

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/19/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/28/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

08 03 16 01-.05

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number

Lisa A Eutsler 410-260-8107

Mailing Address

Tawes State Office Building, 580 Taylor Avenue, C-4

City State Zip Code

Annapolis MD 21401

Email

lisa.eutsler@maryland.gov

5. Name of Person to Call About this Document Telephone No.

Glenn D. Therres 410-260-8572

Email Address

glenn.therres@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Shara Mervis Alpert, Assistant Attorney General, (telephone #410-260-8358) on September 14, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Mark J. Belton

Title

Secretary

Telephone No.

410-260-8100

Date

September 16, 2016

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 03 WILDLIFE

08.03.16 Hunting Privilege, Suspension and Restitution

Authority: Natural Resources Article, §§10-1101.1, 10-1107 and 10-1108, Annotated
Code of Maryland

Notice of Proposed Action

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The Secretary of Natural Resources proposes to adopt new Regulations .01-.05 under COMAR 08.03.16 Hunting Privilege, Suspension and Restitution.

Statement of Purpose

The purpose of this action is to establish criteria for suspension of hunting privileges in accordance with the Wildlife Poaching Prevention Act of 2012 and to define deer poaching and gross score for clarification purposes for implementing the Poaching Restitution Act of 2016. The Department of Natural Resources has the authority to suspend for a period not exceeding five years the hunting license or hunting privileges of a person who is convicted of a State or federal hunting violation. Landowners hunting on their own property and certain other persons are afforded the privilege to hunt without a hunting license. The Department of Natural Resources proposes through these regulations the violations which will result in the suspension of a person's hunting license or hunting privilege for one, three or five years. Regulations .04 and .05 establish the monetary values of wildlife that the courts may consider when imposing restitution fees for hunting violations.

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 Glenn Therres, Associate Director, Wildlife and Heritage Service, Department of Natural Resources, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8572, or email to glenn.therres@maryland.gov, or fax to 410-260-8596. Comments will be accepted through November 28, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 17

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used: Special funds (Wildlife Management and Protection Fund)

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly: These regulations will have minimal impact to the Department. We do not anticipate any increase in operational costs associated with this regulation.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations will have no impact to small businesses. We do not anticipate any material decrease in sales of hunting equipment as a result of this regulation.

G. Small Business Worksheet:

Attached Document:

Subtitle 03 WILDLIFE

Authority: Natural Resources Article, §§10-1101.1, 10-1107 and 10-1108, Annotated Code of Maryland

08.03.16 Hunting Privilege, Suspension and Restitution

.01 Definitions.

A. *For the purposes of this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *“Conviction” includes:*

(a) *A guilty verdict;*

(b) *Accepted plea of nolo contendere;*

(c) *An admission of guilt to any charge made by the prepayment of the applicable fine instead of appearing for trial; or*

(d) *Each charged violation merged into a conviction.*

(2) *“Deer poaching” means the illegal killing of a white-tailed or sika deer:*

(a) *After legal shooting hours;*

- (b) During a closed season;
- (c) In violation of prescribed bag limits;
- (d) In violation of a Department-issued permit;
- (e) With an illegal weapon; or
- (f) While trespassing.

(3) "Gross score" means the score derived by calculating the measurements of the antlers of white-tailed deer:
 (a) In accordance with the Boone and Crockett Club Official Scoring System for North American Big Game Trophies Non-Typical Whitetail and Coues' Deer, 2015, which is incorporated by reference in Regulation .02 of this chapter;

- (b) As taken by an official Boone and Crockett Club scorer; and
- (c) As measured at any time with no drying time being required.

(4) "Privilege" means the ability to hunt without a hunting license under the exemptions provided in Natural Resources Article, §10-301(c), Annotated Code of Maryland.

(5) "Suspension" means the act of the Department temporarily rescinding a hunting license or privilege and thereby temporarily prohibiting a person from engaging in a hunting activity or activities under any circumstances.

.02 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Document Incorporated. Boone and Crockett Club Official Scoring System for North American Big Game Trophies Non-Typical Whitetail and Coues' Deer, 2015.

.03 Suspension.

A. Any person who is convicted of an offence under §§B—D of this regulation or similar offences under federal law in Maryland may:

- (1) Have all hunting licenses, permits or stamps issued by the Department suspended;
- (2) Be prohibited from engaging in any hunting activity for the period of time described in §§B—D of this regulation; and

(3) Be prohibited from applying for any hunting license, permit or stamp for the period of time described in §§B—D of this regulation.

B. A person who receives a conviction for one of the following violations may be suspended for one year.

	Statute or Regulation	Description
1	10-310	Making a false statement to obtain a hunting license, stamp, permit or DNRid
2	10-404, COMAR 08.03.03	Hunting, possessing or transporting any bear, deer, turkey or migratory waterfowl during closed season or in excess of daily or season limits
3	10-2A-05, COMAR 08.03.08.04, COMAR 08.03.08.07	Killing a threatened or endangered species while hunting
4	COMAR 08.03.10.07; COMAR 08.03.04.11	Unlawful use of bait
5	10-1108(c)(2)(iv)	Failure of a non-resident of Maryland to appear in court in accordance with a natural resources citation

C. A person who receives a conviction for one of the following violations may be suspended for three years.

	Statute or Regulation	Description
1	10-1108(c)	Hunting while revoked or suspended
2	10-410(i)	Carrying a firearm while hunting under the influence of alcohol or a narcotic drug

D. A person who receives a conviction for one of the following violations may be suspended for five years.

	Statute or Regulation	Description
1	10-424	Carelessly or negligently shooting, wounding or killing another person.
1	10-424	Intentionally or willfully destroying or damaging real property, personal property or farm livestock of another person.
1	10-424	Intentionally or willfully destroying or damaging a domesticated animal that is in a safety zone established under Natural Resources Article, §10-410(g).
2	10-1108(c)(2)(ii)	A separate conviction within 12 months of a suspension issued pursuant to this regulation resulting from a separate incident than the violation for which the suspension was imposed

.04 Restitution for Deer.

A. In accordance with Natural Resources Article, §10-1101.1, Annotated Code of Maryland, a person convicted of deer poaching in Maryland shall pay restitution.

B. Amount of Restitution.

(1) For each antlered white-tailed deer that obtains a gross score of more than 150 gross inches, a person convicted of deer poaching shall:

- (a) Pay restitution of not less than \$5,000 but not exceeding \$10,000; and
- (b) Perform 80 hours of community service.

(2) For each sika deer or antlered white-tailed deer that obtains a gross score of 150 gross inches or less, a person convicted of deer poaching shall:

- (a) Pay restitution of not less than \$2,000 but not exceeding \$5,000; and
- (b) Perform 80 hours of community service.

(3) A sika or antlered white-tailed deer with 8 antler points or less shall be deemed to have a gross score of less than 150 gross inches for the purposes of this regulation and does not require measurement.

(4) For each antlerless white-tailed deer, a person convicted of deer poaching shall:

- (a) Pay restitution of not less than \$300 but not exceeding \$500; and
- (b) Perform 40 hours of community service.

.05 Restitution for Wildlife Species other than Deer.

A. If a person is convicted of violating any provision of Natural Resources Article, Title 10, and the violation causes or results in the injury, death, or destruction of any wildlife, a court may order the person convicted to pay restitution to the State for the resource value of the wildlife taking into account the values provided in this regulation.

B. The monetary values, per animal, for wildlife species within the following categories, as defined in Natural Resources Article, §10-101 and §10-2A-01, Annotated Code of Maryland, and COMAR 08.03.08 are:

- (1) Endangered species = \$2,000;
- (2) Black bear = \$1,500;
- (3) Threatened species = \$1,000;
- (4) Forest game birds and mammals, other than deer and black bear = \$500;
- (5) Wild waterfowl = \$500;
- (6) Fur-bearing mammals = \$100;
- (7) Nongame birds and mammals = \$100;
- (8) Upland game birds and mammals = \$100; and
- (9) Wetland game birds = \$100.

Incorporation by Reference APPROVAL FORM

Date: September 13, 2016
COMAR: 08.03.16.02

Glenn Therres
Department of Natural Resources
Wildlife and Heritage Service
580 Taylor Avenue, E-1
Annapolis, MD 21401

Dear Glenn:

The document entitled "Boone and Crockett Club Official Scoring System for North American Big Game Trophies Non-Typical Whitetail and Coues' Deer", is approved for incorporation by reference.

Please note the following special instructions: Place in an ACCO press type binder.

Attach a copy of this approval form when submitting an emergency or proposed regulation to the AELR Committee and when submitting a proposed regulation to DSD for publication in the Maryland Register. If submitting through ELF, include as part of the attachment.

Any future changes to the incorporated documents do not automatically become part of the regulation. If there are subsequent changes to the incorporated documents, and the agency wishes those changes to become a part of its regulations, the agency must amend the regulation incorporating the documents.

Please call us if you have any questions.

Sincerely,
Gail S. Klakring
Senior Editor