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LEGAL NOTICE

In accordance with Neb. Rev. Stat. 84-907, a public hearing, conducted by the Nebraska Game and Parks Commission, will be held Thursday, June 22, 2017, at the Dome Rock Room at the Gering Civic Center, 1050 M Street, Gering, Nebraska, prior to consideration and/or enactment of the following:

Pursuant to the provisions of Neb. Rev. Stat. 37-314, 37-315, 37-502, 37-701, a public hearing will be held at 8:30 a.m., to consider the implementation of statutory authority for the Commission to create new Commission Order C05, Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbit and Squirrels that will contain open seasons, daily bag limits, possession limits, shooting hours and open areas.

Pursuant to the provisions of Neb. Rev. Stat. 37-314, 37-315, 37-502, 37-701, a public hearing will be held at 8:45 a.m., to consider amendments to Chapter 4, Wildlife Regulations, Section 005, Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbit, and Squirrels, regarding the deletion of open seasons, daily bag limits, possession limits, shooting hours and open areas which are included in Commission Order C05. Section 005 will contain Special Permit Eligibility, Application Period and Procedure, and Tagging instructions for Grouse; Youth Eligibility for hunting pheasant, quail, and partridge; definitions for "Running" for cottontail rabbits and furbearers; and statutory authority for harvesting furbearers.

Pursuant to the provisions of Neb. Rev. Stat. 37-301, 37-303 through 37-310, 37-312 through 37-314, 37-317, 37-308.01, 37-336, 37-447, 37-701, 37-704 through 37-709, 37-330, 60-677, 60-678, 60-680, a public hearing will be held at 9:00 a.m., to consider amendments to Chapter 4, Section 019, Area Specific Regulations, regarding the creation of new regulations for Killdeer Wildlife Management Area and Bordeaux Creek Wildlife Management Area to the Section.

Copies of the proposed regulations and fiscal impact statements shall be available for public inspection at the Game and Parks Commission office and the Office of the Secretary of State.

James Douglas, Director

NOTICE OF RULEMAKING
COMMENT PERIOD

NOTICE is hereby given that the Nebraska Game and Parks Commission is accepting written comments on working drafts of proposed amendments, Title 163, Nebraska Administrative Code Chapter 4, entitled REGULATIONS Wildlife – Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbit and Squirrels regarding the removal of open seasons, daily bag limits, possession limits, and shooting hours, which under statutory authority, will be included in new Commission Order C05 prior to the public hearing process.

All interested persons are invited to obtain draft copies of the proposed regulations from and submit their written comments to Sandra Paice, Division of Administration, Nebraska Game and Parks Commission, 2200 N. 33rd, P.O. Box 30370, Lincoln, NE 68503, or FAX 402/471-5528. The comment period will close on June 22, 2017.

If auxiliary aids or reasonable accommodations are needed to review the drafts or participate in this process, please call the above-named person at (402) 471-5432 or, for persons with hearing impairments, (402) TDD or Nebraska Relay System, (800) 833-7352 TDD by no later than June 15, 2017.

DRAFT FISCAL IMPACT STATEMENT

Agency: Nebraska Game and Parks Commission	
Title: 163	Prepared by: Sandra Paice
Chapter: 4	Date prepared: May 17, 2017
Subject: Section 005, Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbit and Squirrels	Telephone: 402/471-5432

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	( )	( )	( )
Decreased Costs	( )	( )	( )
Increased Revenue	( )	( )	( )
Decreased Revenue	( )	( )	( )
Indeterminable	( )	( )	( )

Provide an Estimated Cost & Description of Impact:

State Agency: $0

Political Subdivision: $0

Regulated Public: $0

If indeterminable, explain why:

TITLE: 163, NEBRASKA GAME AND PARKS COMMISSION

CHAPTER: 4 REGULATIONS Wildlife Regulations, Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbit and Squirrels

ACTION: Amendments to Existing Regulations

EXPLANATORY STATEMENT

Prepared by: Alicia Hardin, Wildlife Division Administrator

The Nebraska Game and Parks Commission is amending the above-referenced regulations as provided by law, and hereby submits this explanatory statement to accompany the regulation and describe their purposes and the changes made during the rule-making process.

I. Summary - Changes made to existing regulations.

II. Overview of Purposes and Changes Made

Section 005. Last approved date changed. Squirrels are deleted from the Section 005 title. With the passage of LB499 in the 2013 legislative session, authority is provided to the Nebraska Game and Parks Commission to create Commission Orders that do not process through the regulation stages of Attorney General, Governor's Policy Research Office and Secretary of State. These regulations will contain permit eligibility, application period and procedure, and instructions for tagging for the Special Grouse Hunting Permit; Youth Eligibility while hunting pheasant, quail and partridge; and definitions of "running" for cottontail rabbit, raccoon, Virginia opossum, bobcat and red fox.

After the statutory citation paragraph, information is provided that the following information is contained within the new Commission Order C05, Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbits and Squirrels on the Commission's website and the website address is provided.

Part 005.01A pertaining to Rail (Sora and Virginia) is deleted and moved to Commission Order C05. Part 005.01B pertaining to Snipe is deleted and moved to Commission Order C05. Part 005.01C pertaining to Woodcock is deleted and moved to Commission Order C05. Part 005.01D pertaining to Dove (Mourning, White-winged, and Eurasian Collared) is deleted and moved to Commission Order C05. Old Part 005.01E is changed to Sub-section 005.01 and the reference to Zone Boundaries is deleted as it is moved to Commission Order C05. Sub-part 005.01E1 pertaining to Grouse is deleted and moved to Commission Order C05. Sub-part 005.01E2 pertaining to Grouse is deleted and moved to Commission Order C05. Sub-part 005.01E3 pertaining to Grouse is deleted and moved to Commission Order C05. Sub-part 005.01E4 pertaining to Grouse is deleted and moved to Commission Order C05. Sub-part 005.01E5 pertaining to Grouse is deleted and moved to Commission Order C05. Old Sub-part 005.01E6 is pertaining to Grouse is deleted and moved to Commission Order C05. Division 005.01E6a is renumbered to Part 005.01A and the word "Special" is added to the

description of the Grouse Permit. Division 005.01E6b is renumbered to Part 005.01B. Division 005.01E6c is renumbered to Part 005.01C. Old Part 005.01F is renumbered to Sub-section 005.02. Sub-part 005.01F1 is renumbered to Part 005.02A and the "Open Seasons" portion is deleted and moved to Commission Order C05 and the title is changed to "Youth Eligibility". Division 005.01F1a is renumbered to Sub-part 005.02A1 that provides age requirements for Youth Eligibility and changes the regulation citation. Division 005.01F1b is renumbered to Sub-part 005.02A2 that provides explanation of adults accompanying youth while shooting pheasants. Sub-part 005.01F2 regarding the daily bag limit is deleted and moved to Commission Order C05. Sub-part 005.01F3 regarding the possession limit is deleted and moved to Commission Order C05. Sub-part 005.01F4 regarding shooting hours is deleted and moved to Commission Order C05. Sub-part 005.01F5 regarding the area open is deleted and moved to Commission Order C05.

Old Part 005.01G is renumbered to Sub-section 005.02. Sub-part 005.01G1 is renumbered to Part 005.03A and the "Open Seasons" portion is deleted and moved to Commission Order C05 and the title is changed to "Youth Eligibility". Division 005.01G1a is renumbered to Sub-part 005.03A1 that provides age requirements for Youth Eligibility. Division 005.01G1b is renumbered to Sub-part 005.03A2 that provides explanation of adults accompanying youth while shooting pheasants. Sub-part 005.01G2 regarding the daily bag limit is deleted and moved to Commission Order C05. Sub-part 005.01G3 regarding the possession limit is deleted and moved to Commission Order C05. Sub-part 005.01G4 regarding shooting hours is deleted and moved to Commission Order C05. Sub-part 005.01G5 regarding the area open is deleted and moved to Commission Order C05.

Old Part 005.01H is renumbered to Sub-section 005.04. Sub-part 005.01H1 is renumbered to Part 005.04A and the "Open Seasons" portion is deleted and moved to Commission Order C05 and the title is changed to "Youth Eligibility". Division 005.01H1a is renumbered to Sub-part 005.04A1 that provides age requirements for Youth Eligibility. Division 005.01H1b is renumbered to Sub-part 005.04A2 that provides explanation of adults accompanying youth while shooting pheasants. Sub-part 005.01H2 regarding the daily bag limit is deleted and moved to Commission Order C05. Sub-part 005.01H3 regarding the possession limit is deleted and moved to Commission Order C05. Sub-part 005.01H4 regarding shooting hours is deleted and moved to Commission Order C05. Sub-part 005.01H5 regarding the area open is deleted and moved to Commission Order C05.

Sub-section 005.02 is renumbered to Sub-section 005.05 and Squirrel is deleted from the title. Part 005.02A deletes the "Cottontail Rabbit" heading. Sub-part 005.02A1 regarding the Open Season for Cottontail Rabbits is deleted and moved to Commission Order C05. Sub-part 005.02A2 regarding the daily bag limit for Cottontail Rabbits is deleted and moved to Commission Order C05. Sub-part 005.02A3 regarding the possession limit for Cottontail Rabbits is deleted and moved to Commission Order C05. Sub-part 005.02A4 regarding the shooting hours for Cottontail Rabbits is deleted and moved to Commission Order C05. Sub-part 005.02A5 regarding the open area for Cottontail Rabbits is deleted and moved to Commission Order C05. Sub-part 005.02A6 is renumbered to 005.05A and provides the definition of "Running" for Cottontail Rabbits and adds reference to Cottontail Rabbit running season in Commission Order C05. Division 005.02A6a regarding the running season for Cottontail Rabbits is deleted and moved to Commission Order C05.

Part 005.02B regarding Squirrels is deleted from the Section and moved to Commission Order C05. Sub-part 005.02B1 regarding Open Season for Squirrels is deleted from the Section and moved to Commission Order C05. Sub-part 005.02B2 regarding daily bag limit for Squirrels is deleted from the Section and moved to Commission Order C05. Sub-part 005.02B3 regarding possession limit for Squirrels is deleted from the Section and moved to Commission Order C05. Sub-part 005.02B4 regarding shooting hours for Squirrels is deleted from the Section and moved to Commission Order C05. Sub-part 005.02B5 regarding Area Open for Squirrels is deleted from the Section and moved to Commission Order C05.

Sub-section 005.03 is renumbered to Sub-section 005.06. Part 005.03A regarding Open Areas for Furbearers is deleted from the Section and moved to Commission Order C05. Part 005.03B regarding hours open each day for Furbearers is deleted from the Section and moved to Commission Order C05. Part 005.03C regarding daily bag limit for Furbearers is deleted from the Section and moved to Commission Order C05. Part 005.03D regarding possession limit for Furbearers is deleted from the Section and moved to Commission Order C05. Part 005.03E regarding "Trapping and Hunting" of Furbearers is deleted from the Section and moved to Commission Order C05. Sub-part 005.03E1 regarding Open Season for Long-tailed Weasel, Red Fox, Gray Fox, Mink and Badger is deleted from the Section and moved to Commission Order C05. Part 005.03E2 regarding Open Season for Bobcats is deleted from the Section and moved to Commission Order C05. Sub-part 005.03E3 regarding Open Season for Striped Skunk is deleted from the Section and moved to Commission Order C05. Sub-part 005.03E4 regarding Open Season for Raccoon and Virginia Opossum is deleted from the Section and moved to Commission Order C05. Division 005.03E4a regarding Open Season for Hunting ONLY for Raccoon and Virginia Opossum is deleted from the Section and moved to Commission Order C05. Part 005.03F regarding Trapping ONLY is deleted from the Section and moved to Commission Order C05. Sub-part 005.03F1 regarding dates for Trapping ONLY for Beaver and Muskrat is deleted from the Section and moved to Commission Order C05.

Part 005.03G is renumbered to Part 005.06A and provides a definition for Running and references Commission Order C05 for running season dates for Raccoon, Virginia Opossum, Bobcat, and Red Fox. Sub-part 005.03G1 regarding Open Season for Raccoon and Virginia Opossum running is deleted from the Section and moved to Commission Order C05. Sub-part 005.03G2 regarding Open Season for Bobcat taking is deleted from the Section and moved to Commission Order C05. Sub-part 005.03G3 regarding Open Season for Red Fox taking is deleted from the Section and moved to Commission Order C05.

Part 005.03H is renumbered to Part 005.06B and provides statute authority for Furbearer harvesting. Section 005 ends on page 5-005-7.

The passage of LB499 during the 2013 Legislative Session provided authority to the Commission to create Commission Orders for all sections of regulations. The enactment of these regulation changes reflects the creation of a Commission Order to more effectively manage the upland game bird program, the furbearer program and cottontail rabbits. Open seasons, bag limits, possession limits, Areas Open, and shooting hours for upland game birds, furbearers and cottontail rabbit are deleted from regulations and included in the newly created Commission Order C05. Regulations will

contain provisions for Special Permit Eligibility, Application Period and Procedure and Tagging instructions for Grouse; Youth Eligibility for pheasant, quail and partridge; definitions for "Running" for cottontail rabbit and furbearers; and statutory authority for fur harvesting.

The proposed regulation is consistent with the legislative intent established by Section 84-907.09. The proposed regulation is not the result of any state or federal mandate, rendering a state or federal funding mechanism not applicable. The Commission will solicit public comment prior to the date of the public hearing. The Commission did not use the Negotiated Rule-Making Act in developing the proposed regulation.

Changes in Text Between Notice and Adoption:

DATED the 17th day of May, 2017.

NEBRASKA GAME AND PARKS COMMISSION

Alicia Hardin
Wildlife Division Administrator

I hereby adopt this explanation statement as the statement of the Nebraska Game and Parks Commission concerning the purposes of this rule-making action and of the changes made during the process.

DATED the 17th day of May, 2017.

NEBRASKA GAME AND PARKS COMMISSION

James N. Douglas
Director

NEBRASKA GAME AND PARKS COMMISSION

SUBMIT TO GOVERNOR BEFORE SUBMITTING TO EXECUTIVE BOARD AND BEFORE PUBLIC HEARING DATE IS SET

PROPOSED REGULATION
GPRO GOVERPAGE
(ATTACH TO PRE-REVIEW CHECKLIST)

Agency: Nebraska Game and Parks Commission
Title, Chapter of Rules submitted: Title 163, Chapter 4, Section 005
Subject: 005 Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbit and Squirrel
Prepared by: Sandra Paice
Telephone: 402-471-5432
Date submitted to Governor: May 17, 2017

Projected dates for public hearings June 22, 2017

Projected deadline for final approval September 22, 2017

_____ A copy of the section of laws or federal regulations that triggered these changes is attached.

FOR GOVERNOR'S OFFICE RECORDS

Advisor Assigned:
Date approved to proceed:
Options for proceeding:

_____a) No further contact with GPRO is necessary until final rules have been approved by the Attorney General.

_____b) Contact Governor through GPRO concerning issues raised in Negotiated Rulemaking procedures.

_____c) Submit Rules and Regulations Policy Review Checklist to Governor if rules are changed hereafter and a new public hearing is scheduled.

_____d) Keep the Governor informed through GPRO as issues arise in negotiations, drafting sessions, advisory board meetings, and public hearings.

_____e) Specific policy comments per Governor's instructions is attached.

PROPOSED REGULATION
POLICY PRE-REVIEW CHECKLIST

Agency: Nebraska Game and Parks Commission
Title, Chapter of Regulation: Title 163, Chapter 4, Section 005
Subject: 005 Game Birds (not including turkey, coots and migratory waterfowl), Furbearers, Cottontail Rabbit and Squirrel
Prepared by: Sandra Paice
Telephone: 402-471-5432

A. Policy Changes and Impacts

1. What does the regulation do and whom does it impact? Provide a brief description of the proposed rule or regulation and its impact on state agencies, political subdivisions, and regulated persons or entities.

   The passage of LB499 during the 2013 Legislative Session provides authority to the Commission to create Commission Orders for all sections of regulations. The enactment of these regulations would allow the Commission to create a Commission Order to more effectively manage the upland game program, the furbearer program and cottontail rabbits and squirrels.

2. Describe changes being proposed to current policy and briefly provide rationale.

   Open seasons, daily bag limits, possession limits, shooting hours and open areas for Rail, Snipe, Woodcock, Dove, Grouse, Pheasant, Quail, Partridge, Cottontail Rabbit, Squirrel, Long-tailed Weasel, Red Fox, Gray Fox, Mink, Badger, Bobcat, Striped Skunk, Raccoon, Virginia Opossum, Beaver, and Muskrat are deleted and moved into the newly created Commission Order C05. Regulations will contain Special Permit Eligibility, Application Period and Procedure, and Tagging instructions for Grouse; Youth Eligibility for hunting pheasant, quail, and partridge; definition for "running" for cottontail rabbits and furbearers; and statutory authority for harvesting furbearers.

B. Why is the rule necessary? Explain and provide an identification of authorizing statute(s) or legislative bill(s).

1. Update of regulation (repeal of obsolete statutes, reflect current policy, editing or technical language changes, etc.) - Yes
2. Annual changes -- cost of living, hunting season schedules, etc. - None
3. Law was changed -- federal or state [Cite authorizing statute(s) or legislative bill(s)] - No
4. Extension of established policy or program, new initiatives or changes in policy (within statutory authority) - No
5. Constituent initiated - No

6. Financial needs -- increases/decreases in fees - No
7. Litigation requires changes in rules - No
8. Addresses legal or constitutional concerns of Attorney General's office - No
9. Implements federal or court mandate - No
10. Other (explain) - No

C. What happens if these rules are not adopted?

Failure to adopt these regulations would result in a compromised ability of the Commission to create Commission Orders and manage Nebraska's upland game, furbearer and cottontail rabbit to meet multiple objectives.

D. Policy Checklist

1. Is this an update or editorial change reflecting essentially no change in policy? Yes
2. Does the policy in the proposed regulation reflect legislative intent? Yes
3. Is the policy proposed in the regulation a state mandate on local government? Is it funded? No
4. Is the policy proposed in the regulation a federal mandate on local government? Is it funded? No

E. Fiscal Impact. In addition to completing the required Fiscal Impact Statement (a copy must be attached to this document), the agency must address the following:

1. Will the proposed regulation reduce, increase or have no change in resources -- funds, personnel or FTE? No change

2. Have initial contacts been made with citizens or organizations that may be impacted by the proposed regulation? Yes

3. Does the proposed regulation impact another agency? No

4. Will the proposed regulation reduce, increase, or have no change on reporting requirements of businesses? No change

5. What is the agency's best estimate of the additional or reduced spending? If there is none, please note. If receipt of federal funds is contingent upon approval of the proposed regulation, then indicate the amount and nature of the federal funds affected, and enclose laws or correspondence from federal officials substantiating the information. None.

6. Include a description of the impact that the proposed regulation will have on the number of state employees and how the agency intends to address proposed increases or decreases in FTE. None.

F. Unique problems or issues and recommendations.

None.

G. Who is expected to be affected, or to oppose or support the proposed regulation? Explain what initial informal contacts been made with organizations or citizens who may be affected by the regulation prior to the public hearing.

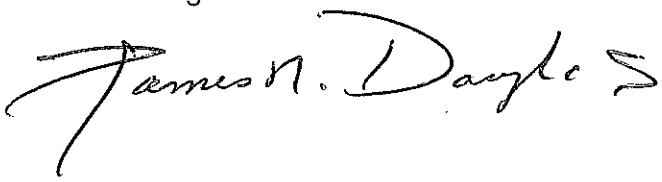
The Commission expects support of the majority of stakeholders for the proposed regulations. The Commission gave public notice soliciting public comment on the proposed change prior to the public hearing.

H. Are these proposed rules a likely candidate for negotiated rulemaking? Explain. Has the process been completed? If so, explain how the issues were addressed.

Not a likely candidate.

Director's Verification of Review

I have reviewed these proposals and verify that, at this stage of the regulation's development, these questions have been accurately addressed.

Director's Signature

Date: May 17, 2017