FISHING IN NONTIDAL WATERS — Use of Certain Species as Bait

What was originally considered?
The department originally considered prohibiting the use of select sportfish species (largemouth and smallmouth bass, walleye, muskellunge, and trout) as bait (live or cut bait).

What is the department now considering?
After feedback from the public and further internal review of the original concept, the department is considering prohibiting northern pike, pickerel, striped bass, striped bass hybrids, and tiger muskellunge as bait, in addition to the original list of species.

Why is this change necessary?
Large, piscivorous, invasive flathead catfish (*Pylodictis olivaris*) have become established in the nontidal waters of the Potomac River. Because of their large size and fighting ability, flathead catfish have become popular with the catfishing tournament community. The largest specimens are typically caught using large fish as bait. Some anglers have begun using large and smallmouth bass as bait. Current regulations allow the use of largemouth and smallmouth bass and all other sportfish as bait as long as they are caught using legal gear and within the size and creel limits established for that species.

Maryland spends considerable resources to protect and enhance largemouth and smallmouth bass, walleye, muskellunge, and trout populations as well as control invasive species such as flathead catfish. Angler preference surveys conducted in 2004 and 2015 (Knoche, 2016) both documented the nontidal Potomac River as the most popular freshwater fishing destination and black bass as the most sought after sportfish. Fourteen percent of all nontidal fishing trips were to the Potomac River (239,000 trips) with 63 percent of those trips specifically targeting largemouth and smallmouth bass with an estimated economic impact of 23 million dollars. Statewide, 41 percent of all freshwater fishing trips targeted largemouth and smallmouth bass with an estimated economic impact of nearly 150 million dollars (Knoche, 2016).

A smallmouth bass stocking program was initiated in 2019 to supplement natural reproduction to offset poor recruitment due to flooding. In 2020, the department produced more than 35,000 fingerling smallmouth bass for the nontidal Potomac River at a considerable cost to address declining catch rates and angler complaints. Allowing intensively managed sportfish species to be used as bait is counter to the department's goals and objectives of enhancing recreational fisheries and creates conflict among our angling groups.

Additional information regarding expanded list of species:
After public comment and further internal review, the department is considering expanding the list of species which cannot be used as bait, either whole or cut, to include almost all species which have size limits in nontidal waters. The only two species in nontidal waters which have minimum sizes but which could still be used as bait (whole only) would be yellow perch and eels. The department believes that expanding the use-as-bait prohibition to include all of the most heavily managed species in nontidal waters will result in a more consistent management approach and best reflects angler preferences regarding those species.

Who will this affect?
The proposed regulation would affect recreational anglers fishing nontidal waters.

When will this be effective?
This change could be effective in winter 2021-2022, however, at this time, the department cannot determine if the change will be adopted nor the exact date that it could be effective. The department will follow our normal scoping and proposal procedures.

Has this change been discussed with stakeholders and advisory commissions?
- Black Bass Advisory Committee on January 11, 2021
- Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission, January 2021
- Scoped original concept with public 2/5/2021 – 2/21/2021
- Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission, July 2021

What is the specific regulatory action?
Amend Regulation .04 under COMAR 08.02.11 Fishing in Nontidal Waters.