



DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DEPARTMENT OF HEALTH

RULES AND REGULATIONS GOVERNING THE LANDING OF SHELLFISH  
IN THE STATE OF RHODE ISLAND

JUNE 17, 2005

AUTHORITY: These regulations are adopted pursuant to Chapters 42-17.1, and 21-31, and in accordance with 42-35, of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
DEPARTMENT OF HEALTH

RULES AND REGULATIONS GOVERNING THE LANDING OF  
SHELLFISH IN THE STATE OF RHODE ISLAND

**RULE #1- PURPOSE:** The purpose of these rules and regulations is to regulate the landing of shellfish in the State of Rhode Island in order to prevent the landing of shellfish harvested in areas closed by any government entity due to contamination by Red Tide.

**RULE #2- AUTHORITY:** These rules and regulations are promulgated pursuant to Chapter 42.17.1, 21 - 31 and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.

**RULE #3- ADMINISTRATIVE FINDINGS:** Rules and regulations are based upon the need to respond to the infestation of the New England coastal waters by Red Tide.

**RULE # 4- APPLICATION:** The terms and provisions of these rules and regulations shall be liberally construed to permit the Department of Environmental Management and the Department of Health to effectuate the purposes of state law, goals, and policies.

**RULE #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.

**RULE #6- DEFINITION OF TERMS**

Land or landing: to enter port with shellfish on board, to begin offloading shellfish, or to offload shellfish.

Offload: to begin to remove, to remove, to pass over the rail, or otherwise take away shellfish from any vessel.

Person: an individual, corporation, partnership, or other legal entity.

Possession: the exercise of dominion and control over the resource commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. The decision must be made at the first practical opportunity.

## **RULE #7- REGULATIONS**

- 7.01 **Prohibition on the Possession of Certain Shellfish in Rhode Island** – No person shall possess within the State of Rhode Island including but not limited to the territorial waters of the state, any shellfish which has been harvested from any area which is closed to the harvesting of the subject shellfish by any governmental entity of competent jurisdiction due to its' determination that the subject area is possibly contaminated by the toxic algal bloom that is commonly referred to as red tide.
- 7.02 **Prohibition on the Landing of the Attempt to Land Certain Shellfish in Rhode Island** - No person shall land or attempt to land within the State of Rhode Island any shellfish which are bound aboard or which were off-loaded from a vessel which has traversed any area which is closed to the harvesting of the subject shellfish by any governmental entity of competent jurisdiction due to it's determination that the subject area is possibly contaminated by the toxic algal bloom commonly referred to as red tide.
- 7.03 No person aboard a vessel who is in the employ of the owner or operator of a vessel which has landed or is attempting to land within the State of Rhode Island any shellfish shall fail to provide immediately upon the request of an Environmental Police Officer or deputy warden appointed by the Director pursuant to R.I. General Laws section 20-1-7 all vessel trip reports ("VTR's"), Captain's logbooks and logbooks maintained aboard the subject vessel.
- 7.04 **Penalty**- In addition to any other penalty which might be imposed administratively or by a court of competent jurisdiction pursuant to Title 20 or Title 21 of the Rhode Island General Laws and any regulations promulgated pursuant thereto, any person found to have violated any of the above Parts shall be fined not more than three hundred dollars (\$300.) or imprisoned for a period not to exceed on (1) year per violation of the subject regulations at the discretion of a court of competent jurisdiction consistent with the provisions of R.I. General Laws Section 4-4-23.

## **RULE # 8- EFFECTIVE DATE**

The foregoing rules and regulations are hereby adopted and filed with the Secretary of State this 17<sup>th</sup> day of June 2005 to become effective upon filing, unless otherwise indicated, in accordance with the provisions of Chapters 42-35 of the General Laws of Rhode Island of 1956, as amended.

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W. Michael Sullivan  
Acting Director  
Department of Environmental Management

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David R. Gifford, MD  
Director  
Department of Health