

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

COMMISSIONER'S ORDER NO. 2378

REGULATIONS FOR THE TAKING AND POSSESSION
OF FRESHWATER CLAMS AND MUSSELS;
SUPERSEDING COMMISSIONER'S ORDER NOS. 2229 and 2315

Pursuant to authority vested in me by Minn. Stat. Sec. 97C.701, 97C.705, 97C.711 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking and possession of freshwater clams and mussels.

Section 1. HARVESTING FOR PERSONAL USE

Any person possessing a valid resident or nonresident angling license may take and possess for personal use only, not more than 50 pounds of live, whole freshwater clams or mussels. Such clams or mussels may be harvested in any waters of the state where fish may be taken by angling unless otherwise posted; shall be harvested by hand picking, hand shoveling or hand raking only; and shall not be purchased or sold.

Sec. 2. PERMITS

(a) Permit Required. No person shall take or possess more than 50 pounds of live, whole freshwater clams or mussels without first obtaining a written permit from the Director of Fish and Wildlife.

(b) Permit Issuance. Permits shall be issued upon application pursuant to the following criteria:

(1) Application shall be made on forms supplied by the Commissioner and shall be submitted to the local

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area fisheries office. Permits will be issued from the Regional Fisheries Office within 10 working days of receipt of properly completed application.

(2) Permits will be issued only to Minnesota residents who possess a valid Minnesota resident angling license.

(3) Application forms must be signed by the applicant. All requested information must be provided. Failure to properly and fully complete an application form will result in its rejection.

(c) Permit Duration. No permit shall be valid for more than one season, as defined in Section 3 of this order. Permits may be issued for periods of time shorter than one season, at the discretion of the Director.

(d) Permit Revocation. In addition to the penalties set forth in Section 10, the Director may revoke any permit upon 10 days' written notice if he determines that revocation is necessary for protection of natural resources.

Sec. 3. SEASON

(a) The open season for taking clams and mussels is May 16 to September 15, both dates inclusive.

(b) Clams and mussels may be harvested from sunrise to sunset, only.

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(c) Permittees shall not harvest Three ridge mussels (Amblema Plicata) from the Pomme deTerre River in Grant, Stevens, Ottertail, Swift, and Lac Qui Parle Counties.

Sec. 4. SPECIES

Only Pimpleback, Three ridge and Pigtoe clams and mussels shall be harvested. Additional species may be harvested by special permit from specific sites. All clams and mussels must be greater than 2-3/4 inches in height. Height is defined as the distance from the center of the hinge side, perpendicular and at a right angle across the shell to the outer edge.

Sec. 5. HARVEST SITES FOR PERMITTEES

(a) Clam and mussel harvest sites will be identified in the permit by legal description and in other defining terms as needed to physically locate the area.

(b) The taking of clams or mussels by a permittee or member of their crew from any place outside the permitted harvest site boundary is prohibited.

Sec. 6. GEAR FOR PERMITTEES

(a) Clams and mussels shall be taken only by the gear and methods identified in the permit.

(b) No permittee or member of any permittee's crew shall, during clam or mussel harvesting activities, have in their possession or control any gear that is specifically designed to take fish.

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(c) The dredge is prohibited as a clam or mussel harvesting apparatus. A dredge is defined as any apparatus designed or used for the scouring of lake or river bottoms.

(d) Crow foot bars may be used for harvesting clams and mussels unless prohibited in the permit. A crow foot bar is defined as a bar or rod with flexible extensions attached to it carrying hooks or grapples, that is dragged over river or lake bottoms for the purpose of harvesting clams or mussels.

(e) Not more than one boat or rig, dragging not more than two crow foot bars, shall be used when harvesting clams.

(f) One additional boat may be used for towing if no clam taking apparatus is attached thereto.

Sec. 7 PERMITTEE OPERATIONS

(a) All clam and mussel harvesting operations shall be conducted in accordance with the terms and requirements of state law, this order, and the permittee's permit.

(b) The permittee shall inform the local Area Fisheries Office 24 hours in advance of any intended harvest operations.

(c) The permittee shall be in personal attendance at all harvest operations.

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(d) Clams and mussels legally harvested under permit may be bought, sold and transported.

Sec. 8. PERMITTEES' REPORTS, RECORDS, INSPECTION

(a) Records. All permittees shall keep records in the English language of all clam and mussel sales transactions. This record shall be verifiable with supporting sales slips and include: species percentage and pounds of clams and mussels sold; number of pearls sold; name and address of buyer and date of each transaction. These records shall be kept current within 48 hours. Failure to keep complete and current records shall result in immediate revocation of the permit and shall render the permittee ineligible for future permits.

(b) Reports. Permittees shall submit monthly reports on forms provided by the Commissioner by the 15th of each month. All information requested on the report shall be provided. Failure to submit a complete report at the time required shall render the permittee ineligible for future permits.

(c) Inspections. Permittees are subject to inspection at all reasonable times by agents of the Commissioner. Subjects of inspection shall include records as required by paragraph (a) of this section, business and operations premises, and all boats, vehicles and gear used in clam and mussel harvesting operations.

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Sec. 9. SPECIAL RESTRICTIONS

(a) Dead clams and mussels or the shells or meats thereof shall not be returned to the water or deposited on any shoreline or adjacent.

(b) The Higgins' Eye clam (Lampsilis higginsii) and Fat Pocketbook clam (Proptera capax) shall not be harvested or intentionally disturbed or molested. If either species is located within or near the harvest site, all harvest operations shall immediately stop and the permittee or personal use harvester shall notify the Area Fisheries Office within 24 hours, pending further investigation.

(c) The placement in waters of the state of any clam or mussel imported from outside the state is prohibited.

Sec. 10. PENALTIES


Violations of any provisions of state law pertaining to the harvest of clams or mussels, or any provisions of this order, or any terms or conditions of the permit shall immediately render the permit null and void. In addition, the violator shall be subject to all other penalties imposed by state law.

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Sec. 11 Commissioner's Orders Nos. 2229 and 2315 are hereby superseded.

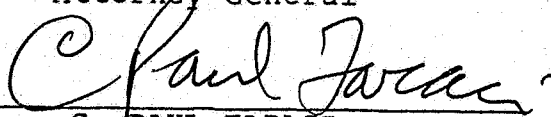
Dated at St. Paul, Minnesota this 16 day of

May, 1990.


JOSEPH N. ALEXANDER, COMMISSIONER
Department of Natural Resources

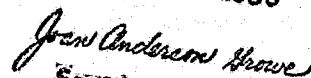
APPROVED AS TO FORM AND EXECUTION

HUBERT H. HUMPHREY, III
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Deputy Attorney General

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 17 1990


Secretary of State

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