

DEPARTMENT OF MARINE RESOURCES

CHAPTER 4

CERTIFICATION, RECERTIFICATION, REVOCATION OF CERTIFICATION FOR MUNICIPAL
SHELLFISH CONSERVATION WARDEN

TITLE INDEX

- 4.10 Certification
- 4.20 Minimum Qualifications
- 4.30 Recertification
- 4.40 Revocation, Suspension or Refusal to Renew Certification
- 4.50 Performance Standards

DEPARTMENT OF MARINE RESOURCES

Chapter 4 Certification, Recertification, Revocation of Certification for Municipal Shellfish Conservation Warden

4.10 Certification

- A. A person shall request certification as a municipal shellfish conservation warden by applying in writing to the Department of Marine Resources.
- B. Upon receipt of an application for certification, the Department of Marine Resources will either accept or deny, or accept with conditions, the request for certification. Written notice of the department's decision will be forwarded to the applicant within 30 days of the receipt of the application. Reasons for any denial will be stated in writing and shall be based upon the considerations set forth in Chapter 4.40(A) (1 through 7). If the Department's acceptance is conditional, the applicant shall comply with the conditions set forth in the acceptance, which shall include, but not be limited to, the requirements of Chapter 4.10(D) below. Applicants may not enforce shellfish ordinances as municipal wardens until the Department of Marine Resources has approved their application and has granted certification.
- C. Wardens who will carry a firearm or who will have the power of arrest must provide proof of certification from the Maine Criminal Justice Academy in order to achieve Departmental certification.
- D. Any applicant wishing to become a municipal shellfish conservation warden must attend and complete the next available Department of Marine Resources Conservation Course. Applicants are required to successfully complete the Department of Marine Resources Conservation Course, including a written examination, in order to achieve Departmental certification. Wardens who are taking the course for recertification will not be required to take the full written examination, but may be asked to take a quiz at their refresher training session.
- E. Certification will be valid indefinitely, provided that the warden involved attends a review session offered by the Department of Marine Resources at least every 3 years and the warden is otherwise in good standing under Chapter 4.20, 4.30 and 4.50. Failure to complete a refresher training session shall result in loss of certification unless the warden has received a waiver from the Department allowing the warden to extend his (her) certification period.
- F. Applicants submitting an application for certification agree to a background check. The Marine Patrol will conduct background checks on all applicants.
 - (1) Applicants who are active police officers will have background checks done only for conservation violations.

4.20 Minimum Qualifications

A person must meet the following minimum qualifications for certification as a municipal shellfish conservation warden:

- A. The warden must have a high school diploma or the equivalent. This requirement will be waived for municipal wardens who were certified prior to the effective date of this rule (March 19, 2001).

- B. The warden must have a valid motor vehicle operator's license. If the applicant has an out of state license, a Maine license must be obtained as prescribed under Maine law.
- C. The warden must be 21 years of age or older.
- D. The warden must not have been convicted of a violation of any marine resource law or regulation enacted or adopted under Title 12 of the Maine Revised Statutes Annotated, within the last six years. A person may make application for consideration to the Commissioner of the Department of Marine Resources or designee for a waiver of this provision.
- E. The warden must have no convictions for Murder, Class A, Class B, Class C, Class D or Class E crime, unless the act committed was a Class D or E crime and a violation of Title 12 Maine Revised Statute Annotated and was committed prior to the last six years. A person may make application for consideration to the Commissioner of the Department of Marine Resources or their designee for a waiver of this provision.
- F. The warden must not falsify or misrepresent any information during the application process or background investigation.
- G. The warden must be able to read and write at a level necessary to successfully complete the Department of Marine Resources Municipal Warden Conservation Course.

4.30 Recertification

- A. Should certification not be renewed or maintained, or should it be allowed to lapse for any reason, the person must apply in writing to the Department of Marine Resources for recertification.
- B. The warden must complete a Departmental refresher training session before recertification can be given under this section.

4.40 Revocation, Suspension or Refusal to Renew Certification

- A. The Commissioner of the Department of Marine Resources may refuse to renew or may deny a certification of a warden if one or more of the following has occurred:
 - (1) the warden has failed to meet the performance standards as set forth in Chapter 4.50;
 - (2) the provisions and requirements imposed pursuant to 25 M.R.S.A. §§2806 have not been satisfied;
 - (3) the warden has violated any Marine Resources laws or regulations enacted or adopted under 12 M.R.S.A.;
 - (4) the conditions imposed under any conditional certification have not been, or will not be, satisfied;
 - (5) the warden fails to successfully complete the required certification training;
 - (6) the warden does not meet, or no longer meets, the minimum qualifications set forth in Chapter 4.20 above- or
 - (7) the warden has not complied with the requirements set forth in Chapter 4.30.

- B. The Commissioner of the Department of Marine Resources may take lawful action to revoke, suspend or refuse to renew a municipal shellfish warden's certification where any of the events described in Chapter 4.40 have occurred. Any suspension, revocation or refusal to renew a municipal shellfish warden certificate pursuant to Chapter 4.40 shall be subject to prior notice and an opportunity for a hearing in accordance with 5 M.R.S. Chapter 375, subchapter 4. A municipal shellfish warden's last known mailing address may be obtained from the warden's most recent application for certification on file with the Department.

4.50 Performance Standards

All municipal shellfish conservation wardens shall:

- A. Enforce the municipality's shellfish conservation ordinance-in accordance with the law;
- B. Enforce the two-inch clam law (12 M.R.S. §6681), contaminated and polluted flats (12 M.R.S. §§6172 and 6621) and to serve all processes pertaining to the local municipal ordinance.
- C. Adhere to principles of effective law enforcement to include, but not limited to:
 - (1) Proper use of force;
 - (2) Adherence to rules of evidence and legal procedure; and
 - (3) Proper use of arrest and summoning powers.

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INDEX

EFFECTIVE DATE:

March 19, 2001 – Sections 4.10, 4.20, 4.30, 4.40 & 4.50; language transferred and amended from Chapter 3.

April 16, 2013 Sections 4.10, 4.20, 4.30, 4.40 & 4.50 amended