

Clearinghouse Rule 23-053

The statement of scope for this rule, SS 085-22 was approved by the Governor on October 20, 2022, published in Register No. 802B on October 31, 2022, and approved by the Natural Resources Board on December 14, 2022. This rule was approved by the Governor on insert date.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD RENUMBERING AND AMENDING, AMENDING, AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **re number and amend** NR 19.057 (3); to **amend** NR 19.057 (1), (2) (intro.), and (5), 20.14 (9), 20.20 (73) (h) 1., 2., 3., 4., and 6b., and 20.39 (1) (intro.) and (a); and to **create** NR 19.001 (5r), 19.05 (3m), 19.057 (1m), (2m), and (3) (b), (c), and (d), 19.0575, 20.03 (10m), 20.14 (11), and 20.39 (1) (b) 3s. relating to wild bait harvest regulations and affecting small business.

FH-13-22

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Sections 29.011 (1), 29.014 (1), 29.041, and 29.053 (2), Stats., have been interpreted as authorizing the department to conserve and regulate the fish supply on waters of the state while continuing to provide opportunities for good fishing. Section 29.509, Stats., is interpreted as requiring a bait dealer license for commercial bait harvesters. Section 29.705 (1), Stats., is interpreted as authorizing the take of fish eggs for propagation and authorizing the department to issue a permit regulating this activity.

2. Statutory Authority: Sections 29.011 (1), 29.014, 29.041, 29.053 (2), 29.509, and 29.705 (1), Stats., are interpreted as authorizing this rule.

3. Explanation of Agency 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.

4. Related Statutes or Rules:

No additional statutes or rules relate to this rule.

5. Plain Language Analysis:

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. Additionally, this rule creates a white sucker spawning permit to authorize bait dealers to harvest eggs and milt from white suckers for propagation as bait.

SECTIONS 1 and 11 create a definition of “disinfect” to clarify existing and new language requiring minnow harvest gear to be disinfected before being moved to other waterbodies to prevent the spread of diseases such as viral hemorrhagic septicemia virus and invasive species.

SECTION 2 specifies that under this rule, minnows purchased from a bait dealer may not be moved live away from waters considered affected by viral hemorrhagic septicemia (VHS) (currently encompassing Lake Michigan, Green Bay, Lake Superior, the Lake Winnebago system, and the Mississippi River and its tributaries up to the first impassable barrier, including the Lower Wisconsin River). This rule will also allow personal minnow harvest from VHS-affected waters as long as no live minnows are moved away from these waters.

SECTION 3 extends the duration of wild bait harvest permits issued to licensed bait dealers from 30 days to December 31 of each year, which will save time and reduce paperwork for both bait dealers and the department, and would require bait dealers to apply for the permit at least a month in advance of the date they want to start harvesting minnows.

SECTION 4 provides a method for bait dealers to request amendments to their annual wild bait harvest permits. This change is in response to the transition in this rule to annual permits that expire on December 31 of each year, rather than being valid for 30 days with the ability of the bait dealer to request different waterbodies in each monthly permit. To prevent imposing additional workload demands, the bait dealer would be limited to 3 permit amendment requests per year.

SECTION 5 removes language on permit revocations from language introducing permit conditions. The revocation language will be moved to SECTION 6.

SECTION 6 provides that the department may revoke or modify a wild bait harvest permit if the permit conditions, terms, and requirements are not being met, to ensure compliance with the wild bait harvest permit process, or to prevent or control the spread of VHS or aquatic invasive species. Notification would be effective upon email of the modification or revocation or three business days after the

notification is mailed to the address of the permit holder.

SECTION 7 revises the record-keeping requirements for wild bait harvest permit holders to reflect minnow harvest activities such as setting and lifting minnow harvest gear, adjusts some recorded information so that it better aligns with typical minnow harvest practices, and requires the amount of minnows by volume or weight to be recorded by waterbody for all gear lifts that the permit holder conducts on that waterbody during that trip. These changes will provide the most accurate records of minnow harvest.

SECTION 8 requires minnow harvest information to be recorded before the bait dealer leaves the waterbody of harvest and requires the information to be reported to the department on a daily basis in the form specified by the department, with electronic reporting to take full effect in 2027.

SECTION 9 removes language relating to the 30-day wild bait harvest permit duration from the provision allowing a permit applicant to harvest minnows from a water stocked by that applicant.

SECTION 10 creates a white sucker spawning permit to regulate the harvest of white sucker eggs and milt for raising white suckers for bait purposes. Previously, the department utilized cooperative agreements to authorize taking white sucker eggs, with some of the eggs provided to the department for use in state fish hatcheries. However, the cooperative agreements have become more burdensome and less beneficial to the department over time, so transitioning to a permit will provide a more efficient mechanism for authorizing bait dealers to take white sucker eggs or milt. This section specifies permit application requirements, allows the department to set permit conditions to prevent the spread of invasive species or pathogens or to maintain a sustainable population of suckers in the waterbody, sets permit requirements including release of game fish from harvest gear and disinfection of harvest gear, and requires records to be kept of the suckers and eggs harvested per waterbody, with records to be submitted to the department.

SECTION 12 allows minnow harvest for personal use on VHS-affected waters as long as no live minnows are moved away from the VHS-affected waterbody and the minnow harvest gear is disinfected before use on any other water.

SECTION 13 prohibits minnows taken from VHS-affected waters from being used as dead and preserved bait on waters not affected by VHS to prevent the spread of this disease in light of the change in this rule to allow personal minnow harvest from VHS-affected waters.

SECTION 14 allows personal minnow harvest on specific VHS-affected waters of the state with the condition that no live minnows or suckers may be moved away from the water. This section also further specifies the appropriate cross-references within s. NR 19.05 (3), Wis. Admin. Code, so that commercial minnow harvest is not inadvertently allowed on these waters.

SECTION 15 allows the department to set conditions in non-standard gear permits to minimize user conflict, manage cumulative harvest of minnows from specific waterbodies, minimize bycatch of non-target fish, and protect fish habitat.

SECTION 16 requires the department to specify conditions limiting gear size or number in trout streams depending on the size of the stream. This will better preserve the forage base and protect habitat in trout streams, which are sensitive aquatic resources.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

No federal regulations apply. States possess inherent authority to manage the fishery and wildlife resources within their boundaries, except insofar as preempted by federal treaties and laws, including regulations established in the Federal Register.

7. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:

The department was not directed to hold a preliminary public hearing on this rule.

8. Comparison with Similar Rules in 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 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.

9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

Commercial bait harvesters licensed as bait dealers under s. 29.509, Stats., must currently apply for a wild bait harvest permit under s. NR 19.057, Wis. Admin. Code, to harvest bait minnows from waters of the state for sale, barter, or trade. Along with the requirement to hold a bait dealer license, bait dealers may not harvest minnows from waters affected by viral hemorrhagic septicemia (VHS) and are required to disinfect minnow harvest and transport gear after use and fulfill fish health requirements promulgated by the Department of Agriculture, Trade and Consumer Protection. Bait dealers with a wild bait harvest permit are required to maintain records of minnow harvest and disposition and make them available for inspection, but there is no requirement to submit these records to the department.

Wild bait harvest permits are currently valid for 30 days in most cases. This permit duration was established to allow the department to more quickly respond to fish disease outbreaks by restricting harvest in waters of new disease outbreaks, and the 30-day duration was deemed to be appropriate when VHS was first confirmed in Wisconsin in 2006. However, VHS has not spread in Wisconsin as originally anticipated, so extending the wild bait harvest permit duration may better serve customers and the department by reducing the amount of paperwork and review needed for this permit.

Bait dealers are also required to obtain a non-standard gear permit to use gear other than standard minnow traps, minnow seines or minnow dip nets, to use gear in trout streams during the closed season, or to use more than 20 minnow traps during the open trout season. Current rules establish criteria for issuing the non-standard gear permit and permit conditions, and allow the department to require reporting of harvest activities conducted under the non-standard gear permit; however, bait dealers do not currently submit reports to the department.

Existing rules also regulate the gear types and bait harvest practices of those harvesting bait for personal use, including the waterbodies where minnow harvest gear may be used, gear marking and lifting requirements, requirements for using minnow harvest gear in trout streams, and bag limits for minnows. This rule would allow for personal harvest of minnows from VHS-affected waters as long as no minnows are transported live away from the waterbody of harvest, which would allow residents on VHS-affected waters to harvest bait from the water they fish rather than having to purchase bait elsewhere. The prohibition on movement of live fish away from the waterbody would help ensure that no pathogens of

concern or aquatic invasive species are spread to other waters.

This rule also permits the taking of white sucker eggs and milt for rearing in a fish farm to sell the offspring as bait. The department has previously utilized cooperative agreements to allow commercial bait dealers to take white sucker eggs from the wild to rear as bait in exchange for returning a subset of the eggs or reared suckers to state fish hatcheries for use in rearing muskies. However, the cooperative agreements are no longer practical due to the complexities involved with moving fish between private fish farms and state fish hatcheries, and thus the department no longer receives any eggs or suckers from this arrangement. A permitting approach would provide an alternative means to authorize bait dealers to take white sucker eggs and milt for use as wild bait.

If this rule is not pursued, existing bait harvest regulations will continue to provide protection to baitfish and associated fish populations, but these regulations would not allow the department to adapt to current baitfish management needs or improve the efficiency of permitting and data collection, and would not reflect stakeholder input and preferences.

10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

This rule is expected to have a minimal economic impact (less than \$50,000). No new costs are expected as a result of revising the wild bait harvest permit duration and creating a white sucker harvest permit, nor for changes to the non-standard gear permit. Commercial bait harvesters are already required to record information on their minnow harvests and disposition and maintain records for inspection upon the request of department staff. The main costs would stem from reporting minnow harvest activities electronically for bait dealers that do not currently own a smartphone; however, paper reporting will be allowed in the short-term after implementing this rule, so additional costs are not expected upon implementation. Additionally, according to the Pew Research Center¹, an estimated 85 percent of American adults owns a smartphone. Based on this estimate, we assumed that about 8 of the 55 commercial bait harvesters do not own a phone with internet access. Assuming a basic smartphone and plan would cost about \$230 a year, the total compliance cost for the group of bait harvesters without phones would be approximately \$1,840 per year.

1. Demographics of mobile device ownership and adoption in the United States. (2021, April 07). Retrieved June 13, 2023, from <https://www.pewresearch.org/internet/fact-sheet/mobile/>.

11. Effect on Small Business (initial regulatory flexibility analysis):

This rule will primarily impact wild bait harvesters and their businesses; anglers who harvest minnows for personal use are not expected to experience an economic impact as a result of this rule. Based on the information presented in section 10 of the analysis section of this board order, the department anticipates that this rule will have a minimal economic impact on small business.

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

13. Place where comments are to be submitted and deadline for submission:

Written comments may be submitted at the public hearings, by regular mail, or email to:

Meredith Penthorn

Department of Natural Resources

P.O. Box 7921

Madison, WI 53707

608-316-0080

Meredith.Penthorn@wisconsin.gov

Comments may be submitted to the department contact person listed above or to DNRAdministrativeRulesComments@wisconsin.gov until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's website, at <https://dnr.wi.gov/calendar/hearings/>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

RULE TEXT

SECTION 1. NR 19.001 (5r) is created to read:

NR 19.001 (5r) “Disinfect” or “disinfected” means to decontaminate or be decontaminated with heat, drying, or a chemical solution approved by the department so as to neutralize infectious diseases and invasive species.

SECTION 2. NR 19.05 (3m) is created to read:

NR 19.05 (3m) Despite sub. (3) (e) and (f), no person may transport live fish or live fish eggs obtained from a Wisconsin bait dealer away from any inland or outlying water or its bank or shore where the department has determined that the viral hemorrhagic septicemia virus may be present.

Note: A list of waters in which the viral hemorrhagic septicemia virus may be present is available on the department's website at https://dnr.wisconsin.gov/topic/Fishing/vhs/vhs_widistribution.html.

SECTION 3. NR 19.057 (1) is amended to read:

NR 19.057 (1) No bait dealer may take minnows for use as bait from any inland or outlying water unless the bait dealer possesses a wild harvest permit issued by the department under this section and the bait dealer complies with all terms and conditions of the wild harvest permit. A bait dealer shall apply for a permit ~~on forms available from~~ in the form specified by the department. Applications may be submitted no ~~earlier~~ later than 30 days prior to the proposed starting date of harvesting. The department shall act on a complete permit application within 10 business days after receipt, based on the criteria in sub. (2). Except as provided in sub. (5), permits shall be valid for the dates specified on the permit, ~~not to exceed 30 days to~~ December 31 of each year, and shall require compliance with all minnow collecting

requirements. A complete application shall include the applicant's name, street address, bait dealer's license number if any, the specific water body where bait will be harvested, the town, range and section where bait will be harvested, the species of bait that will be harvested, the maximum quantity of bait expected to be harvested, and any other information required on the application form.

SECTION 4. NR 19.057 (1m) is created to read:

NR 19.057 (1m) The permit holder may apply to the department, on the forms designated by the department, to request amendments to a wild harvest permit to modify the species targeted, waters fished, or harvest gear to be used. The permit holder shall submit the amendment request no later than 30 days prior to the desired effective date of the amendment. The permit holder may not submit more than 3 amendment requests each year.

Note: The amendment request form is available at <https://dnr.wi.gov>, search "bait harvest."

SECTION 5. NR 19.057 (2) (intro.) is amended to read:

NR 19.057 (2) The department shall grant an application for a wild harvest permit under this section if it determines that all of the following criteria are met, but the department may set specific conditions in permits or deny applications when necessary to ensure compliance with this section and prevent or control the spread of the Viral Hemorrhagic Septicemia virus or other invasive species. ~~By written notice mailed to the permittee's last known address, the department may revoke a permit to ensure compliance with this section or to prevent or control the spread of the Viral Hemorrhagic Septicemia virus or other invasive species.:~~

SECTION 6. NR 19.057 (2m) is created to read:

The department may, at any time, revoke or modify a permit issued under this section if it determines that the requirements, terms, or conditions of the permit are not being met, followed, or adhered to, or to ensure compliance with this section, or to prevent or control the spread of the viral hemorrhagic septicemia virus or other invasive species. A permit revocation or modification shall become effective upon department notification by email or 3 business days after the permit holder receives the notification by mail at the address shown on the permit, whichever occurs first.

SECTION 7. NR 19.057 (3) is renumbered NR 19.057 (3) (a) and is amended to read:

NR 19.057 (3) (a) Each permit holder or the permit holder's employee shall maintain a clear, legible daily record in the English language on department forms available from the department of all ~~minnows harvested~~ minnow harvest activities conducted under the permit which the department requires to be reported, which may include setting, tending, moving, or removing minnow harvest gear and the removal of minnows from harvest gear, from any inland or outlying water. The record shall include the water body of origin, ~~the town, range and section~~ latitude and longitude or nearest road crossing where harvested, the species harvested, the date of harvest, the gear type and amount used, the quantity weight or volume of each species harvested by waterbody for all gear lifts conducted during that day's trip to the waterbody, the number of adult suckers over 10 inches in length, the disposition of the minnows, except that retail sales to consumers need not be recorded, the signature of the permit holder, and any other information required on the record form.

SECTION 8. NR 19.057 (3) (b), (c), and (d) are created to read:

NR 19.057 (3) (b) The permit holder shall ensure that all information required under par. (a), except for the disposition of the minnows, is accurately recorded at the time that the permit holder or the permit holder's employees sets, tends, lifts, moves, or removes the gear in the waterbody and empties the gear of fish and before the permit holder or permit holder's employee leaves the site where the minnows were loaded for transport. The permit holder or employee shall record the final disposition of the minnows to sources other than retail sales to final consumers at the time of disposition.

(c) The permit holder or the permit holder's employee shall submit a report of all daily records recorded under pars. (a) and (b) no later than the 10th day of the month following the month of harvest in the form specified by the department. After December 31, 2027, the permit holder or the permit holder's employee shall submit the report forms electronically to an electronic reporting system designated by the department by 11:59 p.m. the day the minnows are removed from the harvest gear.

(d) The permit holder shall maintain all records required under this subsection for no less than 2 years and shall make the records available to a department representative for inspection upon request.

SECTION 9. NR 19.057 (5) is amended to read:

NR 19.057 (5) ~~Notwithstanding the 30-day limit in sub. (1), the~~ The department may issue a wild harvest permit that is valid for the dates specified on the permit, ~~which may exceed 30 days duration,~~ if the permit is for the harvest of minnows from a water of the state stocked with minnows by the applicant pursuant to a stocking permit under s. [29.736](#), Stats., or for the harvest of minnows from a lake stocked

with minnows by the applicant pursuant to a permit for private management under s. [29.737](#), Stats. The department may issue a wild harvest permit under this section in conjunction with a stocking permit or a permit for private management.

SECTION 10. NR 19.0575 is created to read:

NR 19.0575 White sucker spawning permit required.

(1) No bait dealer may take the eggs or milt from white suckers caught from any inland or outlying water for the purpose of rearing the offspring in a fish farm as bait unless the bait dealer is 18 years of age or older and possesses a white sucker spawning permit from the department. The permit holder shall comply with all terms and conditions of the permit. Permits shall expire on December 31 each year. The bait dealer shall include all of the following information on the permit application:

- (a) The name and street address of the bait dealer.
- (b) The bait dealer's license number or department customer identification number.
- (c) The types and quantities of harvest gear to be used in each waterbody to collect white suckers for egg or milt harvest.
- (d) The volume in quarts of white sucker eggs, milt, or both that the bait dealer is requesting to harvest from each waterbody.
- (e) The waters where the bait dealer will harvest the white sucker eggs or milt.
- (f) The names of all employees of the bait dealer that will harvest white sucker eggs or milt on behalf of the bait dealer.

Note: "White sucker" refers to the species *Catostomus commersonii*.

Note: See s. NR 20.14 for general minnow collection restrictions, s. NR 20.20 for county and statewide restrictions on waters, authorized methods, open season, size limits, bag limits and other restrictions, and s. 29.401, Stats., for gear use restrictions.

(2) The department may issue a white sucker spawning permit under this section if it determines that all of the following criteria are met, and may set specific conditions in the permit or deny applications when necessary to ensure compliance with this section, prevent or control the spread of viral hemorrhagic septicemia virus or invasive species, and maintain a supply of suckers that is sufficiently adequate to replenish the population and sustain ecosystem function in the water of harvest:

(a) The applicant is a bait dealer who holds a bait dealer's license or is exempt under s. 29.509 (3), Stats., from the requirement to hold a bait dealer's license.

(b) The eggs or milt will not be collected from white suckers in Lake Michigan, Green Bay, Lake Superior, the Mississippi River, Lake Winnebago, the Fox River from Lake Winnebago to Green Bay, or any bay, slough or backwater of these waters, or any water connected to these waters upstream to the first dam or other obstruction impassable to fish, or from any other water where the department has reason to believe that viral hemorrhagic septicemia virus may be present or where other invasive species may be present.

(3) The permit holder shall notify the department, in the manner specified by the department, at least 12 hours in advance of white sucker collection for the purpose of egg or milt harvest and shall provide all of the following information:

(a) Permit holder name.

(b) Location where fish will be collected.

(c) Time of day when collection will occur.

(d) The names of any employees operating under the permit holder's sucker harvest permit.

(e) The phone number of the permit holder.

(4) The permit holder shall comply with all of the following restrictions:

(a) All nets shall be marked in accordance with s. 29.516, Stats.

(b) Nets may not be attended, set, or lifted between sunset and sunrise.

(c) The permit holder may not use or possess hook and line fishing gear while engaged in operations under the authority of the permit.

(d) All egg and milt collection shall occur in the presence of a department employee or agent in accordance with s. 29.705 (1), Stats.

(5) The permit holder or employees working under the direction of the permit holder shall immediately return unharmed to the water all fish other than white suckers captured in sucker harvest gear. All suckers from which eggs or milt are collected shall be returned unharmed to the water immediately following egg or milt collection, unless the permit holder has been issued a wild bait harvest permit for that waterbody and keeps the suckers as authorized under the wild bait harvest permit. All

dead suckers removed from the harvest gear shall be disposed of away from the water, bank, or shore of the waterbody.

(6) The permit holder or employees working under the direction of the permit holder shall disinfect all sucker harvest gear and transport equipment after use to prevent the spread of viral hemorrhagic septicemia virus and other invasive species.

(7) The permit holder or employees working under the direction of the permit holder shall decontaminate all eggs harvested within 24 hours of harvest.

(8) The permit holder shall maintain clear, legible daily records in the English language on forms available from the department of the total volume of eggs harvested per waterbody. The record shall include the waterbody of origin of the white suckers from which the eggs or milt were harvested, the nearest road crossing or latitude and longitude to where the white sucker eggs or milt were harvested, the number of white suckers collected in all gear per waterbody that day, the date of harvest, and any other information required on the record form. The permit holder shall submit the records to the department within 7 days following harvest. The permit holder shall retain all harvest records for a period of 2 years.

Note: Sucker harvest record forms are available at <https://dnr.wi.gov>.

SECTION 11. NR 20.03 (10m) is created to read:

NR 20.03 (10m) “Disinfect” or “disinfected” has the meaning given in s. NR 19.001 (5r).

SECTION 12. NR 20.14 (9) is amended to read:

NR 20.14 (9) Notwithstanding any other provision in this chapter or chs. [NR 21](#) to [23](#), ~~use or operate any net, trap or similar device for the taking of minnows, or fish for minnows except suckers for any purpose~~ take minnows or suckers using any gear in Lake Michigan, Green Bay, Lake Superior, the Mississippi River, Lake Winnebago, the Fox River from Lake Winnebago to Green Bay, or any bay, slough or backwater of these waters, or any water connected to these waters, upstream to the first dam or other obstruction impassable to fish, or in any other water where the department has determined that the Viral Hemorrhagic Septicemia virus is present based on test results or other empirical evidence, unless the minnows or suckers are taken for personal use, no live minnows or suckers are moved away from the water, and the net, trap or similar device used to harvest and contain the minnows or suckers has been disinfected before use on any other water. If the department determines that the Viral Hemorrhagic Septicemia virus is present in any additional water body, it shall promptly notify the public of its

determination by issuing a press release, by publication in the official state newspaper, and by such other means as the department determines are reasonably likely to inform the public.

SECTION 13. NR 20.14 (11) is created to read:

NR 20.14 (11) Use any dead minnow or sucker as bait on any other water where viral hemorrhagic septicemia has not been detected if that minnow or sucker was taken from waters where the department has determined under sub. (9) that the viral hemorrhagic septicemia virus is present.

SECTION 14. NR 20.20 (73) (h) 1., 2., 3., 4., and 6.b. are amended to read:

COUNTY AND SPECIES	WATERS	AUTHORIZED METHODS	OPEN SEASON (both dates inclusive)	DAILY BAG LIMIT	MINIMUM LENGTH OR OTHER SIZE RESTRICTIONS (INCHES)
(73) SPECIES OR WATERS NOT LISTED IN SUBS. (1) TO (72)					
(h) Minnows	1. Lake Superior, its bays and tributaries	a. None <u>Hook and line, minnow dip netting, minnow seining, and minnow trapping.</u> Unless authorized under s. NR 19.05 (3) (a), (b), or (c), <u>no person may transport live suckers or minnows away from Lake Superior.</u>	No open season <u>Continuous</u>	—600 <u>suckers and minnows in total for all methods combined</u>	—None
	2. Green Bay, Lake Michigan	a. Dip netting and hook and line for suckers only. Unless authorized under s. NR 19.05 (3) (a), (b), or (c), <u>no person may transport live suckers or minnows away from Green</u>	Continuous	<u>None for suckers and 600 for minnows for all methods combined</u>	None

		Bay or Lake Michigan.			
	3. Lake Michigan tributaries, major Green Bay tributaries	<p>a. Hook and line, dip netting and minnow seining for suckers only.</p> <p>Unless authorized under s. NR 19.05 (3) (a), (b), or (c), no person may transport live suckers <u>or minnows</u> away from Lake Michigan tributaries or major Green Bay tributaries or any water connected to these waters, upstream to the first dam or other obstruction impassable to fish.</p>	Continuous	600 suckers <u>and minnows</u> in total <u>for all methods combined</u>	None
	4. All other Green Bay tributaries upstream to the first dam or lake	<p>a. Dip netting and minnow seining for suckers only.</p> <p>Unless authorized under s. NR 19.05 (3) (a), (b), or (c), no person may transport live suckers <u>or minnows</u> away from all other Green Bay tributaries upstream to the first dam or lake or any water</p>	Continuous	600 suckers <u>and minnows</u> in total <u>for all methods combined</u>	None

		connected to these waters, upstream to the first dam or other obstruction impassable to fish.			
		b. Hook and line for suckers only. <u>Unless authorized under s. NR 19.05 (3) (a), (b), or (c), no person may transport live minnows away from all other Green Bay tributaries upstream to the first dam or lake or any water connected to these waters, upstream to the first dam or other obstruction impassable to fish.</u>	First Saturday in May to the first Sunday in March	600 suckers <u>and minnows</u> in total <u>for all methods combined</u>	None
	6. All other waters not listed in subs. (1) to (72) or this paragraph	b. In waters listed in or identified under s. NR 20.14 (9), hook and line for suckers only. <u>Unless authorized under s. NR 19.05 (3) (a), (b), or (c), no person may transport live suckers or minnows away from any waters of the state.</u>	Continuous	600 suckers <u>and minnows</u> in total <u>for all methods combined</u>	None

SECTION 15. NR 20.39 (1) (intro.) and (a) are amended to read:

NR 20.39 (1) The department may issue a permit under this section to a licensed bait dealer for the taking of minnows with minnow seines, minnow dip nets or minnow traps which are otherwise prohibited by s. NR 20.14. Applications shall be submitted on forms available from the department to the regional office having jurisdiction over the affected waters, and all of the following provisions shall apply to nonstandard gear permits-:

(a) The department ~~shall~~may issue the permit if it determines that all of the conditions of this paragraph are met, and may specify conditions in the permit to minimize user conflict in the waterbodies of harvest, manage cumulative harvest of minnows from specific waterbodies, minimize bycatch, and protect fish habitat-:

SECTION 16. NR 20.39 (1) (b) 3s. is created to read:

NR 20.39 (1) (b) 3s. For gear set in trout streams, specify conditions limiting gear type, size or number based on stream size.

SECTION 17. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 18. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

BY _____

For Adam N. Payne, Secretary