

**250-RICR-90-00-11**

## **TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

### **CHAPTER 90 – MARINE FISHERIES**

#### **SUBCHAPTER 00 – N/A**

PART 11 – Regulations Governing Education Certification for Commercial Shellfish Harvesters

#### **11.1 Purpose**

The purpose of these Rules and Regulations is to manage the marine resources of Rhode Island.

#### **11.2 Authority**

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35-18(b)(5), Administrative Procedures Act, as amended.

#### **11.3 Application**

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

#### **11.4 Definitions**

See Rhode Island Marine Fisheries Regulations, Part 1 of this Subchapter.

#### **11.5 Severability**

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

#### **11.6 Superseded Rules and Regulations**

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of these regulations shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these

Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

## 11.7 Regulations

- A. Applicability. These regulations apply to holders of the following commercial fishing licenses, permits, and landing permits issued by the department:
1. Principal Effort Licenses and Commercial Fishing Licenses with Quahog, Soft-shell clam, and/or Shellfish Other endorsements;
  2. 65 and Over Shellfish Licenses;
  3. Student Shellfish Licenses;
  4. Multipurpose licenses if the holder harvests and lands quahogs, soft-shell clams, and/or any other species of shellfish, with the exception of (i) whelk, and (ii) scallops if shucked prior to landing; and
  5. Resident and Non-Resident Landing Permits if the holder harvests and lands in Rhode Island quahogs, soft-shell clams, and/or any other species of shellfish, with the exception of (i) whelk, and (ii) scallops if shucked prior to landing.
- B. For the 2018 license year only, all applicable license, endorsement, and permit holders, referenced above, who held said license, endorsement, or permit for 2017 and renew said license, endorsement, or permit for 2018, shall be certified, by the department, as having completed the Commercial Shellfish Harvester Education and Training Program, administered by the department via an online tutorial, by April 6, 2018.
- C. For the 2018 license year and every license year thereafter, all applicants for new applicable licenses, endorsements, and permits, referenced above, shall be certified, by the department, as having completed the Commercial Shellfish Harvester Education and Training Program, administered by the department via an online tutorial, prior to the issuance of said license or permit.
- D. For the 2018 license year and every license year thereafter, any holder of a multipurpose license or landing permit who becomes engaged, initially, in the harvest and landing of shellfish in Rhode Island – excluding whelk, and scallops if shucked prior to landing -- shall be certified, by the department, as having completed the Commercial Shellfish Harvester Education and Training Program, administered by the department via an online tutorial, within ninety (90) days of the initial landing.
- E. Certifications shall expire five (5) years from the date of issuance, after which all applicable license and permit holders must obtain recertification by retaking the online tutorial.

- F. Any applicable license, endorsement, or permit held by anyone who has not obtained certification in accordance with the deadlines set forth above in subsections 11.7(B) and (D) shall be suspended by the department until such time as the holder obtains certification. The filing of an appeal shall not stay the suspension.