



State of Wisconsin

CR 86-201

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

RECEIVED

APR 9 1987
3:00 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FM-55-86 was duly approved and adopted by this Department on January 29, 1987. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 6th day of April, 1987.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

9515H

6-1-87

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING AND RECREATING RULES

IN THE MATTER of repealing and recreating .
ch. NR 24 of the Wisconsin Administrative .
Code pertaining to clamming and .
commercial clamming .

FM-55-86

Analysis Prepared by Department of Natural Resources

The rules are promulgated under the authority of ss. 23.09(2)(intro.), 29.175(1), 29.38(8) and 227.11(2)(a), Stats., and interpret ss. 23.09(2)(intro.), 29.175(1) and 29.38(8), Stats.

The rule revises ch. NR 24 of the code to correspond with 1985 Wisconsin Act 289, effective May 1, 1986. The Act establishes license requirements and fees, grants rulemaking authority and sets penalties relating to clamming and commercial clamming on inland, boundary and outlying waters of the state.

The rules set out a statement of purpose and provide definitions; detail the commercial clamming licensing requirements; provide for reciprocity; restrict the methods and equipment which may be used; require recordkeeping and reporting by commercial clambers; specify a method for determining the minimum size of clams; set seasons, waters, species and size limits for commercial clamming and clamming; and include less stringent size limits for certain clam species after they have been processed to remove the meat.

SECTION 1. Chapter NR 24 is repealed and recreated to read:

Chapter NR 24

CLAMS

- | | |
|---|--|
| NR 24.01 Purpose | NR 24.09 Commercial clamming:
size limits; open |
| NR 24.02 Definitions | seasons, species and |
| NR 24.03 General restriction | waters |
| NR 24.04 Licenses; permits | NR 24.10 Clamming: size limits; |
| NR 24.05 Reciprocity | open seasons, species |
| NR 24.06 Clamming methods
and equipment | and waters |
| NR 24.07 Records and reporting | |
| NR 24.08 Minimum size and weight
determination | |

NR 24.01 PURPOSE. This chapter regulates clamming, commercial clamming and related activities in inland waters, boundary waters and outlying waters.

NR 24.02 DEFINITIONS. In addition to the definitions contained in s. 29.38 (2), Stats., the following definitions apply to terms used in this chapter:

(1) "Boundary waters" means those waters which form all or part of the boundary between Wisconsin and Iowa, Michigan or Minnesota.

(2) "Business day" has the meaning given it in s. 421.301 (6), Stats.

(3) "Cooked clam" means a clam which has been processed in a cooker and a rotating drum in order to remove the meat or soft parts of the clam.

(4) "Crow-foot bar" means a bar or rod which has hooks or wires attached to it and which may be used to take clams. The hooks or wires may have beads attached or have thickened ends.

(5) "Inland waters" has the meaning given it in s. 29.01 (9), Stats., but does not include boundary waters.

(6) "Malicious waste" means the unreasonable waste, injury, destruction or impairment of any natural resource within the state, in violation of s. 23.095 (1), Stats.

(7) "Open season" means that period of a year described in s. NR 24.09 or 24.10 when a person may engage in clamming or commercial clam shelling.

(8) "Outlying waters" has the meaning given it in s. 29.01 (11), Stats.

(9) "Resident" has the meaning given it in s. 29.01 (12), Stats.

(10) "Ring" means a rigid circular band or a circular opening in a piece of solid material which may be used to measure clams.

(11) "Wisconsin-Iowa boundary waters" has the meaning given it in s. NR 22.02 (14).

(12) "Wisconsin-Michigan boundary waters" has the meaning given it in s. NR 23.02 (10).

(13) "Wisconsin-Minnesota boundary waters" has the meaning given it in s. NR 21.02 (16).

NR 24.03 GENERAL RESTRICTION. A person who is engaging in commercial clam shelling under s. NR 24.09, clam buying, clam helping or related activities may not engage in clamming under s. NR 24.10 at the same time.

NR 24.04 LICENSES; PERMITS. (1) CLAMMING. No license or permit is required to engage in clamming.

(2) COMMERCIAL CLAMMING. The license requirements of s. 29.38 (3), Stats., apply to clam buyers, assistant clam buyers, commercial clam shellers and clam helpers, except as provided in subs. (3) and (4).

(3) EXEMPTION FOR CHILDREN. A resident child under age 16 may not engage in commercial clam shelling without a commercial clam sheller license unless the value of the clams taken, killed, collected or removed by the child does not exceed \$1,000 in any year and the child has a department permit. A permit issued under this subsection is valid from January 1 or the date it is issued, whichever is later, until December 31 or the child's 16th birthday, whichever occurs first.

(4) APPLICATIONS. A person required to have a license or permit under this section or s. 29.38 (3), Stats., shall apply to the department on forms provided by it. The department shall deny any application for a license which is not accompanied by the appropriate license fee specified by s. 29.092 (7) (i) to (p), Stats. No fee may be charged for a permit.

Note: Forms may be obtained from DNR area offices listed in the note following s. NR 24.07, or by writing: DNR Bureau of Fish Management, P.O. Box 7921, Madison, WI 53707.

(5) DEADLINE. The department shall grant or deny a complete application for a permit or license under this section within 25 business days after it has been received by the department.

NR 24.05 RECIPROCITY. The department shall grant reciprocal commercial clamming license privileges in accordance with s. 29.16(2), Stats., to residents of Illinois, Iowa, Michigan, Minnesota or Missouri for the Wisconsin-Iowa, Wisconsin-Michigan and Wisconsin-Minnesota boundary waters if it determines that Wisconsin residents have been granted reciprocal rights, privileges and immunities by the other state.

NR 24.06 CLAMMING METHODS AND EQUIPMENT. (1) METHODS. (a) No person may engage in clamming or commercial clam shelling except by hand while diving or wading or by the use of crow-foot bars.

(b) No person may commit malicious waste by discarding clams into the waters or on lands governed by Wisconsin.

(c) No person may intentionally damage or break a clam to make determination of its original size or species impossible.

(d) A person engaging in clamming or commercial clam shelling shall promptly return all undersize clams and all clams of a species not open to clamming or commercial clam shelling, respectively, to the bed of the water at the location where the clams were found. The clams shall be returned unopened and unharmed.

(e) No person may cook clams unless the person is a licensed clam buyer or the person cooks the clams for a licensed clam buyer and the person is the buyer's licensed assistant clam buyer or licensed clam helper.

(2) EQUIPMENT. (a) No person may use a crow-foot bar longer than 20 feet while clamming or commercial clam shelling.

(b) No person may place more than 3 crow-foot bars in the water while clamming or commercial clam shelling.

(c) No person may possess more than 3 crow-foot bars while in or on the inland, boundary or outlying waters.

(d) No person may use more than one boat for clamming or for commercial clam shelling with crow-foot bars.

NR 24.07 RECORDS AND REPORTING. (1) COMMERCIAL CLAMMING RECORDS. A person engaged in commercial clam shelling, clam buying or clam helping shall keep daily records if forms are produced by the department for the specific commercial clamming activity in which the person is engaged.

(2) COMMERCIAL CLAMMING REPORTS. Prior to the 10th day of each month, any person engaged in commercial clamming who is required to keep daily records under sub. (1) shall submit a report of their daily commercial clamming activities for the previous month to the department. The report shall be made on forms available from the department and shall be submitted in person or sent by first class mail to the department address shown on the form so that it is received by the 10th day.

(3) REPORTING. If requested by the department, a person who is not required to keep records and submit reports under subs. (1) and (2) shall furnish to the department information relating to the taking, killing, collection, removal, purchase, sale, barter, transportation or possession of clams. The information shall be sufficient to evaluate the person's compliance with this chapter and s. 29.38, Stats.

(4) INLAND COMMERCIAL CLAMMING NOTICE OF INTENT. No person may engage in commercial clam shelling on any inland water unless the person has reported to the department the person's intent to do so at least one business day in advance. Notice of intent may be given in person, by telephone or by first class mail, but shall be in writing if the person wishes the specific location

to be kept confidential by the department under s. 29.38 (9), Stats. The report shall include the person's name; commercial clam sheller license number; the specific location by county, the nearest town, village or city and name of the inland water; the equipment and methods to be used; and the starting date and time. The notice shall be given to the department area office responsible for the inland water involved.

Note: The department area offices and their corresponding counties are as follows:

Southern District

Dodgeville Area, Hwy. 23, Rt. 1, Box 10, Dodgeville 53533, telephone 608-935-3368

(Grant, Iowa, Lafayette, Richland & Sauk counties)

Madison Area, 3070 Fish Hatchery Road, Fitchburg 53713, telephone 608-273-5950

(Dane, Green, Jefferson & Rock counties)

Horicon Area, 1210 N. Palmatory Street, Horicon 53032, telephone 414-485-4434

(Columbia, Dodge, Fond du Lac, Green Lake & Marquette counties)

Southeast District, 2300 N. Dr. Martin Luther King, Jr. Dr., Box 12436, Milwaukee 53212, telephone 414-562-9500

(Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington & Waukesha counties)

Lake Michigan District

Green Bay Area, 200 N. Jefferson, Suite 511, Green Bay 54301, telephone 414-497-6131

(Brown, Door, Kewaunee & Manitowoc counties)

Oshkosh Area, 905 Bayshore Drive, Box 2565, Oshkosh 54903, telephone 414-424-3055

(Calumet, Outagamie, Waupaca, Waushara & Winnebago counties)

Marinette Area, Industrial Parkway, Box 16, Marinette 54143, telephone 715-732-0101

(Florence, Marinette, Menominee, Oconto & Shawano counties)

West Central District

Eau Claire Area, 1621 Westgate Road, Eau Claire 54703, telephone 715-839-3777

(Chippewa, Dunn, Eau Claire, Pepin, Pierce & St. Croix counties)

Black River Falls Area, Hwy. 54E, Rt. 4, Box 18, Black River Falls 54615, telephone 715-284-5301

(Buffalo, Clark, Jackson & Trempealeau counties)

La Crosse Area, 3550 Mormon Coulee Rd., Rm. 104, State Office Bldg., La Crosse 54601, telephone 608-785-9000

(Crawford, La Crosse, Monroe & Vernon counties)

North Central District

Antigo Area, 1635 Neva Road, P.O. Box 310, Antigo 54409, telephone 715-627-4317

(Langlade, Lincoln & Marathon counties)

Woodruff Area, Co. Hwy. J, Box 440, Woodruff 54568, telephone 715-356-5211

(Forest, Oneida & Vilas counties)

Wisconsin Rapids Area, 1681 2nd Ave. S., Rm. 118, Wis. Rapids 54494, telephone 715-423-5670

(Adams, Juneau, Portage & Wood counties)

Northwest District

Brule Area, Hwy. 2, Box 125, Brule 54820, telephone 715-372-4866

(Ashland, Bayfield, Douglas & Iron counties)

Cumberland Area, 1341 2nd Ave., Box 397, Cumberland 54829, telephone 715-822-3590

(Barron, Burnett, Polk & Washburn counties)

Park Falls Area, Case Avenue, Box 220, Park Falls 54552, telephone 715-762-4414

(Price, Rusk, Sawyer & Taylor counties)

NR 24.08 MINIMUM SIZE AND WEIGHT DETERMINATION. (1) SIZE. A person engaging in clamming or commercial clam shelling shall determine the size of a clam promptly upon removing it from the water by attempting to pass it intact through a ring with a diameter of the minimum size specified for the respective species in the table of s. NR 24.09 if the clam is taken while commercial clam shelling or in the table of s. NR 24.10 if the the clam is taken while clamming.

(2) WEIGHT. For purposes of this chapter and s. 29.38, Stats., the weight of clams shall be determined on a wet or fresh basis if their condition permits it.

NR 24.09 COMMERCIAL CLAMMING: SIZE LIMITS; OPEN SEASONS, SPECIES AND WATERS. (1) Except as provided in sub. (2), no person may engage in commercial clam shelling except between sunrise and sunset during the open season in waters which are open to commercial clam shelling, for clams of a species which is open to commercial clam shelling and which are of the minimum size or larger, as shown in the following table:

WATERS OPEN TO COM- MERCIAL CLAM SHELLING	OPEN SEASON	OPEN SPECIES	MINIMUM SIZE
(a) Wisconsin-Iowa boundary waters	April 1-Sep. 30	mapleleaf (<i>Quadrula quadrula</i>)	2 3/4"
		pigtoe (<i>Fusconaia flava</i>)	2 3/4"
		pimpleback (<i>Quadrula pustulosa</i>)	2 3/4"
		threeridge (<i>Amblema plicata</i>)	2 5/8"
		washboard (<i>Megalonaias gigantea</i>)	3 1/2"
(b) Wisconsin-Michi- gan and Wiscon- sin-Minnesota boundary waters except the St. Croix river	April 1-Sep. 30	mapleleaf (<i>Quadrula quadrula</i>)	2 3/4"
		pigtoe (<i>Fusconaia flava</i>)	2 3/4"
		pimpleback (<i>Quadrula pustulosa</i>)	2 3/4"
		threeridge (<i>Amblema plicata</i>)	2 5/8"
(c) Inland waters: All except the Ashippun river (Dodge, Jefferson, Washington and Waukesha counties), Cedar creek (Ozaukee and Washington counties), Kelly brook (Oconto County), Little Peshtigo river (Marinette and Oconto counties), Little Suamico river (Oconto Shawano and Brown counties), east, north and west branches of the Milwaukee river (Fond du Lac, Ozaukee, Sheboygan and Washington counties), Mukwonago river (Waukesha county), Namekagon river upstream and inclusive of the SW 1/4 of the NE 1/4 of section 8, township 43N, range 6W (Burnett,	April 1-Sep. 30	mapleleaf (<i>Quadrula quadrula</i>)	2 3/4"
		pigtoe (<i>Fusconaia flava</i>)	2 3/4"
		pimpleback (<i>Quadrula pustulosa</i>)	2 3/4"
		threeridge (<i>Amblema plicata</i>)	2 5/8"
		all others except those listed in s. NR 27.03(2)(f) or (3)(f)	none

WATERS OPEN TO COM- MERCIAL CLAM SHELLING	OPEN SEASON	OPEN SPECIES	MINIMUM SIZE
Washburn, Sawyer and Bayfield counties), Onion river (Sheboygan county), St. Croix river upstream to the Gordon dam (Burnett and Douglas counties), Suamico river (Brown and Outagamie counties), Sugar creek (Racine and Walworth counties), and the Wisconsin river upstream to the dam at Prairie du Sac			

(2) Notwithstanding the minimum size limits set in sub. (1), the minimum size for cooked clams shall be 2 1/2" for mapleleaf, pigtoe and pimpleback clams, 2 7/16" for threeridge clams and 3 1/4" for washboard clams.

NR 24.10 CLAMMING: SIZE LIMITS; OPEN SEASONS, SPECIES AND WATERS. No person may engage in clamming except between sunrise and sunset during the open season in waters which are open to clamming, for clams of a species which is open to clamming and which are of the minimum size or larger, as shown in the following table:

WATERS OPEN TO CLAMMING	OPEN SEASON	OPEN SPECIES	MINIMUM SIZE
(1) All boundary, inland and outlying waters	all year	all except those listed in s. NR 27.03(2)(f) or (3)(f)	none

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on January 29, 1987.

The rules shall take effect as provided in s. 227.22(2)(intro.), Stats.

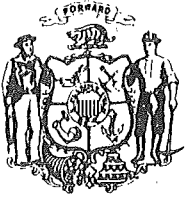
Dated at Madison, Wisconsin April 6, 1987

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

1259D



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

April 3, 1987

IN REPLY REFER TO: 1020

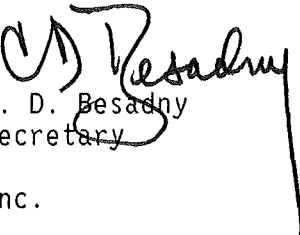
Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 904
30 W. Mifflin Street

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FM-55-86. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Transportation, Tourism and Conservation pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


C. D. Besadny
Secretary

Enc.

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