

TENNESSEE WILDLIFE RESOURCES COMMISSION

PROCLAMATION 99-6

REPEALING PROCLAMATION 96-16
TAKING, POSSESSING, AND SELLING OF MUSSELS

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-2-205, 70-4-107, 70-4-119, and 70-8-107 thereof, the Tennessee Wildlife Resources Commission proclaims the following regulations pertaining to the taking, possessing, and selling of aquatic mussels. For purposes of this proclamation, the words Amussels@, Amussel shells@, and Ashells@ are synonymous. Only holders of a commercial musseling license may take mussels. Only holders of a wholesale mussel dealers license or a pearl culture license may buy mussels from a commercial musseling license holder. Only holders of a commercial musseling license, wholesale mussel dealer license or a pearl culture license may sell non-processed mussels.

SECTION I. WATERS OPEN TO THE COMMERCIAL TAKING OF MUSSELS

- A. Tennessee River (including TVA reservoirs thereon) except those areas designated in Section II.
- B. Cumberland River (including U.S. Corps of Engineers reservoirs thereon) except those areas designated in Section II.
- C. Duck River from its confluence with Kentucky Lake in Humphreys County upstream to Cold Branch (Bakerville Road) Bridge (DRM 11.7), Humphreys County.
- D. Mississippi River

SECTION II. AREAS CLOSED TO THE TAKING OF MUSSELS

All areas not opened in Section I and those areas specifically listed below are closed to the taking of mussels. Diving with the aid of a mechanical device such as SCUBA equipment or surface supplied-air equipment in waters designated in A., B., C., D., E., or F., of Section II is prohibited without the written authorization of the TWRA Executive Director.

A. The following described areas are designated as mussel sanctuaries in which the taking of aquatic mollusks by any means is prohibited at all times. The degradation and/or destruction of aquatic habitat in these areas is also prohibited.

1. That section of the Tennessee River (Kentucky Reservoir) between TRM 140 (mouth of Elkins Branch, Decatur County) and TRM 141.5 (mouth of Cedar Creek, Perry County).
2. That section of the Tennessee River (Kentucky Reservoir) between Pickwick Dam (TRM 206.7) and the downstream Tennessee Gas Pipeline located at TRM 201.9.
3. That section of the Tennessee River (Nickajack Reservoir) between TRM 465.9

(Marine Way Upper Light) and TRM 471.0 (Chickamauga Dam).

4. That section of the Tennessee River (Chickamauga Reservoir) between the Hunter navigation light (TRM 520.0) and Watts Bar Dam (TRM 529.9).

5. That section of the Tennessee River from Nickajack Dam (TRM 424.7) downstream to the Tennessee-Alabama state line (TRM 416.5).

6. That section of the Powell River from the Norris Lake Headwaters at Gap Creek (PRM 55.0) upstream to the Tennessee-Virginia state line (PRM 115.6).

7. That section of the Clinch River from the Tennessee/Virginia state line (CRM 202.1) downstream to the Highway 25 Bridge.

8. That section of the Duck River upstream from Cold Branch (Bakerville Road) Bridge (DRM 11.7), Humphreys County.

9. That section of Old Hickory Lake (Cumberland River) from U.S. Highway 231 upstream to approximately CRM 265.5 encompassing all waters within the Lock 5 Wildlife Refuge.

10. That section of the Cumberland River from the TVA Hartsville Plant Service Dock (CRM 284.1) upstream to CRM 284.8, which is approximately 600 feet above Dixon's Island.

11. That section of the Cumberland River from CRM 292.5, Rome Ferry, upstream to Cordell Hull Dam (CRM 313.5).

12. That section of the Hiwassee River from the Tennessee - North Carolina boundary (HRM 65.9) downstream to the Appalachia Powerhouse (HRM 53.5).

- B. The following described area is designated as a management study area in which the destruction of aquatic mollusk habitat is prohibited at all times, and the taking of any mollusk shall be prohibited except as specified by TWRA, and under the supervision of TWRA officials.

That section of the Tennessee River east of the main river channel bounded on the north by Tennessee National Refuge Boundary pilings (approximately River Mile 103.5), and bounded on the south by the Rockport Island light at River Mile 107.8.

- C. The taking of mussels is prohibited within 1,000 yards below any TVA or Corps of Engineers Dam. For purposes of this proclamation, wing walls and lock walls are considered to be a part of the "dam" and measurements will be made from their downstream end.

- D. Commercial musseling is prohibited within 100 yards of any commercial dock or pearl culture facility.

E. That section of the Tennessee River (Kentucky Reservoir) comprising the Johnsonville Steam Plant Discharge Harbor.

F. That section of the Tennessee River near river mile 207 (Pickwick Reservoir) comprising Sulphur Creek Embayment (also known as the Pickwick Landing State Park Marina) as marked.

SECTION III. SPECIES, SEASONS, AND SIZE LIMITS

A. No person, firm, or corporation shall take, transport, export, process, sell, offer for sale, ship, or receive any endangered, threatened, or in need of management mussel species (or parts or products thereof), nor shall he disturb, degrade, or destroy the habitat of those mollusks listed in proclamations by the Tennessee Wildlife Resources Commission or in federal regulations issued under authority of Public Law 93-205.

B. The season for legal mussels is open year-round between sunrise and sunset of each day, except that Kentucky Reservoir is closed to the taking of mussels by diving on the following observed National Holidays: weekend of Memorial day, weekend of Labor day; and the weekend surrounding the 4th of July when it falls on a Friday, Saturday, Sunday or Monday.**

C. Only those individuals of the species listed below which will not pass through a ring with an inside diameter specified for that species can be harvested. All other mussels shall be returned immediately and unharmed to the bed from which they are taken.

<u>Mussel Species Listed for Harvest</u>	<u>Inside Ring Diameter in Inches</u>
Pink heelsplitter (<i>Potamilus alatus</i>)	4.0
Washboard (<i>Megaloniaias nervosa</i>)	3 ¾ “(a)”*
River Pigtoe (<i>Pleurobema cordatum</i>)	2 5/8
Lake Pigtoe (<i>Fusconaia flava</i>)	2 5/8
Mapleleaf (<i>Quadrula quadrula</i>)	2 5/8
Southern Mapleleaf (<i>Quadrula apiculata</i>)	2 5/8
Threeridge (<i>Amblema plicata</i>)	2 5/8
Elephant Ear (<i>Elliption crassidens</i>)	2 5/8
Ebony (<i>Fusconaia ebena</i>)	2 3/8
Monkeyface (<i>Quadrula metanevra</i>)	2 3/8

- (a) Washboard size limit will be increased effective as follows:
- (1) March 1, 2000 - 3^{13/16} inches
 - (2) March 1, 2001 - 3^{14/16} inches
 - (3) March 1, 2002 - 3^{15/16} inches
 - (4) March 1, 2003 - 4.0 inches

** Section III amended by Proclamation 02-11 dated August 5, 2002.

* Section III amended by Proclamation 99-16, dated August 26, 1999.

Under contract with the TWRA, commercial musselers may take live washboard mussels having a minimum inner ring size of 3.0" to 4.0" for sale to anyone engaged in a pearl culturing business and also under contract with TWRA. Pearl culturing businesses purchasing mussels under these provisions must implant all mussels acquired under each contract within 2 years from the initiation date of that contract.

Small washboards acquired under these provisions shall be used for the purpose of growing cultured pearls and all other uses are prohibited. The number of washboard mussels less than 4.0" bought or received by a cultured pearl business shall not exceed a quota of 75,000 per calendar year. The taking of washboards less than 4.0" shall cease once the contract quotas for licensed pearl culturing businesses are reached. Disposition of the small washboards acquired under these provisions shall be in accordance with the contract.

SECTION IV. LEGAL MUSSELING GEAR

A. Mussels may be taken by brail or by hand, with or without the aid of diving equipment. Exception: On the Duck River brails are prohibited.

B. All other methods of mussel collecting including the use of mechanical dredges, pumps, drag baskets, hand operated rakers, and hand held digging devices are expressly prohibited.

C. Only brails measuring 16 feet or less are legal. Mussel brail hooks shall be constructed of wire no smaller than 12 gauge if not knobbed, or not smaller than 14 gauge when knobbed. If knobbed, the diameter of the knob shall be equal to or greater than the diameter of a 12 gauge wire. Neither curved nor straight brail hook prongs shall measure longer than 13" from tip to point of junction or wire wrapping.

SECTION V. POSSESSING, SELLING, AND BUYING, OF UNDERSIZED SHELLS

No person, firm, or corporation shall take, buy, sell, barter, or possess mussels taken from Tennessee waters (alive or dead) that are not of the species and sizes listed in Section III, or are not legalized by other proclamations, rules, or regulations. No person, firm, or corporation shall be in possession of non-processed freshwater mussels unless they have in their possession the required commercial musseling license, wholesale mussel dealer license, or pearl culturing license.

SECTION VI. PAYMENT OF MUSSEL FEE

A. The procedure for governing the collection of these fees on mussels that are sold to a resident wholesale mussel dealer is as follows:

(1) The payment to TWRA shall be calculated from receipts filled out by the wholesale mussel dealer for each transaction. A Mussel Shell Summary Sheet reporting the receipt number, pounds of shells purchased for each transaction, calculated fee payable to TWRA, and the signature of the company official completing the report shall be completed and sent to TWRA by the 15th of the month following the monthly transaction period.

(2) Wholesale mussel dealers are required to furnish the musseler with receipts for all mussels acquired on forms provided by TWRA. A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial mussel license number, pounds of shells bought by type, size category and harvest location as stated by seller, date of the transaction, signature of buyer or recipient, and signature of the seller.

(3) A copy of each receipt shall be kept by the wholesaler for a period of 2 years, and be made available for inspection by TWRA during regular business hours. A copy of each receipt shall be given to the musseler. Musselers must keep their copy of the receipt for a period of 2 years, and make it available for inspection by TWRA.

(4) A copy of each receipt issued during a month shall be furnished to TWRA at the Nashville Office by the 15th of the following month.

B. The procedure governing the collection of these fees on mussels that are not sold to an in-state wholesale mussel dealer is set out as follows:

(1) A mussel export form provided by TWRA must be completed by the mussel harvester giving pertinent information including the mussel harvester's name, commercial musseling license number, date of export, pounds of shells by size category, fee due, and money order number, cashier check number, or personal check number used as payment to TWRA.

(2) A copy of the mussel export form shall be retained by the mussel harvester and must be on the shipper's person when crossing the state line. A money order, cashier's check, or personal check is the only acceptable means for making a fee payment to TWRA. The receipt or copy of the same from the cashier's check, money order, or personal check used to pay TWRA the fee must be retained by the harvester.

The receipt or a copy thereof of the money order, cashier's check, or personal check must also be maintained by the person taking the mussels across the state line.

(3) The original of the mussel export form and a cashier's check, money order, or personal check made out to TWRA for the fee amount must be mailed via U.S. Postal Service to the TWRA, P.O. Box 40747, Nashville, TN 37204, before the mussels are transported or shipped across the state line.

(4) Failure to fill out any part of the mussel export form or falsification of information shall be a violation of this proclamation.

(5) The mussel harvester must retain copies of the mussel export form and copies of

payment document (either money order receipt, copy of cashier's check or personal check, or the canceled personal check) for a period of two years and be made available for inspection by TWRA personnel.

C. The procedure governing the collection of these fees on mussels that are purchased or otherwise obtained by a resident pearl culture business is as follows:

(1) The payment to TWRA shall be calculated from receipts filled out by the pearl culture business for each transaction. A Mussel Shell Summary Sheet reporting the receipt number, pounds of shells purchased for each transaction, calculated fee payable to TWRA, and the signature of the company official completing the report shall be completed and sent to TWRA by the 15th of the month following the monthly transaction period.

(2) A pearl culture business is required to furnish the musseler with receipts for all mussels acquired on forms provided by TWRA.

(a) A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial musseling license number, pounds of shells bought by type, size category and harvest location as stated by the seller, date of the transaction, signature of the buyer or recipient, and signature of the seller when the mussels obtained are not 3.0 inch to 4.0 inch "washboard" mussels.

(b) A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial musseling license number, number of 3.0 inch to 4.0 inch "washboard" mussels, pounds of mussels purchased, pearl culture company name, date of the transaction, and signature of the company official purchasing the mussels.

(3) A copy of each receipt shall be kept by the pearl culture business for a period of 2 years, and be made available for inspection by TWRA during regular business hours. A copy of each receipt shall be given to the musseler. Musselers must keep their copy of the receipt for a period of 2 years, and make it available for inspection by TWRA.

(4) A copy of each receipt issued during a month shall be furnished to TWRA at the Nashville Office by the 15th of the following month.

SECTION VI. PAYMENT OF MUSSEL FEE

A fee in the amount prescribed by law must be paid to the Tennessee Wildlife Resources Agency on mussels taken from Tennessee waters.

SECTION VII. IMPORTATION AND EXPORTATION OF MUSSELS

All shipments of mussels imported into Tennessee by a person, firm, or corporation shall be accompanied by a bill of lading. The bill of lading shall provide the following: (1) signature

of the person or purchasing agent of the firm or corporation importing the mussels; (2) signature of the person or purchasing agent of the firm or corporation that sold or otherwise provided the mussels to be imported; (3) date of shipment; (4) weight of mussels by size category; (5) origin of shipment including the name of the body of water where they were harvested; and (6) destination of shipment. A copy of the bill of lading shall remain with the importing person, firm, corporation, or wholesale mussel dealer for a period of two years, and shall be made available to TWRA upon request.

To export mussels from Tennessee, a completed bill of lading on forms provided by TWRA is required.

SECTION VIII. REPEAL OF PRIOR PROCLAMATION

This proclamation repeals Proclamation 96-15, dated July 25, 1996, as amended by Proclamation 96-16, dated August 16, 1996, in its entirety.

TENNESSEE WILDLIFE RESOURCES COMMISSION

/S/ - John F. Smolko, Jr.
Chairman

I certify that this is an accurate and complete copy of rules lawfully promulgated and adopted by the Tennessee Wildlife Resources Commission on the 29 day of April, 1999.

/S/ - Gary T. Myers
Secretary

Subscribed and sworn to before me this the 29 day of April, 19 99.

/S/ Sheryl D. Holtam
Notary Public

My commission expires on the 26 day of January, 2002.

Proclamation **99-6** received and recorded this 6 day of May, 19 99.

/S/ Riley C. Darnell
Secretary of State

**Section III amended by Proclamation 99-16, dated August 26, 1999.

*Section III amended by Proclamation 02-11, dated August 5, 2002.