

# **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

## **DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 7 Delaware Code, Sections 102 and 103 (7 Del.C. §§102 & 103)  
7 DE Admin. Code 3901

**FINAL**

**ORDER**

**3900 Wildlife**

**Secretary's Order No.: 2008-F-0042**  
**3905 Wild Turkeys**

### **I. Background:**

A public hearing was held on Monday, August 25, 2008, at 6:30 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the existing Delaware Wildlife Regulation No. 3905: Wild Turkey (2008). These proposed revisions would allow the Division's new Hunter Safety Coordinator to recognize and accept as "Division-approved" additional courses of instruction in turkey hunting that have been officially sponsored and sanctioned by other state or provincial hunter education programs. Additionally, the Division has proposed a special "youth day" for turkey hunting in Delaware (as there are already special "youth days" for waterfowl and deer hunting), with the condition that it will only be allowed on private lands.

Two members of the public attended this hearing on August 25, 2008, however, no public comment or questions were received by the Department regarding this proposed action. Proper notice of the hearing was provided as required by law.

After the hearing, the Department performed an evaluation of the evidence entered into the record in this matter. Thereafter, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Memorandum to the Secretary dated September 10, 2008, and that Report is expressly incorporated herein by reference.

### **II. Findings:**

The Department has carefully considered all relevant public input regarding its proposed regulation, and has provided a reasoned analysis and a sound conclusion with regard to the response given to each such comment, as reflected in the Hearing Officer's Memorandum of September 10, 2008, which is attached and expressly incorporated into this Order. Moreover, the following findings and conclusions are entered at this time:

1. Proper notice of the hearing was provided as required by law.
2. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;
3. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;
4. The Department held a public hearing in a manner required by the law and regulations;
5. The Department considered all timely and relevant public comments in making its determination;
6. Promulgation of these proposed amendments would allow the State of Delaware's Hunter Safety Coordinator to recognize and accept other state and/or provincial hunter education programs which are officially sponsored and sanctioned outside the State of Delaware as being Division-approved courses of instruction in turkey hunting;
7. Promulgation of these proposed amendments would also create a special "youth day" for turkey hunting here in Delaware. This activity will be restricted to only private land. Private land owners and/or hunting clubs may decide for themselves whether they wish to participate, and how they wish to do so;

8. The Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally that hunt wild turkeys;

9. The Department's proposed amendments to Regulation 3905 are adequately supported, not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, it should be approved as a final regulation, which shall go into effect ten days after its publication in the next available issue of the Delaware Register of Regulations; and that

10. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary.

### III. Order:

Based on the record developed, as reviewed in the Hearing Officer's Report dated September 10, 2008, and expressly incorporated herein, it is hereby ordered that the proposed amendments to State of Delaware Regulation No. 3905 be promulgated in final form in the customary manner and established rule-making procedure required by law.

### IV. Reasons:

The promulgation of the Division of Fish and Wildlife Regulation No. 3905: Wild Turkeys will aide the Department in its ability to expand hunting opportunities for young hunters, and make it easier for non-residents to participate in Delaware wild turkey hunting.

In developing this regulation, the Department has balanced the absolute environmental need for the State of Delaware to promulgate regulations concerning this matter with the important interests and public concerns surrounding the same, in furtherance of the policy and purposes of 7 **Del.C.**, Ch. 60.

#### 5.0 Wild Turkeys (Formerly WR-5)

(Penalty Section 7 **Del.C.** §103(d))

##### 5.1 Possession of Wild Turkey Prohibited; Exceptions.

It shall be unlawful for any person, other than authorized representatives of the Division, to release or possess *Meleagris gallopavo* (wild turkey) in Delaware without a permit from the Division. The prohibition to possess and/or release *Meleagris gallopavo* shall include both birds taken from the wild and birds bred in captivity.

##### 5.2 Instruction Requirement.

It shall be unlawful for any person to hunt wild turkeys in Delaware before that same person attends and passes a Division approved course of instruction in turkey hunting. In addition to official Delaware Division of Fish and Wildlife sponsored courses, official NRA Wild Turkey Hunting Clinics, official NWF Turkey Hunting Courses and out-of-state Turkey Hunting Courses (minimum of 4 hours) officially sponsored and sanctioned by other state or provincial Hunter Education Programs shall be recognized as being Division approved courses of instruction in turkey hunting.

##### 5.3 Method of Take.

5.3.1 It shall be unlawful for any person to use any firearm to hunt wild turkeys, except a 10, 12, 16, or 20 gauge shotgun loaded with size 4, 5, or 6 shot or a longbow with a broadhead arrow, 7/8 inches in minimum width.

5.3.2 It shall be unlawful for any person to use bait or dogs to hunt wild turkeys.

5.3.3 It shall be unlawful for any person to "drive" wild turkeys.

5.3.4 It shall be unlawful for any person to shoot any wild turkey that is in a roost tree.

5.3.5 It shall be unlawful for any person to hunt wild turkeys unless said person is wearing camouflage clothing.

5.3.6 It shall be unlawful for any person to hunt wild turkeys if said person is wearing any garment with the colors white, red, or blue.

5.3.7 It shall be unlawful for any person to hunt wild turkeys and use artificial turkey decoys of either sex that are wholly or partially made from any part of a turkey that was formerly alive.

5.3.8 It shall be unlawful for any person to hunt wild turkeys using an electronic calling device.

##### 5.4 Season and Limit.

5.4.1 The Division may establish a season for hunting bearded wild turkeys by permit. The Division will determine the terms and conditions of the issuance of permits. It shall be unlawful for any person to hunt wild turkey, except as permitted by the written authorization of the Division.

5.4.2 It shall be unlawful for any person to hunt wild turkeys, except from one-half hour before sunrise to 1:00 p.m.

5.4.3 It shall be unlawful for any person to not check a wild turkey at an authorized checking station by 2:30 p.m. on the day of kill.

5.4.4 It shall be unlawful for any person to take or attempt to take more than one bearded wild turkey per season.

5.5 Special Season for Young and Disabled Hunters

5.~~4~~ 5).1 Turkeys may be hunted on private land only on the Saturday prior to the opening of the regular spring turkey hunting season by disabled (non-ambulatory) hunters using a wheelchair for mobility, and hunters 10 years of age or older but less than 16 years of age (10-15 years inclusive). Hunters 13-15 years of age must have completed an approved course in hunter training as well as a Division approved turkey hunter safety class and possess a Delaware Resident or Non-Resident Junior Hunting License. Young hunters must be accompanied by a licensed non-hunting adult who is 21 years of age or older who has also completed a Delaware approved turkey hunter safety class. Young hunters must be of sufficient size, physical strength and emotional maturity to safely handle a shotgun.

**3 DE Reg. 289 (8/1/99)**

**11 DE Reg. 334 (09/01/07)**

**12 DE Reg. 496 (10/01/08) (Final)**