

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

CITE AUTHORITY: 20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 51

TITLE OF RULE BEING AMENDED: WILD TURKEY REGULATIONS

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



ROBERT A. REINTSEMA, COMMISSIONER

DATE: July 16, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: BOC, DNR - WILDLIFE RESOURCES SECTION

LEGISLATIVE RULE TITLE: WILD TURKEY REGULATIONS

1. Authorizing statute(s) citation 20-1-7(30)

2. a. Date filed in State Register with Notice of Hearing May 30, 1997

b. What other notice, including advertising, did you give of the hearing

Statewide DNR News Release

c. Date of Hearing(s) N/A

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

N/A

f. Name and phone number(s) of agency persons(s) to contact for additional information:

Gordon Robertson - 304-558-2771

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing: N/A
-

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

Attached N/A

CIRCUMSTANCES REQUIRING THE PROPOSED RULE

Information from the limited fall season turkey hunting survey is required to determine hunting success and hunter participation. Hunter success and hunter participation data are necessary to protect the resource from being overharvested and to maximize hunter participation in counties where a fall turkey permit season is held. During 1996, only 58% of the selected applicants returned a completed survey although they were instructed that they may be disqualified from future drawings. It is projected that survey participation will decline as successful applicants realize they will not be penalized. When response declines to the point reliability of results are questioned, second and perhaps third mailings will be required to increase response to levels that can be used to produce reliable results. The number of copies of the survey ad outgoing and return postage amount to in excess of \$1.00 per additional response generated. The turkey permits are free so any increase in effort to obtain reliable data will increase the costs to the Section.

SUMMARY OF THE RULE

To provide for a limited fall turkey hunting season in selected counties, the Division of Natural Resources must determine with some reason of accuracy the participation and success rate of those hunters who apply for a permit to hunt. This rule requires the hunter to return a hunter survey form at the close of the season this is the most effective method of obtaining the desired data.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Series 51, Wild Turkey Regulations

Type of Rule X Legislative Interpretive Procedural

Agency Division of Natural Resources, Wildlife Resources Section

Address Capitol Complex

Building 3, Room 842

Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	4467	0	0	4500	4500
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. **Explanation of above estimates:** Cost includes printing surveys, postage for initial and return mailings. No new staff is required.

3. **Objectives of these rules:** To require certain fall turkey hunters to return a hunting survey in order to be eligible to receive a permit to hunt in certain counties the following year.

4. Explanation of overall Economic Impact of Proposed Rule.

A. **Economic Impact on State Government:** Some additional license revenue will accrue to the Division of Natural Resources from the additional sale of licenses.

Rule Title: Series 51, Wild Turkey Regulations

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: Some positive additional economic impact will occur in rural areas of the state from the initiation of new fall wild turkey hunting seasons.

C. Economic Impact on Citizens/Public at Large: Positive. Producing additional hunting opportunity expands the positive economic impact of hunting.

Date: 5/27/97

**Signature of Agency or
Authorized Representative:**

A handwritten signature in cursive script, reading "Robert A. Reintsema", written over a horizontal line.

ROBERT A. REINTSEMA, COMMISSIONER

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 51
WILD TURKEY REGULATIONS

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§58-51-1. General.

1.1. Scope. -- The purpose of these regulations is to establish rules to manage the wild turkey within the boundaries of this State.

1.2. Authority. -- W. Va. Code §20-1-7(30).

1.3. Filing Date. --

1.4. Effective Date. --

§58-51-2. Definitions.

2.1. All terms have the meaning prescribed to them in The Regulations Defining The Terms To Be Used Concerning All Hunting and Trapping Regulations (58 C.S.R. 46). In addition, for the purposes of this regulation, the following terms have the meaning set forth in this section.

2.2. Game farm or pen-raised turkeys -- Game farm or pen raised turkeys are those birds or their offspring hatched from eggs taken by humans from a wild turkey nest or wild hen turkey raised under human control, and therefore imprinted to humans or other poultry under human control instead of a wild hen.

2.3. Domestic turkey -- A domestic turkey is a turkey that normally lives in and about the residences of West Virginians and depends upon humans for habitation, husbandry and/or as their sole source of year round sustenance.

2.4. Wild turkey -- A wild turkey is a turkey from wild native genetic stock living under the control of the laws of nature.

2.5. Release into the wild -- Release into the wild means a release into any area not enclosed by a fence or bounded by other like structure from which under normal circumstances a bird does not escape.

§58-51-3. Wild Turkey Hunting Rules.

3.1. The use of electronic turkey calling devices is prohibited during the wild turkey

seasons.

3.2. The use of dogs to hunt wild turkeys is prohibited during the spring wild turkey season.

3.3. Each person receiving a limited fall turkey hunting permit as provided under C.S.R. §58-45-5.1.3 shall return a completed survey form as prescribed by the Director.

3.3.1. Failure to return completed survey form shall disqualify the person from receiving a permit the following year.

§58-51-4. Possession, Propagation and Release of Pen-raised Turkeys.

4.1. It is unlawful to possess, propagate, or release into the wild, game farm or pen-raised turkeys: Provided, That existing stock may be possessed until December 31, 1993, but during this period the turkeys shall not be propagated or released into the wild,

4.2. It is unlawful to release domestic turkeys into the wild.