

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Natural Resources
(DLS Control No. 20-049)**

Overview and Legal and Fiscal Impact

The regulation updates requirements governing the control of crow and blackbird depredation consistent with federal law and makes a technical change.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Wildlife: Upland Game Birds and Mammals: COMAR 08.03.05.05

Legal Analysis

Background

The U.S. Fish and Wildlife Service (FWS) manages and regulates the migratory bird population nationwide. FWS adopted a depredation order through regulations, which FWS most recently revised in 2014, that authorizes a private citizen or federal, state, or tribal employee to control the listed species of blackbirds, cowbirds, crows, grackles, and magpies without a federal permit if the species is (1) causing serious injuries to agricultural or horticultural crops or to livestock feed; (2) causing a health hazard or structural property damage; or (3) protected by the state, tribal, or federal government under certain circumstances. For migratory bird species not listed under a depredation order, a person that suffers harm from the species must obtain a depredation permit from FWS to take control action.

Summary of Regulation

The regulation repeals outdated language describing the FWS depredation order in 50 CFR § 21.43 before it was revised in 2014. The regulation also repeals language authorizing a person to control blackbirds and crows if the person is in compliance with the provisions of 50 CFR § 21.43 and replaces it with an authorization for private landowners and managers of public lands and their employees or their agents to control crows and blackbirds in accordance with 50 CFR § 21.43. The regulation also makes a technical change.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Natural Resources cites § 10-205 of the Natural Resources Article as statutory authority for the regulation. Section 10-205 grants the department broad authority to adopt regulations governing the hunting or possession of wildlife.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

The current regulation provides the authorization to control certain species of birds to “a person,” and the relevant federal law provides the authorization to “private citizens” and “Federal, State, and Tribal employees.” The regulation instead gives this authorization to “private landowners and managers of public lands and their employees or their agents.” In response to a follow-up question from the Department of Legislative Services regarding this change, the department advised that this change in language, specifically the change from “a person” to “private landowners,” will not affect the application of the regulation since landowners control activity on their land.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs; the regulation primarily updates the standards governing the control of crow and blackbird depredation consistent with a 2014 federal law.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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