

## LEGAL NOTICE

In accordance with Neb. Rev. Stat. 84-907, the Nebraska Game and Parks Commission will conduct public hearings on October 15, 2020 in the Exhibit Hall at Keith County Fairgrounds 100 W 3rd St., Ogallala, NE prior to consideration and/or enactment of the following:

Pursuant to the provisions of Neb. Rev. Stat. §§37-314, 37-404, 37-414, 37-447, 37-457, 37-502, 37-508, 37-527, 37-534, 37-701, a public hearing will be held at 8:45 a.m. to consider implementation of statutory authority for the creation of new Commission Order C02, Wild Turkey that will contain season dates, permit bag limits, number of permits authorized, shooting hours and areas open.

Pursuant to the provisions of Neb. Rev. Stat. §§ 37-314, 37-404, 37-414, 37-447, 37-457, 37-502, 37-508, 37-527, 37-534, 37-701, a public hearing will be held at 9:00 a.m. to consider amendments to Chapter 4, Wildlife Regulations, Section 002, Wild Turkey, regarding the deletion of open seasons, permits authorized, permit bag limits, shooting areas, and areas open which are included in Commission Order C02, Wild Turkey. Section 002 will retain application periods and requirements, youth eligibility, legal weapons, and hunter orange requirements for turkey hunting.

Pursuant to the provisions of Neb. Rev. Stat. 37-301, 37-304, 37-305, 37-308, 37-314, 37-315, 37-344, 37-411, 37-426, 37-4,104, 37-4,107, 37-4,109, 37-4,111, 37-501 through 37-504, 37-508 and 37-543 through 37-545, a public hearing will be held at 9:15 a.m. to consider amendments to Commission Order C06, Sport Fishing, regarding daily bag limits, possession limits, length limits, and open areas.

Copies of the proposed regulations and the Fiscal Impact Statement shall be available for public inspection at the Game and Parks Commission office and the Office of the Secretary of State.

Copies of the proposed Commission Order changes shall be available for public inspection at the Game and Parks Commission website at [www.outdoornebraska.gov](http://www.outdoornebraska.gov).

All interested persons may attend and testify orally at the public hearing, but are strongly encouraged to submit written testimony prior to the public hearing in order to protect public health. Interested persons or organizations may submit written comments prior to the hearing, which will be entered into the hearing record if they: 1) include a request to be included as part of the hearing record; 2) include the name and address of the person or organization submitting the comments; and 3) are received by 1:00 p.m. CT, October 13, 2020 by Sheri Henderson at the Lincoln office, 2200 North 33<sup>rd</sup> Street, Lincoln, NE 68503-0370.

James Douglas, Director

**RECEIVED**

SEP 10 2020

**SECRETARY OF STATE**

## DRAFT FISCAL IMPACT STATEMENT

Agency: Nebraska Game and Parks Commission	
Title: 163	Prepared by: Alicia Hardin
Chapter: 4	Date prepared: Sept. 9, 2020
Subject: Section <u>002</u> , Wild Turkey	Telephone: 402/471-5448

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, Wild Turkey

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 002.** Last approved date changed. Neb. Rev. Stat. §§ 37-314 provides authority 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 still contain permit eligibility, application period and procedure; legal weapons; and hunter orange requirements for turkey hunting.

The statutory citation 37-452 is being removed from the citations paragraph since turkeys are not reference in that statute.

After the statutory citation paragraph, guidance is provided that season dates, permit bag limits, number of permits authorized, shooting hours and open areas is contained within the new Commission Order C02, Wild Turkey, on the Commission's website and the website address is provided.

Sub-section 002.01 adds "Methods of Take, Youth Eligibility" to clarify the contents of the sub-section and deletes "and Season Dates" from the title as it is moved to Commission Order C02. Sub-part 002.01A2 regarding Spring season dates is deleted and moved to Commission Order C02. Division 002.01A2a regarding the spring shotgun season dates is deleted and moved to Commission Order C02. Division 002.01A2b regarding the spring archery season dates is deleted and moved to Commission Order C02. Division 002.01A3a regarding the youth shotgun season dates is deleted and moved to Commission Order C02, "persons with these permits may hunt with weapons legally" is deleted and reworded for continuity and a second reference to "and with weapons prescribed for shotgun hunting seasons (001.01B2)" was deleted due to redundancy. Sup-part 002.01B2 regarding the title for fall season dates for archery and shotgun is deleted and moved to Commission Order C02. Division 002.01B2a regarding the fall season dates is deleted and moved to Commission Order C02. Division 002.01B3a

regarding the fall youth season dates is deleted and moved to Commission Order C02. Sub-Section 002.02 regarding the number of permits authorized and personal limits apply is deleted and moved to Commission Order C02, and additional permits authorized in combination permits is being deleted since it is already in regulations in a different location. Sub-Section 002.03 regarding the area open and exceptions is deleted and moved to Commission Order C02. Sub-Section 002.04 regarding the title Permit Bag Limit is deleted and moved to Commission Order C02. Part 002.04A regarding the spring bag limit of one male or bearded female turkey is deleted and moved to Commission Order C02. Part 002.04B regarding the Fall bag limit as two (2) turkeys is deleted and moved to Commission Order C02. Sub-Section 002.05 regarding the shooting hours is deleted and moved to Commission Order C02,

Sub-part 002.01A3 is renumbered to Sub-part 002.01A2, and within that paragraph, the regulation citations are changed to reflect the information being moved to Commission Order C02 and provides the Commission Order citations. Sup-part 002.01A4 is renumbered to Sup-part 002.01A3. In Division 002.01A3a the regulation citations are changed to reflect the information being moved to Commission Order C02 and provides the Commission Order citations. Division 002.01A4b is renumbered to Division 002.01A3b, and within that paragraph, the regulation citations are changed to reflect the information being moved to Commission Order C02 and provides the Commission Order citation. Sub-part 002.01B3 was renumbered to Sub-part 002.01B2. In Division 002.01B3b the regulation citations are changed to reflect the information being moved to Commission Order C02 and provides the Commission Order citations. Sub-section 002.06 has been renumbered to Sub-section 002.02. Section 002 ends on page 4-002-2.

The enactment of these regulation changes reflects the creation of a Commission Order to more effectively manage the wild turkey program. Open seasons, number of permits authorized, permit bag limit, shooting hours, areas open wild turkey hunting are deleted from regulations and included in the newly created Commission Order C02. Regulations will contain guidance where season dates, permits authorized, permit bag limit, shooting hours, and open areas may be found in Commission Order C02 on the Nebraska Game and Parks website.


These regulations will contain permit eligibility, application period and procedure; legal weapons; and requirements to wear hunter orange for turkey hunting.

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 9th day of September, 2020.

NEBRASKA GAME AND PARKS COMMISSION



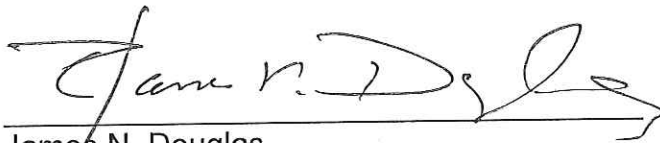
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Alicia Hardin  
Wildlife Division Administrator

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 9th day of September, 2020.

NEBRASKA GAME AND PARKS COMMISSION



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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 COVERPAGE  
(ATTACH TO PRE-REVIEW CHECKLIST)**

**Agency:** Nebraska Game and Parks Commission  
**Title, Chapter of Rules submitted:** Title 163, Chapter 4, Section 002  
**Subject:** 002 Wild Turkey  
**Prepared by:** Alicia Hardin  
**Telephone:** 402-471-5448  
**Date submitted to Governor:** Sept. 9, 2020

Projected dates for public hearings October 15, 2020

Projected deadline for final approval December 15, 2020

         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 002  
**Subject:** 002 Wild Turkey  
**Prepared by:** Alicia Hardin  
**Telephone:** 402-471-5448

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.

Neb. Rev. Stat. §§ 37-314 provides authority 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. The enactment of these regulations would allow the Commission to create a Commission Order to more effectively manage the wild turkey program.

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

The season dates, permit bag limits, number of permits authorized, shooting hours and open areas are deleted and moved into the newly created Commission Order C02. Regulations will contain permit eligibility, application period and procedure; legal weapons; and hunter orange requirements for turkey hunting.

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) - N/A

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 wild turkey program 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 informed the National Wild Turkey Federation of this proposed change in regulations.

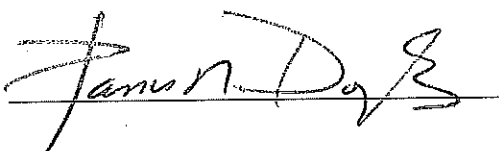
The Commission gave public notice soliciting public comment on the proposed changes prior to the public meeting.

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

The proposed rules are not a likely candidate for negotiated rule-making.

**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: Sept. 9, 2020

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, Section 002 – Wild Turkey, to consider the implementation of statutory authority for the Commission to create new Commission Order C02, Wild Turkey, that will contain season dates, permit bag limits, number of permits authorized, shooting hours and open areas.

All interested persons are invited to obtain draft copies of the proposed regulations from and submit their written comments to Sheri Henderson, Division of Administration, Nebraska Game and Parks Commission, 2200 North 33rd, P.O. Box 30370, Lincoln, NE 68503, or FAX 402/471-4349. The comment period will end at 1:00 pm CT on October 13, 2020.

If auxiliary aids or reasonable accommodations are needed to review the drafts or participate in this process, please call Sheri Henderson at (402) 471-5539 or, for persons with hearing impairments call the Nebraska Relay System at 711 or (800) 833-7352 TDD by no later than October 8, 2020.

REGULATIONS DOCKET  
Check List

AGENCY: NEBRASKA GAME AND PARKS COMMISSION

AGENCY CONTACT: Sheri Henderson, Division of Administration, NEBRASKA GAME AND PARKS COMMISSION, 2200 North 33rd, P.O. Box 30370, Lincoln, NE 68503

PROPOSED NEBRASKA ADMINISTRATIVE CODE CITATION: Title 163, Chapter 4  
Section 002

PROPOSED NAME OR TOPIC AREA OF REGULATIONS: See "Abstract of Subject Matter" below.

LEGAL AUTHORITY FOR RULES: Neb. Rev. Stat. §§ 37-314, 37-404, 37-414, 37-447, 37-457, 37-502, 37-508, 37-527, 37-534, 37-701.

ABSTRACT OF SUBJECT MATTER: Wildlife – Wild Turkey

Timetable/Status		Proposed Date	Effective Date(s)
Pre-Rule	Drafting internal reviews	_____	_____
	Advance notice comment period	_____	_____
	Negotiated Rulemaking	_____	_____
Proposed Rule	Notice of Rulemaking Hearing	<u>9/9/2020</u>	_____
	Governor Waiver	_____	_____
	Rulemaking Hearing	<u>10/15/20</u>	_____
	Post-hearing Analyses and Revisions	_____	_____
Final Rule	Agency Reviews & Approval	_____	_____
	Attorney General Submission	_____	_____
	Attorney General Approval	_____	_____
	Governor Submission Governor Approval	_____	_____
Completion	Filing Date	_____	_____
	Indexing Date	_____	_____
	Publication	_____	_____
or Termination	Notice of Termination w/o Rulemaking	_____	_____
Operative Date	*If later than effective date prescribed in 84-906 & 84-911	_____	_____

## NEBRASKA ADMINISTRATIVE CODE

Last Approved Date: ~~December 31, 2012~~ October 22, 2014

Title 163 - Nebraska Game and Parks Commission

Chapter 4 - Wildlife Regulations

### 002 Wild Turkey

The following regulations are prescribed by the Game and Parks Commission, State of Nebraska in accordance with Neb. Rev. Stat. §§ 37-314, 37-404, 37-414, 37-447, ~~37-452~~, 37-457, 37-502, 37-508, 37-527, 37-534, 37-701. For purposes of these regulations, unless context otherwise requires, the definitions found in Chapter 37, sections 202 through 247 of the Game Law, are used. ~~These regulations are effective following enactment by the Commission, approval by the Attorney General and Governor, and when five days have elapsed since filing with the Secretary of State.~~

For season dates, bag limits, permits authorized, shooting and hunting areas, see Nebraska Game and Parks Commission Order C02 on the Commission's website: [outdoornebraska.gov](http://outdoornebraska.gov).

### 002.01 Application Periods, Methods of Take, Youth Eligibility and Season Dates

#### 002.01A Spring

002.01A1 Permit Application Periods: The second Monday in January at 1 p.m. CST until the end of the season.

#### 002.01A2 Season Dates

~~002.01A2a Shotgun Season Dates: The Saturday closest to April 15 to May 31.~~

~~002.01A2b Archery Season Dates: March 25 through May 31.~~

~~002.01A3 002.01A2 Persons with this permit may hunt with weapons legally prescribed for archery turkey hunting (001.01B3) during the dates shown in 002.01A2b (Commission Orders) C02.01A and with weapons legally prescribed for shotgun turkey hunting (001.01B2) during the dates shown in 002.01A2a (Commission Orders) C02.01C.~~

Title 163  
Chapter 4

002.02 Number of Permits Authorized for Issuance:  
Unlimited. Personal limits apply, see 001.01B1. Permits may be authorized to be included in species combination permits (003.12).

002.03 Area Open: Entire state except Federal or State sanctuaries and refuges, unless otherwise authorized.

002.04 Permit Bag Limit:

002.04A Spring: One male or bearded female turkey.

002.04B Fall: Two (2) turkeys.

002.05 Shooting Hours: 30 minutes before sunrise to sunset.

002.06 002.02 Hunter Orange: Shall not be required during spring turkey season. Hunter orange shall not be required during fall turkey season, except that it shall be required during the November firearm deer season.

**PROPOSED REGULATION  
POLICY PRE-REVIEW CHECKLIST**

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**Subject:** 002 Wild Turkey  
**Prepared by:** Alicia Hardin  
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9. Implements federal or court mandate - No

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.

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**Director's Verification of Review**

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Director's Signature: \_\_\_\_\_ Date: Sept. 9, 2020