

## REBUTTAL: Pitfalls of mandatory APRs from Richard P. Smith

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In the article “Were we Betrayed?” in the September 2013 issue of *Deer and Deer Hunting* magazine, author Richard P. Smith discussed mandatory antler point restrictions (MAPRs) in Michigan. There are an astounding number of distortions, misrepresentations, errors, and opinions disguised as facts. Most outrageous of all is the assertion that pre-APR data are not available for Leelanau County from the Michigan DNR. They are not only available, but have been widely distributed in the annual check-station reports published by the MDNR. And they are included in all the public information materials provided by the Lower Peninsula Deer Management Initiative (LPDMI), and by the sponsoring group of the Northwest 12 County initiative. This misleading statement is meant to avoid discussing the results from Leelanau County, where 72% of hunters were in favor of continuing APRs after 5 years. Leelanau County has gone from 67% yearling buck harvest in the 3 years prior to APRs, to 27% over a five-year period from 2007-11. It harvests the highest percentage of 8 point and larger bucks in the state, going from 34% in the 3 years prior to APRs, to 61% in the 5 years from 2007-11.

Mr. Smith is on record as being in favor of Voluntary Antler Point Restrictions, and strongly opposed to mandatory APRs. However, in his litany of “Pitfalls of Antler Point Restrictions” he lists 20 negative consequences of MAPRs, most of which are only his opinion, or deer myths that he continues to perpetuate, and many of which, if true, would be an indictment of both mandatory and voluntary APRs. It is readily apparent that the only reason Smith claims to favor voluntary APRs, is because he knows they do not work as a regulation. Because if they do work, and he really believes his pitfalls, well then many of those pitfalls would be true of voluntary APRs as well as mandatory.

Here I respond to each of Mr. Smith’s 20 “pitfalls”. “Pitfalls” in italics followed by factual information.

### *The pitfalls of mandatory antler point restrictions*

1. *They [MAPRS] result in hunters shooting yearling bucks with the best antlered development, which are the ones that should be spared, leaving spikes and four horns to do some reading. The overall antler quality of future generations could be negatively affected, because recent research confirms that yearling bucks do more bleeding than previously thought.*

If true, this would apply to both mandatory and voluntary APRs. But it isn’t true. The Michigan Department of natural resources (DNR) has carefully considered the possibility that APR's could lead to changes in antler characteristics over time. They routinely compared pre-APR and post APR antler characteristics in every DMU

where mandatory APR's have been implemented. In no case have they seen reduced antler dimensions within age classes of bucks when comparing the harvest from five years before APR's to five years after APR's. Notably, if Smith's assertion here had validity, a successful voluntary APR would have the same impact (see note 13), yet he claims he is in favor of voluntary APRs.

*2. Hunters are not willing to harvest enough antlerless deer to offset the reduced buck harvest, and what has happened in Leelanau County is a perfect example. Emphasis on antler production reduces the tendency of some hunters to shoot antlerless deer.*

If true, this would apply to both mandatory and voluntary APRs. But it isn't true. In Leelanau County buck harvest was not reduced except for the first year. In fact, hunter success at harvesting bucks has been higher in recent years than before APRs. There is no indication from Leelanau County that hunters are unwilling to shoot antlerless deer under APR's. In Leelanau County, antlerless harvest quotas (i.e. the availability of antlerless permits) have fallen from 1250 and 1000 in the two years prior to APR's to between 200 and 400 over the last six years. Nonetheless, antlerless harvest has remained relatively stable through the legal harvest of antlerless deer by archers using their combination tags. Harvest of antlerless deer by archers has risen 45% from the pre-APR years. In fact the last three years have brought us two of the highest harvest rates of antlerless deer in the last 12 seasons. In 2010 the harvest quota was 300 antlerless deer, but over 600 were harvested. In 2012 the tally was over 650 antlerless deer, more than double the antlerless quota of 300. In comparison, in the two years before APR's were introduced, 2001 and 2002, when the quota was 1250 and 1000, antlerless harvest was 516 and 526 respectively. Smith's comment about reduced antlerless harvest by hunters under APR's is entirely speculative. In fact these data indicate that APR's might incentivize hunters to harvest more antlerless deer with their combination tags.

*3. Bucks that hunters are prohibited from shooting are lost to severe winters, especially in regions like the UP, where almost an entire year class of bucks (fawns) might die. Additional bucks that hunters are forced to pass up are lost to predators and road kill. In other words, it's impossible to stockpile bucks in regions with severe winters.*

If true, this would apply to both mandatory and voluntary APRs. But it isn't true. This is a most perplexing statement. Winter kills of buck fawns will occur with or without APRs in place. The reader is left to believe that all bucks that are passed as yearlings will fail to survive the severe winters in the Upper Peninsula of Michigan. Yet the UP of Michigan, even prior to introduction of APR's in 2008, maintained a far higher percentage of older bucks in the harvest than the other two major regions of the state. In the 5 years prior to the introduction of APRs in the UP, 52% of the check station bucks were 2.5 or older, compared to 35% in the Northern Lower and 29% in the Southern Lower Peninsulas. Remarkably, during the first five years of APRs in Leelanau County, one of the Northern Lower Peninsula counties with the highest snowfall at an average of 120-140 inches per year, 58% of the bucks were

2.5 or older during the same period. More recently, in the 5 years since establishment of Hunter's Choice APRs in the UP, 65% of check station bucks have been 2.5 and older, and 77% of the bucks in Leelanau County have been 2.5 and older during the same period, after 10 seasons of mandatory APRs. Both are improvements over the pre-APR times for each.

The contention that most yearling bucks that are passed under APR's will not survive the following winter is absurd at face value, and strongly contradicted by empirical evidence.

*4. Deer that hunters were prohibited from shooting and then die during severe winters consume valuable winter browse that won't be available in the future, degrading the habitat.*

The deer population is controlled by antlerless harvest, and the deer population going into winter, irrespective of the sex of the individuals, is what controls the impact on winter browse availability. The Michigan DNR has made it clear that decisions about antlerless quotas will be made separately from decisions about antlered buck harvest. Any increase in the population of the buck cohort can easily be offset using antlerless harvest. Buck harvest choices are irrelevant to winter mortality. Most mortality occurs in the fawn and yearling age classes.

*5. Even though the goal is to protect young bucks, older bucks with poor antler development are also protected along with those on which hunters are unable to count points or failed to do so in time to shoot deer that have legal antlers. In the UP, 15% of 2 ½ year old bucks have fewer than three points on an antler, and about 8% of 5 ½ year old bucks fall into that category.*

In support of this statement Smith includes a figure found at the top of page 106. The chart shows 10 years of check station data published by the Michigan DNR in 2012 called "Evaluation of upper Peninsula Buck management options." Smith's statement that "...15% of 1 ½ year old bucks have fewer than three points..." is a misinterpretation of the data. It is impossible to know from this chart how many points are "on an antler" because the chart does not document how many points are on a specific antler (side). It merely reports the total number of points on a buck's entire rack. Under the methods used by the DNR, a half rack (only one antler present) eight-point would be counted as a four-point. A five-point with one tine broken off would be reported as a four point. A buck with a leg injury that develops a poor antler on one side might have four points on one side and none or one point on the other side. Additionally, there is no way to know whether these bucks may have had more antler points earlier in the season or when they were younger.

*6. Choice of hunting method is restricted. Still hunters and snow trackers have more difficulty counting points than stand hunters. Counting points on driven deer can also be difficult to impossible.*

The first rule in Hunter safety courses is to identify the target. Under current regulations hunters face the same difficulties distinguishing if a spike has at least 3 inches of antler, or distinguishing a doe from a small buck. -APR regulations simply require that hunters take their time and properly identify their target before shooting. It hardly makes sense to identify being cautious and careful about identifying the target as being a “pitfall” for deer hunters.

*7. Hunter recruitment and retention is reduced.*

Leelanau County, which has been under antler point restrictions since 2003 has the best hunter retention in the region over the last decade. The surrounding 12 counties have lost on average 19% of their deer hunters when comparing the average of the 2007 to 2011 seasons to the pre-APR seasons. In contrast Leelanau County hunter numbers have remained stable. Similarly DMU 122 in the south-central Upper Peninsula, which has had a three-point on one side APR since 2001, has the best hunter retention in its area. In fact, since the five-year survey, which was completed in 2006, when 76% of surveyed hunters voted in favor of continuing APR's, hunter numbers have grown more than 20%. Meanwhile Hunter numbers throughout the UP have fallen by 20% over the last decade.

These results strongly suggest the opposite conclusion to that stated by Smith. In fact, it is highly probable that increased satisfaction of hunters in areas with APR's might lead to improved hunter retention and recruitment.

*8. Buck hunting success is reduced.*

There is no data that supports that contention and there is data that contradicts it. In the two years prior to APR's in Leelanau County, 2001 and 2002, hunter success rates (bucks per hunter) were 21% and 23% respectively. During the first year of APR's Hunter success rates fell to 15% as expected. After that, Hunter success rates were at or higher than the pre-APR years in eight of nine seasons (range from 19% to 38%, average 26%).

*9. Beginning and novice hunters are discriminated against in terms of being able to fill a tag even experienced hunters have difficulty seeing legal bucks on their property under mandatory antler point restrictions.*

Complete speculation. See item 8 above.

*10. New hunters are deprived of the opportunity to learn through experience the satisfaction of passing up young bucks to wait for something bigger and older.*

It is fair to say that new hunters will be operating under different regulations. While some existing hunters may see it as deprivation, many of these new hunters may see

it as an opportunity to see more bucks and have the opportunity to harvest an older buck. Whether it is seen as deprivation or opportunity will likely depend on the mentors introducing the new hunter to the sport. At any rate, it is no different than the introduction of any other new regulation.

*11. Some landowners are deprived of shooting deer they want to on their property.*

These landowners are already deprived of shooting deer they want to shoot on their property. They cannot use a firearms tag to shoot a buck with less than 3 inches of antlers on their property. They cannot shoot a second buck on their property that does not have four points on one side. They cannot use a spotlight to shoot a deer on their property, nor can they shoot at deer from their tractor, even though it is on their property and they “want to “ shoot it. APRs simply change the criteria for harvest. The idea that a landowner should have the choice of shooting whatever deer they want just because it is on their property is contrary to state law and contrasts sharply with what is expected of public land hunters.

*12. Unintentionally breaking the law. Confusing UP regulations have resulted in some hunters using single tags to shoot two bucks even though it isn't legal. Other hunters have shot bucks they thought were doe's and became violators because they didn't have a valid tag.*

The last item is something that can happen under existing buck harvest regulations. In fact it is more likely to happen under existing regulations than under regulations protecting younger bucks. Nothing about game law enforcement will change under APR's. Currently, if a hunter tags a buck with 2-inch spikes, or shoots a buck thinking it is an antlerless deer, he may be subject to citation. Under APR's if he shoots a buck with fewer points than legally allowed, he may be subject to citation. Nothing will have changed.

Every year game regulations change in Michigan. The Michigan DNR highlights new changes each year in the hunting guide. It is the responsibility of the hunter to understand what the regulations are and identify the target before shooting.

*13. Voluntary antler point restrictions can be as effective as mandatory rules with education.*

If this is true, why is Smith in favor of voluntary, since it would have the same results (pitfalls) of mandatory. This statement<sup>6</sup> makes no sense from a logical standpoint and certainly should not be in a list of “pitfalls” of mandatory APRs.

*14. No matter what regulations are set, it's impossible to provide a buck for everyone who wants one especially older bucks. They remain the toughest for hunters to connect on even if there are more of them.*

This is a complete strawman argument, since nobody ever suggested providing a buck for every hunter. What we do know, is that APR's like the ones in Leelanau County and DMU 122 reduce the harvest of 1.5-year-old bucks, and result in 2.5 and 3.5-year-old bucks making up the bulk of the harvest. One of the reasons most Michigan hunters find it hard to connect on a 2.5 or 3.5-year-old buck is simply that there are so few available. In areas with mandatory APR's in Michigan (Hunter's Choice is not a mandatory APR), 2.5 and 3.5-year-old bucks make up the bulk of the harvest.

*15. Mandatory antler point restrictions tend to foster an attitude that spike horns and fork horns are inferior bucks that no one should shoot, which leads to ridicule of those who do, where legal.*

Mandatory antler point restrictions are intended to protect spike and fork bucks because they are young not because they are inferior. Smith seems to think they are inferior, since he is opposed to letting them breed in "pitfall" #1, saying that if the bucks with smaller antlers are left to breed, "The overall quality of future generations could be negatively affected." Smith is clearly saying here that he thinks the spikes and forks are inferior. Most spikes and forks are not inferior, they are merely young, and APRs are meant to simply allow them some time to grow.

*16. Not all yearling bucks, including spikes and forks, must be protected to produce a significant number of older age class bucks.*

I agree completely with this comment, but it is certainly not a negative consequence. The choice of a three point on one side antler point restriction in Leelanau County, and in the Northwest 12 counties, was based on DNR check station data, which showed that 72% of yearling bucks would be protected under that restriction. That leaves 28% of yearling bucks available for harvest. In the southern Lower Peninsula, 4 points on one side leaves 24% of yearling bucks being available for harvest.

*17. As long as yearling bucks are not being over harvested, and they aren't, hunters should be able to choose which bucks to shoot on a voluntary basis.*

Unfortunately yearling bucks are being over harvested in Michigan. According to the 2013 QDMA Whitetail Report, Michigan has the second highest harvest rate of yearling bucks, with only New Jersey besting us. Yearlings represent 59% of the harvest in Michigan, compared to only 43% in the rest of the Midwest. The MDNR data show that yearling bucks are being over harvested compared to all other states in the Midwest.

*18. Mandatory antler point restrictions represent a move towards the European system of wildlife management, in which a minority dictate rules for the majority, and away from the North American model of wildlife management.*

The APR survey process is a good faith effort by the MDNR to move forward only if a super-majority of hunters agree. The DNR and NRC have put in place a huge hurdle for proponents of APR's by requiring 66% approval of surveyed hunters. In fact, in order to put APRs in place in Michigan, not just a minority agreement is required, and not just a majority, but a supermajority of 66%. This is as far removed from the European style of wildlife management as can possibly be imagined.

*19. Limited public opinion polls are flawed, and subject to bias and should never be the deciding factor in deer management decisions.*

The APR Survey process is not a public opinion poll. It is a targeted scientific survey sent only to hunters who bought a license in prior years and hunt in the management zone where the APRs are being considered. Public opinion polls, and specifically the APR surveys, are not used in R support of a proposal, not for the final decision about whether it will be implemented or not, which rests only in the hands of the NRC members.

Regardless of the survey results, the NRC has complete control over implementation of regulations. In fact, on June 13, 2013 when the NRC made the decision to go forward with APR's in the 12-county region, there were four commissioners in favor and two opposed. If four had been opposed, the initiative would have failed. The decision is entirely in the hands of the NRC, and no decision is being made from an opinion poll. The survey is meant to inform the commissioners, it does not compel them.

*20. Mandatory antler point restrictions have resulted in the loss of millions of dollars in revenue for the DNR, as more hunters by single deer licenses instead of combos.*

Smith is referring to Hunter's Choice here. Referencing Hunter's Choice as a mandatory APR is misleading and incorrect. It is a voluntary APR. Hunter's choice is in effect across most of the Upper Peninsula of Michigan, and in the TB zone known as DMU 487. It is called "Hunter's Choice" because the hunter may choose to buy a combo license, which does have an antler restriction on both tags, or they can choose to buy a single license, which has no antler restriction. It is precisely because Hunter's Choice is not mandatory that revenue has been lost after introduction of the system. Because this is a voluntary system, many hunters have volunteered to opt out, and purchase the single tag, which has no APR.

### **Additional comments related to the body of the article.**

Additional quotes from the article are in italics and followed by my comments:

*The NRC adopted a modified version of mandatory antler point restrictions across the entire Upper Peninsula during 2008...*

Mandatory? Under these regulations, called Hunter's Choice (for a good reason) a hunter can choose to buy a single tag and shoot any buck of his choice, or he can buy the combo tag, and be able to shoot two bucks, but both are under restriction, one requiring 3 points on one side and one requiring 4 points on one side. There is nothing mandatory about it.

*The license option [Hunter's Choice] proved to be too complicated and confusing for many hunters and some license agents, especially those who do not live in the UP. Many thought they could legally shoot one buck with a single bow license and one buck with a gun tag, and some did.*

No source was given for this information. However, every year there are major changes in hunting regulations, and the "2008 Michigan Hunting and Trapping Guide" highlighted the UP buck hunting changes as the first item under the heading "Major Changes for 2008", directing hunters to read page 19 of the guide, which clearly details the rules for buck hunting in the UP. The guide clearly states; "Hunters possessing both a firearms and archery deer license are limited to taking only one antlered animal in the Upper Peninsula, all seasons combined. That deer must have at least one antler three or more inches in length." This is a simple, one sentence explanation of what is required of hunters. And hunter's in Michigan are responsible for understanding the regulations in the areas they hunt.

*A question about support for UP antler restrictions has been included in the DNR's annual statewide survey, which goes to a minimum of 50,000 hunters, and support has never reached 60%.*

This statement is factual, but suffers from a completely disingenuous omission of details. In the most recent survey from 2012, support was under 60%, but opposition was under 20%! The survey asks hunters for their level of support, with 5 possible answers; Strongly support, Support, No Opinion, Oppose, Strongly Oppose. In table 12 of the survey, they report the percentage supporting (combining Strongly Support and Support answers) and those opposed (combining Strongly Opposed and Opposed). The 2012 results were, 55% Support, 19% Oppose. Therefore 26% of respondents offered no opinion. However, among those who did offer an opinion, 74% supported. This is purposefully misleading, because he is citing this number as if it is comparable to the numbers coming from the APRs surveys, which require a "Yes" or "No" answer, and does not have a "No Opinion" category.

## **Conclusions.**

Smith is in favor of voluntary antler point restrictions, yet provides 20 points, most of which would be negative consequences of successful voluntary antler point restrictions. His support of voluntary APRs rings hollow since most of the points he



makes are critical of any antler point restriction whether voluntary or mandatory. It seems obvious that his support of voluntary antler point restrictions is not sincere. Most of the points made in the article are based on mythology, poor reasoning or poor or misleading information. Antler point restrictions have been highly successful in Leelanau County Michigan, and in DMU 122 in the Upper Peninsula of Michigan, where 72% and 76% of hunters, respectively, were in favor of continuing them after 5 years. In every single DMU where APR's have been tried in Michigan, the majority of hunters were in favor of continuing them. Several have failed because of the high hurdle of the 66% approval requirement. But nonetheless the majority of hunters who have operated under mandatory APRs have supported continuing them after the trial period.

Most of this article represents a concerted effort to avoid looking at the data coming from APR regions in Michigan. Because drawing attention to the comprehensive data would not support his claims, Smith focuses mainly on the process rather than the merits of the proposal.