

Report to
Legislative Council Rules Clearinghouse
NR 19 and 20, Wis. Adm. Code
Natural Resources Board Order No. FH-13-22

Wisconsin Statutory Authority

The department is granted the authority to issue permits for taking bait from specific waterbodies under s. 29.509 (5), Stats.

Section 29.011 (1), Stats., “title to wild animals,” establishes that the legal title to and custody and protection of wild animals, including fish, is vested in the state.

Section 29.014, Stats., “rule-making for this chapter,” grants the department the authority to establish and maintain open and closed seasons, bag limits, size limits and other conditions that will conserve fish populations and provide good fishing opportunities for the citizens of the state.

Section 29.041, Stats., provides that the department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.053 (2), Stats., provides that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies.

Section 29.509, Stats., requires commercial bait harvesters to obtain a bait dealer license, with the exception of youth under 16 years of age that make no more than \$500 annually in sales of bait and operate under a possession limit of 5,000 of each species. This section also authorizes the department to regulate the take of bait through permit issuance. Under s. 29.509 (4), Stats., bait dealers are required to keep records of bait transactions, open to department inspection.

Section 29.705 (1), Stats., grants the department the authority to issue permits authorizing a person to take fish eggs for propagation, and requires that the department supervise the removal of the eggs from the fish.

Federal Authority

No federal regulations apply. States retain management authority over the fish and wildlife resources within state boundaries provided that state regulations do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

Comparison of Adjacent States

Minnesota requires minnow dealers to obtain a minnow dealer license to harvest bait from the wild to sell as bait.¹ In addition, the minnow dealer must possess a minnow retailer license to sell bait from more than one retail location, a minnow dealer vehicle license to transport more than 12 dozen minnows, and an exporting minnow dealer license to export minnow out of the state. Minnows also may not be harvested from waters infested with invasive species unless the minnow dealer is issued a permit, and all minnow dealers must complete annual invasive species training. Minnow dealers also may only harvest certain species from waters designated as free of viral hemorrhagic septicemia (VHS) in the past year. A minnow dealer must also obtain a separate permit to harvest minnows in trout waters. Minnesota also requires an annual report form of bait sales to be submitted.

For personal bait harvest, Minnesota requires that the water in live bait buckets be exchanged for tap or bottled water before moving minnows away from the waterbody. Minnesota also restricts personal minnow harvest on certain waters without a permit, and restricts harvest on waters infested with invasive species, specifying that bait taken from these waters may not be moved live away from these waters. Gear regulations also apply for personal bait harvest, as well as a variety of species-specific restrictions to prevent the spread of VHS.²

Iowa requires a bait dealer license to sell bait. Bait dealers may not export bait taken from the wild. To use gear larger than specified in the bait dealer regulations, the bait dealer must apply for a permit. The Iowa Department of Natural Resources can restrict waters where bait harvest is allowed to protect minnow populations for management purposes. Anglers can harvest bait for personal use, but may not transport the bait in lake or river water and instead must bring clean water in which to transport the bait to prevent the spread of invasive species. Certain gear regulations apply for legal minnow harvest gear.³

Illinois allows personal bait harvest of certain bait species with specific gear types to be used on the waterbody where collected. Live baitfish may not be transported between waterbodies. Bait harvest gear are restricted to certain dimensions. Minnow dealers must obtain a retail minnow dealers license or wholesale minnow dealers license.⁴

Michigan requires anglers to use bait fish in the waters where collected. Some waters are protected from bait harvest for fishery management purposes. Species that are considered to be VHS species must be labeled with their scientific and common name, location of capture, and testing status prior to being imported.⁵ Michigan also requires two types of bait dealer licenses—retail or wholesale—with a commercial bait catcher license for dealers that harvest minnows from the wild to sell by retail or wholesale. Commercial bait catchers are required to submit monthly reports of daily fishing activity online. Commercial bait catchers are also restricted to certain waters and certain gear types and sizes when harvesting bait.⁶

1. "Minnow Dealer License." *Minnesota Department of Natural Resources*, Minnesota Department of Natural Resources, 2023. <https://www.dnr.state.mn.us/fishing/commercial/minnowdealer/index.html>.

2. *MINNESOTA FISHING REGULATIONS*. Minnesota Department of Natural Resources, 2023. https://files.dnr.state.mn.us/rlp/regulations/fishing/fishing_regs.pdf?v=2023.05.26-15.32.04

3. "BAIT DEALER 481A.144 LICENSED BAIT DEALER REQUIREMENTS." Iowa Department of Natural Resources. https://www.iowadnr.gov/portals/idnr/uploads/fish/programs/files/wholesale_bait_dealer_regs.pdf

4. "2023 REGULATION INFORMATION." Illinois Department of Natural Resources, 2022. <https://www.ifishillinois.org/regulations/FishingDigest.pdf>

5. *Michigan Fishing Guide*. Michigan Department of Natural Resources, 2022. https://www.michigan.gov/dnr/-/media/Project/Websites/dnr/Documents/LED/digests/2023_fishing_guide.pdf?rev=ed5c7998ed65405985b458199c14a67c

6. "Bait." *Michigan.gov*, Michigan Department of Natural Resources, 2023, www.michigan.gov/dnr/managing-resources/fisheries/business/bait.

Court Decisions Directly Relevant

No court decisions are directly relevant to this rule.

Analysis of the Rule - Rule Effect - Reason for the Rule

Bait harvest regulations are established to manage harvest of wild bait, especially minnows, from

waters of the state. These regulations are important for allowing bait harvesters and anglers of Wisconsin fair and equitable access to and use of baitfish, while maintaining populations of these fish as forage for native game and non-game fish and other wildlife. Bait harvest regulations also help mitigate the spread of aquatic invasive species and disease and minimize disturbances to sensitive aquatic resources. This rule aims to modernize bait harvest regulations to improve permitting and reporting efficiency for bait harvesters and the department while continuing to protect wild fish populations. This rule will also update gear use regulations to meet current needs. This rule will address regulations for both commercial and personal bait harvesters.

Agency Procedures for Promulgation

The department will hold a public hearing in November. We will request board adoption at the Natural Resources Board's December meeting, followed by a request for the governor's signature and then legislative review.

Description of any Forms (attach copies if available)

The department may use a form to collect information from commercial bait harvesters on minnow harvest activities. The form would contain location of minnow harvest, gear used to harvest the minnows, species harvested, date of harvest, weight or volume of minnows harvested by waterbody, number of adult suckers harvested, disposition of the minnows, signature of the permit holder, and other information required on the report form.

The form would be similar to:

https://dnr.wisconsin.gov/sites/default/files/topic/Fishing/VHS_BaitRecordsForm.pdf

Name and Telephone Number of Agency Contacts

Todd Kalish, Todd Kalish, 101 S. Webster St., Madison, WI 53703, (608) 225-5826,
Todd.Kalish@wisconsin.gov