

## Chapter NR 24

## CLAMS

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**Note:** Chapter NR 24 was repealed and recreated as an emergency rule effective May 1, 1986. This emergency rule was amended effective March 27, 1987. Chapter NR 24 as it existed on May 31, 1987 was repealed and a new chapter NR 24 was created effective June 1, 1987.

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

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

**NR 24.02 Definitions.** In addition to the definitions contained in s. 29.537 (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.

(4m) "Dead shell" means a clam which apparently died in the water of natural causes, contains no meat or soft parts and exhibits readily notable sediment, algae, vegetation or water stains, discoloration, soiling, weathering or other visual evidence on its interior surface which clearly and unambiguously shows that the clam is not a cooked clam and is not freshly dead.

(5) "Inland waters" has the meaning given it in s. 29.001 (45), 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. 29.001 (63), Stats.

(9) "Resident" has the meaning given it in s. 29.001 (69), 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).

**History:** Cr. Register, May, 1987, No. 377, eff. 6-1-87; cr. (4m), Register, June, 1989, No. 402, eff. 7-1-89; corrections in (intro.), (5), (8), and (9) were made under s. 13.93 (2m) (b) 7., Stats.

**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.

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

**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. 29.537 (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. 29.537 (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.

**Note:** 1997 Wis. Act 248 repealed s. 29.092 (7), Stats.

(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.

**History:** Cr. Register, May, 1987, No. 377, eff. 6-1-87; corrections in (2) and (4) were made under s. 13.93 (2m) (b) 7., Stats.

**NR 24.05 Reciprocity.** The department shall grant reciprocal commercial clamming license privileges in accordance with s. 29.045 (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.

**History:** Cr. Register, May, 1987, No. 377, eff. 6-1-87; correction made under s. 13.93 (2m) (b) 7., Stats.

**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.

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

**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. 29.537, 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. 29.537 (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:** With reorganization, the department no longer has area offices. The notice of intent should be mailed to the Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707.

**History:** Cr. Register, May, 1987, No. 377, eff. 6-1-87; corrections in (3) and (4) were made under s. 13.93 (2m) (b) 7., Stats.

**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 clam is taken while clamming.

(2) **WEIGHT.** For purposes of this chapter and s. 29.537, 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; correction in (2) was made under s. 13.93 (2m) (b) 7., Stats.

**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 - August 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>Amblema plicata</i> )	3"
(b) Wisconsin-Minnesota boundary waters except Lake St. Croix, the St. Croix river, and the St. Louis river	April 1 - August 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>Amblema plicata</i> )	3"
(c) Inland waters and Wisconsin-Michigan boundary waters: none, except as provided in sub. (3)	No open season, except as provided in sub. (3)	None, except as provided in sub. (3)	12", except as provided in sub. (3)

(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 and 2-13/16" for threeridge clams.

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

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 spe-

cies 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; am. (1) (a) to (c) and (2), r. (3), renum. (4) to be (3), Register, December, 1997, No. 504, eff. 1-1-98; **am. (1) (a) and (2), Register, March, 1998, No. 507, eff. 4-1-98.**

**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
All boundary, inland and outlying waters	all year	all except those listed in s. NR 27.03 (2) (g) or (3) (g)	None

**History:** Cr. Register, May, 1987, No. 377, eff. 6-1-87; am. Register, December, 1997, No. 504, eff. 1-1-98.