

is taken while commercial clam shelling or in the table of s. NR 24.10 if 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.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87.

NR 24.09 Commercial clamming: size limits; open seasons, species and waters. (1) Except as provided in subs. (2) and (3), 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 COMMERCIAL CLAM SHELLING	OPEN SEASON	OPEN SPECIES	MINIMUM SIZE
(a) Wisconsin-Iowa boundary waters	April 1, 1989- Sept. 15, 1989 thereafter, April 1- Aug. 31	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>Amblyma plicata</i>)	2-3/4"
		washboard (<i>Megalonaias gigantea</i>)	3-1/2" until Apr. 1, 1990, 4" thereafter
(b) Wisconsin-Minnesota boundary waters except Lake St. Croix, the St. Croix river, and the St. Louis river	Apr 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>Amblyma plicata</i>)	2-3/4"
(c) Inland waters and Wisconsin-Michigan boundary waters: none, except as provided in sub. (4)	No open season, except as provided in sub. (4)	None, except as provided in sub. (4)	12", except as provided in sub. (4)

(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" until April 1, 1990 and 3-3/4" thereafter for washboard clams.

(3) Notwithstanding the minimum size limit set in sub. (1) (a), the minimum size for dead shell shall be 3-1/2" for washboard clams. This subsection shall be in effect April 1, 1990 to August 31, 1991.

(4) (a) Notwithstanding sub. (1) (c), the department may designate:

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1. Waters or portions of a water which are temporarily open to commercial clam shelling,

2. Clam species which are open to commercial clam shelling in waters designated under subd. 1., and

3. Alternative minimum size limits for clam species which are designated under subd. 2., which are smaller than the minimum size limit of sub. (1) (c).

(b) Prior to opening any water to commercial clam shelling under this subsection, the department shall investigate and prepare a pre-harvest inventory for the water to determine whether any endangered or threatened mussels are present and to set safe harvest limits and alternative minimum size limits for each commercial clam species. The department may temporarily open a water or portion of a water if it determines that:

1. The water or portion of water has adequate public access to accommodate commercial clam shelling,

2. The water or portion of water contains enough clams to withstand commercial clam shelling,

3. The water or portion of water does not contain threatened or endangered mussels, and

4. Commercial clam shelling in the water or portion of water would not otherwise be contrary to the public interest.

(c) To open a water or portion of a water, the department shall issue an order based on its investigation. The order shall include specific findings, describing the water or portion of the water, the species open to harvest, the alternative minimum size limit for each open species, and a safe harvest limit for each open species. The order shall direct that a notice be published 10 days in advance of the opening in the official state paper and be prominently posted at public access points along the affected water. The notice shall identify the water or portion of water temporarily open to commercial clam shelling, the open species, the alternative minimum size limit for each open species and the telephone number for daily reporting required under par. (e).

(d) The department shall monitor commercial clam shelling authorized under this subsection and shall close a water or a species to commercial clam shelling when the harvest total approaches 85% of the safe harvest limit. A water may be closed to commercial clam shelling by department removal of the notices posted along the affected water. Where a water contains more than one open species, a species may be closed by the department posting new notices along the affected water which omit the species from the list of species open to commercial clam shelling in the affected water.

(e) In addition to the records and reports required by s. NR 24.07, a commercial clam sheller who shells in a water temporarily opened to commercial clam shelling under this subsection shall report his or her daily harvest under his or her license number, in pounds and by clam species, by telephone using the telephone number listed on the notice posted along the open water. A commercial clam sheller shall call in his or

her daily harvest reports within one calendar day after each day he or she engages in commercial clam shelling in the affected water.

(f) Any person who engages in commercial clam shelling in a closed water, who takes clams of a species not open to commercial clam shelling, or who takes clams smaller than the alternative minimum size limit is in violation of sub. (1).

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; am. (1) (intro.) and (a) and (2), cr. (3), Register, June, 1989, No. 402, eff. 7-1-89; reprinted to restored dropped copy in (1) (b), Register, September, 1989, No. 405; emerg. r. and recr. (1) (c), eff. 6-30-90; am. (1) (b), r. and recr. (1) (c), cr. (4), Register, February, 1991, No. 422, eff. 3-1-91.

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

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87.