

## Subtitle 02 FISHERIES SERVICE

### Notice of Proposed Action

[20-027-P]

The Secretary of Natural Resources proposes to:

- (1) Amend Regulation .03 under **COMAR 08.02.21 Yellow Perch**; and
- (2) Adopt new Regulation .09 under **COMAR 08.02.25 Gear**.

#### Statement of Purpose

The purpose of this action is to require individuals to remove fyke net poles from the water within 30 days after removing the net. Fyke nets are very similar to pound nets and the department would like to standardize the rules across similar gear types. Currently, there is not a requirement for individuals using fyke nets to remove the fyke net poles from the water after removing the net. If poles are not removed from the water in a timely fashion, they may become navigational hazards to other users of the waterway. When using a pound net, which is a similar but larger type of net, poles must be removed from the water within 30 days of removing the net.

Additional rules for fyke nets are located in the yellow perch chapter of the Code of Maryland Regulations (COMAR); however, those rules apply to the use of all fyke nets, not just those used for yellow perch. The proposed action creates a new regulation in the gear chapter of COMAR, relocates the areas where fyke nets are prohibited, and requires individuals to remove poles from the water within 30 days after removing the net. This action will allow anyone who uses a fyke net to find the rules in one location.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Fyke Net Regulations, Regulatory Staff, Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, B-2, Annapolis, MD 21401, or call 410-260-8300, or email to [fisheriespubliccomment.dnr@maryland.gov](mailto:fisheriespubliccomment.dnr@maryland.gov), or fax to 410-260-8310. Comments will be accepted through February 18, 2020. A public hearing has not been scheduled.

### 08.02.21 Yellow Perch

Authority: Natural Resources Article, §4-215, Annotated Code of Maryland

#### .03 Commercial.

- A.—J. (text unchanged)
- [K.] (proposed for repeal)

### 08.02.25 Gear

Authority: Natural Resources Article, §§4-215, 4-221, and 4-711, Annotated Code of Maryland

#### .09 Commercial — Fyke Nets.

A. *Restricted Areas.* From February 1 through March 31, inclusive, a person may not set a fyke net in any of the following areas:

- (1) *Bohemia River upstream of a line beginning at a point at or near Little Hack Point defined by Lat. 39°27.78'N and Long.*

*75°52.45'W; then running approximately 70° True to a point at or near the Route 213 bridge defined by Lat. 39°27.87'N and Long. 75°52.19'W;*

- (2) *Bush River upstream of a line beginning at a point at or near the mouth of Church Creek defined by Lat. 39°28.04'N and Long. 76°13.33'W; then running approximately 100° True to a point defined by Lat. 39°28.03'N and Long. 76°13.22'W;*

- (3) *Chester River upstream of a line beginning at a point at or near Indian Point defined by Lat. 39°14.28'N and Long. 75°56.17'W; then running approximately 360° True to a point on the Kent County shore defined by Lat. 39°14.54'N and Long. 75°56.16'W; and then upstream to a line, beginning at a point upstream of the mouth of Red Lion Creek defined by Lat. 39°14.62'N and Long. 75°54.63'W; then running 360° True to a point on the Kent County shore at Lat. 39°14.80'N and Long. 75°54.63';*

- (4) *Chester River upstream of a line beginning at a point at or near Ford's Landing defined by Lat. 39°15.04'N and Long. 75°53.70'W; then running 270° True to a point on the Queen Anne's County shore defined by Lat. 39°15.04'N and Long. 75°53.64'W;*

- (5) *Choptank River upstream of a line beginning at a point defined by Lat. 38°55.82'N and Long. 75°50.00'W; then running approximately 45° True to a point defined by Lat. 38°55.84'N and Long. 75°49.84'W;*

- (6) *Tuckahoe Creek, Choptank River tributary, upstream of a line beginning at a point defined by Lat. 38°52.86'N and Long. 75°57.10'W; then running approximately 90° True to a point defined by Lat. 38°52.86'N and Long. 75°57.07'W;*

- (7) *Elk River upstream of a line beginning at a point at or near Old Frenchtown Wharf defined by Lat. 39°34.56'N and Long. 75°50.55'W; then running approximately 279° True to a point at or near Scotland Point defined by Lat. 39°34.60'N and Long. 75°50.90'W;*

- (8) *Gunpowder River upstream of a line beginning at a point defined by Lat. 39°23.13'N and Long. 76°22.11'W; then running approximately 50° True to a point at or near the base of the Amtrak rail defined by Lat. 39°23.51'N and Long. 76°20.67'W;*

- (9) *Bird River, Gunpowder River tributary, upstream of a line beginning at a point defined by Lat. 39°22.94'N and Long. 76°23.83'W; then running approximately 10° True to a point defined by Lat. 39°22.98'N and Long. 76°23.77'W;*

- (10) *Marshyhope Creek, Nanticoke River tributary, upstream of a line beginning at a point defined by Lat. 38°38.85'N and Long. 75°48.84'W; then running approximately 90° True to a point defined by Lat. 38°38.85'N and Long. 75°48.80'W;*

- (11) *Northeast River upstream of a line beginning at a point defined by Lat. 39°35.25'N and Long. 75°57.72'W; then running approximately 110° True to a point defined by Lat. 39°35.05'N and Long. 75°56.99'W;*

- (12) *Patuxent River upstream of a line beginning at a point at or near Jackson Landing defined by Lat. 38°46.46'N and Long. 76°42.70'W; then running approximately 45° True to a point defined by Lat. 38°46.48'N and Long. 76°42.68'W;*

- (13) *Allen's Fresh, Potomac River tributary, upstream of a line beginning at a point defined by Lat. 38°23.14'N and Long. 76°55.42'W; then running approximately 20° True to a point defined by Lat. 38°23.20'W and Long. 76°55.40'W;*

- (14) *Nanjemoy Creek, Potomac River tributary, upstream of a line beginning at a point defined by Lat. 38°26.63'N and Long. 77°07.19'W; then running approximately 90° True to a point defined by Lat. 38°26.78'N and Long. 77°06.32'W; and*

- (15) *Sassafras River upstream of a line beginning at a point at or near the Route 213 bridge in Georgetown defined by Lat. 39°21.91'N and Long. 75°52.98'W; then running approximately 150° True to a point defined by Lat. 39°21.81'N and Long. 75°52.89'W.*

*B. A person shall remove fyke net poles from the water within 30 days after removing the net from the poles.*

JEANNIE HADDAWAY-RICCIO  
Secretary of Natural Resources

## Subtitle 13 ENERGY AND COASTAL ZONE ADMINISTRATION

### 08.13.02 Pollinator-Friendly Designation of Solar Generation Facilities

Authority: Natural Resources Article, §§3-303 and 3-303.1, Annotated Code of Maryland

#### Notice of Proposed Action

[20-022-P]

The Secretary of Natural Resources proposes to adopt new Regulations .01—.04 under a new chapter, **COMAR 08.13.02 Pollinator-Friendly Designation of Solar Generation Facilities**.

#### Statement of Purpose

The purpose of this action is to enable the Department to certify photovoltaic ground-mounted solar facilities greater than 1 acre as pollinator-friendly. The proposed action effectuates the requirements of Ch. 372, Acts of 2017, as informed by the Power Plant Research Program’s Pollinator Work Group. Work Group stakeholders included beekeepers, renewable energy developers, DNR’s Wildlife and Heritage Service, the University of Maryland, USFWS, USGS, and the Maryland Farm Bureau.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to David Tancabel, Director, Power Plant Research Program, Department of Natural Resources, 580 Taylor Avenue, B-3, Annapolis, MD 21401, or call 410-260-8691, or email to david.tancabel@maryland.gov, or fax to 410-260-8670. Comments will be accepted through February 18, 2020. A public hearing has not been scheduled.

#### .01 Scope.

*This chapter applies only to a solar generation facility that contains photovoltaic cells for the purpose of generating electricity, is ground-mounted, and is at least 1 acre in size.*

#### .02 Definitions.

A. In this chapter, the following terms have the meaning indicated.

B. Terms Defined.

(1) “Designation” means a letter in writing from the Department establishing that a solar generation facility is pollinator-friendly.

(2) “Facility” means the geographic area that is occupied by permanently installed solar generation equipment, including buffers or security areas under the management of the operator of the solar generation facility.

(3) “Owner” means a person that owns the solar generation facility.

#### .03 Designation Process.

A. Application.

(1) To apply for a pollinator-friendly designation, the owner of the solar generation facility shall submit:

(a) A completed application on a form provided by the Department; and

(b) A pollinator habitat plan.

(2) Additional Information.

(a) If the Department requests an applicant to submit additional information related to the application, the applicant shall submit the requested information to the Department within 30 days of the Department’s request.

(b) Failure to submit the additional information within 30 days of the Department’s request shall result in termination of the application.

B. On-Site Inspection.

(1) Upon notification from the Department that the solar generation facility’s application meets the application requirements, the owner of the solar generation facility shall implement the approved pollinator habitat plan.

(2) After the approved pollinator habitat plan has been implemented, the owner shall:

(a) Have a Department-approved inspector conduct an on-site inspection of the facility in accordance with §B(3) of this regulation; and

(b) Forward the results from the inspection to the Department within 30 days of the inspection.

(3) Any on-site inspection shall include:

(a) A final score calculation for the facility using the Solar Site Pollinator Habitat Planning and Assessment Scorecard adopted by the Department in accordance with Natural Resources Article, §3-303.1, Annotated Code of Maryland;

(b) A written evaluation of whether the facility is planted and managed in accordance with the approved pollinator habitat plan; and

(c) Any other factors or elements that the Department requires.

C. The Department may issue a designation to the owner if the results of the on-site inspection indicate that the facility:

(1) Meets the minimum standards established on the Solar Site Pollinator Habitat Planning and Assessment Scorecard; and

(2) Is planted and managed in accordance with the approved pollinator habitat plan.

#### .04 Pollinator Friendly Designation.

A. A designation is valid for 2 years after the date of issuance.

B. The owner of a pollinator-friendly solar generation facility shall:

(1) Properly maintain the facility in accordance with the facility’s approved pollinator habitat plan;

(2) Comply with the conditions of the designation;

(3) Make the facility’s pollinator habitat plan available to the Maryland, DC, and Virginia Solar Energy Industries Association or other nonprofit solar industry trade associations; and

(4) Notify the Department of any change in contact information for the solar generation facility within 30 days of the change, on a form provided by the Department.

C. The Department may revoke a designation if the facility is not managed or maintained in accordance with:

(1) A provision of Natural Resources Article, §3-303.1, Annotated Code of Maryland;

(2) A provision of the facility’s approved pollinator habitat plan; or