting of existing resources, scarcely adequate existing facilities for packing and shipping, and a lack of suitable sites for new shoreside facilities. Fishery support facilities and dock space for commercial vessels must compete with recreational and other water-dependent or water-enhanced uses. Support facilities for commercial fishing are permitted uses and should be encouraged to remain within the Town's Waterfront Zone (see **Development Policies #1-6**), as delineated in **§ 153-4-39B**, **§ 153-3-45D** and **§ 153-5-50** [Fish Processing accessory use] of the Town Code. Primary fishery support facilities in the Town are presently located at:

- Coonsfoot Cove at the northwest side of Montauk Harbor
- East Lake Drive at the northeast side of Montauk Harbor
- Commercial Dock at Gann Road on Three Mile Harbor
- Fish packing operations at Stuart's Fish Market in Amagansett (not within the coastal zone)
- The Seafood Shoppe in Wainscott (not within coastal zone)

Public access to the water, including launch ramps and mooring areas, preservation of shore and marine habitat, and maintenance of surface water quality are also critical to maintaining local fisheries. Please refer to **Significant Habitats Policy #7**, **Recreation and Public Access Policies #9 & #19-22**, and **Water and Air Resources Policies #30-44** for guidelines.

The following guidelines should be considered by government agencies to determine the consistency of a proposed action with the policy above:

- (1) Commercial fishing development efforts should be made in a manner which ensures the maintenance and protection of the renewable fishery resources.
- (2) Maintenance of surface water quality and protection of marine habitat, wetlands, saltmarshes, creeks, harbors, and coastal ponds that are the primary spawning and breeding grounds for fin and shellfish populations, must be a high priority for all state and local agencies with jurisdiction in the coastal area.
- (3) A public agency's commercial fishing development initiative should not pre-empt or displace private sector initiatives, but should be directed toward unmet development needs. An action should not impede existing utilization, or future development of the state's commercial fishing resources.
- (4) New or expansion of existing on-shore commercial fishing facilities should include evaluation of alternative marketing and distribution for local seafood.
- (5) As inshore fisheries or shellfishing are frequently dependent on public access, private sector waterfront development should help meet the documented needs of commercial fishing, or at least not detract from those needs by restricting traditional public access or otherwise impeding commercial fishing or shellfishing. Encouragement of commercial fishing activity is a priority in Town planning considerations, and is reflected in the Town's Waterfront Zones. A partial list of locations critical for commercial fishing in the Town appears in the Analysis above. See also **Public Access and Recreation Policies #9 & #19-22**, and [Maps VII-1A/-1B](#), Public Access and Recreation.
- (6) It is the policy of East Hampton Town to preserve and enhance traditional fisheries and use of traditional fishing techniques, such as:

Otter trawls	Lobster pots
Haul seines	Gill nets
Power seines	Runaround gill nets
Bait seines	Handlines
Pound nets	Set lines
Fyke nets	Spears
Conch pots	Dredges
Crab pots	Tongs
Eel pots	Rakes
Fish pots	Eel combs
	Crab trawls

Traditional fishing techniques should be permitted on public trust lands and in waters adjacent to parklands owned by New York State, Suffolk County, East Hampton Town, and private properties. Public agencies should evaluate economic, cultural and biological impacts of development and management decisions on traditional fisheries.

- (7) Fisheries should be managed to restore species abundance through a regional approach encompassing scientifically sound, socially and economically viable management measures that impact all user groups equitably. Management decisions should not eliminate any traditional commercial fishery without extensive local consultation and economic mitigation. In the past such unilateral decisions have caused considerable hardship to local fishermen.
- (8) Where fishery conservation and management plans require actions that would result in resource allocation impacts, insure equitable distribution of impacts among user groups, giving priority to existing commercial fisheries in the State.
- (9) Representatives of the commercial fishing industry should be included in the process of regulation and management decision making in early draft stages before regulations are finalized, in order to avoid conflicts and impracticalities. Representatives may be designated by local Baymen's, Offshore Trawlers', and other associations, and should include the variety of users and gear types being regulated.
- (10) Wherever possible, State and Town permits and record keeping for commercial fishing and shellfishing should be unified and/or consolidated and, if possible, permits should be issued locally.
- (11) Fishing and fish-processing activities, if consistent with sound fishing practices and established prior to surrounding non-fishing activities, shall be deemed to be reasonable and shall not constitute a public nuisance unless the activity has a substantially adverse effect on the public health and safety. Residents of East Hampton Town have a traditional right, stemming from the colonial patents, to harvest fin and shellfish and make a living from such activities in Town waters, including waters now adjacent to State and County parks, and those rights shall not be abridged.

**POLICY 10A ENCOURAGE AQUACULTURE AND MARICULTURE WHICH
BENEFITS OVERALL PUBLIC STOCKS OF LIVING MARINE
RESOURCES, BUT DISCOURAGE AQUACULTURE OR
MARICULTURE INCONSISTENT WITH MAINTAINING
HEALTHY STOCKS AND HABITATS**

Explanation of policy:

The nutrient budget of the water column in inshore waters is limited, therefore these waters and associated bottomlands are and should be treated as a public resource. To maintain the public nature of the resource, productive bottomlands under Town, State and County jurisdiction should not be sold or leased to private concerns or individuals. Aquaculture or mariculture should not occupy otherwise useful or productive finfish or shellfishing areas. However, unproductive bottomlands may appropriately be utilized for aquaculture or mariculture provided they do not degrade the resource as a whole. Aquaculture or mariculture enterprises within East Hampton Town should be on a small scale in keeping with the Town's tradition of independent baymen and fishermen.

Efforts to enhance the public stocks of living marine resources through hatchery, seeding, and grow-out facilities should be encouraged, and if necessary undertaken by the Town, County, or State governments. Aquaculture or mariculture efforts, public or private, which act to enhance these public stocks while providing a livelihood for individuals should be permitted and encouraged.

Wherever possible local stocks should be used as sources for replenishment and breeding stocks to avoid the possibility of importing harmful pollutants, diseases or mutagens from other areas. Any importation of seed stocks is subject to certification by the Town Natural Resources Director in consultation with the Town Shellfish Hatchery, and subject to the approval of the Town Trustees. A pollution and pathological history of the source location and analysis of bottom sediments may be required by the Director as part of the certification process.

Aquaculture or mariculture which does not benefit the overall public stock or the resource as a whole, monopolizes public resources, endangers the health of public stocks, or otherwise degrades the marine habitat, is inimical to the public interest and should not be permitted or encouraged.

For example, the Town is opposed to controlled purification or depuration of shellfish in ultra-violet treatment plants or to shellfish transplants from waters outside East Hampton Town because of the risk of pathogens infecting local stocks. Present standards for shellfish depuration do not test shellfish meats for heavy metals, toxins or pathogens present in the waters or sediments from which shellfish may originate, and such shellfish are often transported with accompanying sediments. However, the Town does sanction relays or transplants of shellfish from uncertified local waters, such as Oyster Pond in Montauk, where the sources of contaminants are known and they are likely to be relatively benign and short-lived. The Town is committed to environmental protection and water quality improvement as the best methods to ensure public health and to maintain traditional fisheries and stocks, and believes that this policy reflects the goals of the National Shellfish Sanitation Program (NSSP) to provide shellfish for market from clean waters.

The Town also has serious concerns about saltwater finfish aquaculture and is generally opposed to such efforts within its borders unless these can be adequately addressed. Concerns include: contamination of the water column and bottom by feed and fish discharges, diseases of confined populations that may spread to wild stock, use of antibiotics and hormones, exotic species or hybrids that may cause mutations or interbreed with wild stock, and displacement of traditional local fisheries.

The Town has actively demonstrated a commitment to maintaining its marine resources through the Town Shellfish Hatchery seeding program and participation in various demonstration projects such as wild spat collection for bay scallops, the oyster mariculture pilot project, and the Peconic Estuary Program. The annual seeding program is designed to renew and enhance both commercial and recreational shellfish resources, the harvest of which is enjoyed by a broad spectrum of year-round residents and summer visitors. Commercial shellfishing is integral to the traditional livelihood of local baymen, whose hard work puts fresh local seafood on tables and restaurant menus. East Hampton Town will continue to support development of its commercial fisheries through

aquaculture and mariculture, with caveats that such efforts benefit the resource, promote the public interest, and be compatible with traditional fisheries.

Following is a summary of guidelines for government agencies to determine the consistency of an action with the above policy:

- (1) No new leases of productive bottomlands under Town, County or State jurisdiction should be granted to private entities. Existing leases should not be renewed.
- (2) Aquaculture or mariculture should not occupy otherwise useful or productive finfish or shellfishing areas. As bottomlands productivity will vary with conditions and use, determination of "productive" bottomlands should be made on a case by case basis by the Town Natural Resource Director in consultation with the Town Trustees, Town Shellfish Hatchery Director, and Harbormaster. The Town Trustees, however, have sole authority over the leasing of bottomlands for aquaculture that are within their ownership and/or control.
- (3) Aquaculture or mariculture efforts, public or private, which act to enhance public stocks of living marine resources using unproductive areas, while providing a livelihood for individuals, should be permitted and encouraged. As above, refer determination of "unproductive area" to the Town Natural Resources Director.
- (4) Any importation of seed stocks is subject to certification by the Town Natural Resources Director, in consultation with representatives of the Town Trustees, and Town Shellfish Hatchery. A pollution and pathological history of the source location and analysis of bottom sediments may be required by the Director as part of the certification process.
- (5) Controlled purification or depuration of shellfish in ultra-violet treatment plants or transplants from waters outside East Hampton Town are not permitted because of the risk of pathogens infecting local stocks.
- (6) Saltwater finfish aquaculture within the borders the Town is not permitted unless the following concerns are adequately addressed: potential contamination of the water column and bottom by feed and fish discharges; infectious diseases of confined fish populations that may spread to wild stock; use of antibiotics and hormones which may favor resistant strains of pathogens; exotic species or genetic hybrids that may cause mutations of or interbreed with wild stock; and displacement of traditional local fisheries.