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For Department of State Use Only

Sequence Number: 05-06-09
Rule ID(s): 4200
File Date (effective date): 05/08/2009
End Effective Date: 10/20/2009

Emergency or Public Necessity Rule(s) Filing Form

Emergency and Public Necessity rules are effective from date of filing for a period of up to 165 days.

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Boating
Contact Person:	Lisa Crawford
Address:	PO Box 40747, Nashville, TN
Zip:	37204
Phone:	615-781-6606
Email:	Lisa.Crawford@tn.gov

Rule Type :

- Emergency Rule
 Public Necessity Rule

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Statement of Necessity:

Pursuant to T.C.A. 4-5-208 and T.C.A. 69-9-209, the Tennessee Wildlife Resources Commission is promulgating this emergency rule regarding operation of vessels on the Emory River, specifically Emory River Mile (ERM) 1.2 to 3.0, near the Kingston ash recovery operations area. This rule is necessary to insure the safety of recreational boaters and their equipment as well as the safety of TVA workers and TVA equipment.

This area of the river will see significant work activity from as many as five (5) dredges, cenosphere recovery craft and support vessels contracted by the Tennessee Valley Authority ("TVA"). There are numerous submerged hazards in this area that could impact unwary or unfamiliar boaters. TVA has marked appropriate warning and danger buoys in areas of known significant hazards and will continue to mark such areas as they are located.

This emergency rule would provide statutory authority to require persons entering the affected zone to operate at a Slow-No Wake speed. In light of the recent catastrophic ash spill near the zone, the Commission feels that the normal rule making process would not provide the immediate safeguards sought by TVA. Therefore, the Tennessee Wildlife Resources Commission feels the adoption of an emergency rule is justified and necessary.

For copies of the entire text of the proposed amendment, contact: Darren Rider, Assistant Chief of Boating, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1660-02-07	Rules and Regulations Governing Operations of Vessels
Rule Number	Rule Title
1660-02-07-.37	Emory River

Rulemaking Hearing Rules of the
Tennessee Wildlife Resources Agency

Rule Chapter 1660-02-07
Rules and Regulations Governing Operations of Vessels

Emergency Rule

Rule 1660 -02-07-.37 Emory River

Rule 1660-02-07-.37 Emory River

All motorboats being operated within Emory River Mile (ERM) 1.2 and ERM 3.0 shall be operated at a "Slow- No Wake" speed and shall not tow a person on water skis, surfboard or similar devices.

Authority: T.C.A. §§69-9-209 and 70-1-206.

The roll-call vote by the Tennessee Wildlife Resources Commission on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent
Mike Chase	✓			
Thomas Edwards	✓			
Jim Fyke				✓
Ken Givens				✓
Mike Hayes	✓			
Gary Kimsey				✓
Boyce Magli	✓			
Jeff McMillin	✓			
Mitchell S. Parks	✓			
Todd A. Shelton	✓			
Danya Welch				✓
Eric Wright	✓			
Johnny Coleman	✓			

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Wildlife Resources Commission on 04/23/2009, and is in compliance with the provisions of TCA 4-5-222.

I certify that this is an accurate and complete copy of emergency or public necessity rules, lawfully promulgated and adopted.



Date: 4-30-09

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 4-30-09

Notary Public Signature: Lisa Crawford

My commission expires on: 8-23-11

All emergency or public necessity rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

5-7-09

Date

Department of State Use Only

Filed with the Department of State on: MAY 8, 2009

Effective for: _____

165 days

Effective through: OCTOBER 20, 2009

* Temporary rules may be effective for up to 165 days from the date of filing.

Tre Hargett

Tre Hargett
Secretary of State

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Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule would establish a Slow, No-Wake zone on the Emory River- Emory River Mile (ERM) 1.2 to 3.0 in Roane County.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There is no mandate in state or federal law to establish this rule. There are guidelines and legal directives that must be followed if a lake zoning is established.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Boaters who utilize this particular section of the river will be most affected. The Tennessee Valley Authority officials who are conducting ash recovery operations in this section of the river urge adoption as does the Wildlife Resources Agency.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No increase or decrease in state expenditures is expected as a result of this rule.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Darren Rider, Assistant Chief of Boating, TWRA

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Nat Johnson, Assistant Executive Director, TWRA

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Nat Johnson; TWRA, P.O. Box 40747, Nashville, TN 37204 (615)781-6555

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

These no wake zones will include the areas where dredging has begun for the Kingston ash recovery operations. These zones will protect recreational boaters from submerged hazards, staged TVA equipment (dredges, recovery craft and support vessels) and will minimize the impact to water turbidity from disturbed ash during the dredging operations.