

Secretary's Order No.: **2008-F-0041**

RE: Proposed Amendments to the State of Delaware  
Regulation No. 3905: Wild Turkeys (2008)

Date of Issuance: September 11, 2008

Effective Date of the Amendment: October 11, 2008

**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.

/s/ John A. Hughes

John A. Hughes  
Secretary

Ahear\FW.Sect.3905.Reg. Amdmts.Wild Turkeys.2008.Ord

**MEMORANDUM**

TO: John A. Hughes, Secretary

FROM: Lisa A. Vest, Hearing Officer

RE: Proposed Amendments to State of Delaware  
Wildlife Regulation No. 3905: Wild Turkey (2008)

DATE: September 10, 2008

---

**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.

**II. Summary of Hearing Record:**

At the time of the hearing on August 25, 2008, Kenneth Reynolds, Program Manager with the Department's Division of Fish and Wildlife, offered the Department's exhibits pertaining to this regulatory promulgation, along with a brief explanation to the public with regard to the salient points of the proposed amendments to these regulations.

Mr. Reynolds explained to the attendees at this public hearing that, over the years, Delaware has always required all first-time turkey hunters to take its one-day turkey hunter safety class. As the years have gone on, more and more non-resident hunters have been interested in hunting turkeys in Delaware. There is a great enough population of wild turkeys now in Delaware, and also enough areas open to hunting in this state, where the Department believes that it can become more relaxed in terms of the method by which non-resident hunters are certified to hunt here in Delaware. Thus, this proposed revision will 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.

Additionally, the Department is adding language to create a special "youth day" for turkey hunting here in Delaware. Everything will be just as it currently is for Youth Waterfowl Day and Youth Deer Hunting day, with the exception being that such a "youth day" for turkey hunting be allowed only on private land. The reason for that condition is that the Department has very few permits available for public land, and so for the time being, 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.

For brevity's sake, and for the Secretary's review, a copy of the Department's proposed amendments to these regulations is attached hereto as Attachment "A" and is expressly hereby incorporated into this report.

It should also be noted that 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.

### **III. Conclusions and Recommendations:**

Based on the above discussion, I conclude that the Department has provided appropriate reasoning regarding the need for these proposed changes to Delaware's Wildlife Regulation 3905: Wild Turkeys, and has thoroughly addressed all public questions and/or comments provided during the various phases of the record developed in this matter. Accordingly, I recommend promulgation of these proposed amendments in the customary manner provided by law.

Further, I recommend the following findings:

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;

3. The Department held a public hearing in a manner required by the law and regulations;
4. The Department considered all timely and relevant public comments in making its determination;
5. 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;
6. 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;
7. 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;

8. The Department's proposed amendments to Regulation 3905: Wild Turkey 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
9. The Department shall submit the proposed regulation as a final regulation to the Delaware Register of Regulation for publication in its next available issue, and shall provide written notice to the persons affected by the Order.

          /s/ Lisa A. Vest          .  
LISA A. VEST  
Hearing Officer