MAMWA to Serve on Newly-Convened Cold/Cool Water Advisory Committee
May 2018

During the 2016 Triennial Review process, MDE received comments from several environmental groups regarding the need to reclassify waters for trout populations. Commenters included: the Upper Potomac Riverkeeper, the Mid-Atlantic Council Trout Unlimited, the North Branch Professional Guide Association, the Savage River Angler, LLC, the Environmental Law Clinic of the University of Maryland on behalf of the Mid-Atlantic Council Trout Unlimited and the Potomac Riverkeepers Network, and two private citizens.

Currently, the state's waters are categorized into the following uses:

(1) Class I (and I-P to add public water supply) for water contact recreation and protection of nontidal warm water aquatic life;

(2) Class II (and II-P) for support of estuarine and marine aquatic life and shellfish harvesting;

(3) Class III (and III-P) for nontidal cold water; and

(4) Class IV (and IV-P) for recreational trout waters.

COMAR 26.08.02.03-3. Class III has the lowest (most stringent) maximum temperature criteria; outside of a mixing zone, it cannot exceed 68° F or the ambient temperature of the surface water, whichever is greater. For comparison, Class I and II waters cannot exceed 90° F and Class IV cannot exceed 75° F.

Because trout prefer colder waters, several of the groups listed above asked that certain waters be reclassified to Class III from the existing classification, including: North Branch Potomac, Deep Run, North Branch Patapsco, an unnamed tributary to the North Branch Patapsco, and West Branch North Patapsco (waters currently classified as Class I or IV).

These groups argued that the current designations do not protect existing wild trout populations. The North Branch Professional Guide Association commented that the area downstream of Westernport is stocked with trout by the MDNR but that it is still a Class I water.

MDE responded that in order for a water to be reclassified as Class III "that water body needs to have an existing use that satisfies both the aquatic life community and water quality requirements for Class III waters." The streams identified in the comments "do

not appear to meet the numeric water quality criteria (i.e., temperature, 68° F)" necessary for Class III classification.

Nonetheless, MDE agreed to reevaluate its designated use classification for nontidal surface waters, and convened a Cold/Coolwater Advisory Committee to offer recommendations on this issue. MAMWA will be serving on this Committee to address any impacts on discharge permitting for wastewater plants. MDE has outlined four objectives for the Committee:

Objective 1: Develop Departmental Policy for Protecting Streams with Cold or Coolwater Species in Advance of Changing the Use Class. In certain cases, data suggests there are cold/coolwater species in Class I or IV streams. While work is being done to revise the state's regulations, the state would like to develop "interim protection measures" that will ensure the protection of these species.

Objective 2: Propose a New "Coolwater" Use Classification Based on Analyses Conducted by DNR and Consideration of Current Stream Scenarios. Some streams appear to have what MDE is calling "cool water aquatic communities." MDE is considering a use classification with a temperature between the current Class I and III classifications.

Objective 3: Propose Changes to Class IV (or IV-P) Recreational Trout Waters. Some Class IV waters are impoundments where the 75° F water temperature is "not appropriate." There are also other trout-stocking locations that are not currently Class IV waters. MDE wants to review the "variety of trout stocking scenarios to apply the most appropriate protection measures."

Objective 4: Develop a Process for Conducting Use Attainability Analyses (UAA) for Surface Waters That Support Self-Sustaining Trout Populations But Do Not Currently Attain Class III (or III-P) Water Quality Criteria. MDE believes that there are some state waters with coldwater species that are not attaining the Class III temperature criteria. MDE would like to use the UAA process to "help inform the determination of the designated use class, either indicating that the stream is capable of supporting Class III temperature criteria under a future scenario or that it is not."

The first Committee meeting was held April 20, 2018.