

ZEBRA MUSSELS

What is being considered?

The department would like to remove the zebra mussel-free bait certification regulation. The certification was developed many years ago because Baltimore City Department of Public Works requires bait used in their reservoirs to be zebra mussel free, no other jurisdiction has this requirement. The certification is available to all dealers of live aquatic bait; however, in the past decade, there have only been handful of applicants.

The certification was created for one specific purpose. Since that time, additional regulations have been adopted that prohibit zebra mussels in Maryland (see below) and this regulation is no longer needed.

"Zebra mussel-free certification" means a certification issued by the department that signifies that the:

- (i) Volume of water containing certain live aquatic bait is free of any life stage of zebra mussels,
- (ii) Live aquatic bait comes from a source that does not support zebra mussels, or
- (iii) Water and bait have been treated in a manner that kills any life stage of zebra mussel.

Why is this change necessary?

After a review of regulations, the department has determined that this regulation is not necessary. Zebra mussels are prohibited in Maryland by several other regulations (see below for details).

Regulations Prohibiting Zebra Mussels

The Code of Maryland Regulations (COMAR) 08.02.08.01 states "Except as permitted by the Secretary of Natural Resources, a person may not import into the State or possess any living life stage or reproductive products of mussels of the genus *Dreissena*."

COMAR 08.02.19.04 classifies the zebra mussel as a nonnative aquatic organism and states that a person may not do any of the following with zebra mussels "...import, transport, purchase, possess, propagate, sell, or release into State waters..."

COMAR 08.02.19.05 states:

- "A. A person may not place or attempt to place upon or into State waters a watercraft or associated equipment with attached or contained aquatic plants, zebra mussels, or other prohibited species of nonnative organisms.
- B. Water taken from waters infested by prohibited nonnative species may not be diverted, appropriated, or transported on public roads except in the following circumstances:
- (1) In an emergency declared by appropriate local or State authorities, such as a fire emergency;
 - (2) As specified in water appropriation or public waters work permits; or
 - (3) Under a permit issued by the Secretary."

Who will this affect?

Recreational anglers that fish with bait in Baltimore City reservoirs and bait dealers that supply bait to be used in the reservoirs.

When will this be effective?

The department expects this change to be effective in the spring or early summer of 2021, however the exact date cannot be determined. The department will follow our normal scoping and proposal procedures.

This idea is in the scoping process (October 19—November 3). The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the department considers these comments and develops an appropriate management strategy.

If the action is necessary and appropriate, the rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly's Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication.
- After review of the comments, the department may adopt the changes.
- If the department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.

Has this change been discussed with stakeholders?

The department has contacted the Baltimore City Department of Public Works to discuss the issue. They understand the changes being suggested.

Has this change been discussed with advisory commissions?

The idea was discussed with the Coastal Forums in September 2020 and the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their October 2020 meetings.