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For Department of State Use Only

Sequence Number: 05-26-09
Rule ID(s): 4212
File Date: 5/29/09
Effective Date: 8/12/09

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Wildlife
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (for additional chapters, copy and paste table)

Chapter Number	Chapter Title
1660-01-11	Rules and Regulations Governing Shooting
Rule Number	Rule Title
1660-01-11-.02	Operation of Private Wildlife Preserve

Rules
Of
Tennessee Wildlife Resources Agency

Chapter 1660-01-11
Rules and Regulations Governing Shooting

Amendment

1660-01-11-.02, Operation of Private Wildlife Preserve, is amended by adding a new subparagraph (b) to paragraph (2), Permits, to read as follows:

- (b) As of July 1, 2009, no new facilities will be issued a permit for the purpose of possessing and/or harvesting big game species under the authority of a Private Wildlife Preserve Permit.

Statutory Authority: §§70-1-206 and 70-4-413

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

Board Member	Aye	No	Abstain	Absent
R. B. "Buddy" Baird	✓			
Mike Chase	✓			
Johnny Coleman	✓			
Thomas H. Edwards	✓			
Jim Fyke	✓			
Ken Givens	✓			
Mike Hayes	✓			
Gary K. Kimsey	✓			
Boyce C. Magli	✓			
Mitchell S. Parks	✓			
Todd A. Shelton				✓
Hugh Simonton, Jr.	✓			
Danya Welch	✓			

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 11/20/2008 (mm/dd/yyyy), and is in compliance with the provisions of TCA §4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/29/2008

Notice published in the Tennessee Administrative Register on: 10/01/2008

Rulemaking Hearing(s) Conducted on: (add more dates). 11/20/2008

Date: 11/21/08

Signature: Gary T. Myers

Name of Officer: Gary T. Myers

Title of Officer: Executive Director



Subscribed and sworn to before me on: 11/21/08

Notary Public Signature: Lisa Crawford

My commission expires on: 8/23/11

All rulemaking hearing 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

5-26-09
 Date

Department of State Use Only

Filed with the Department of State on: 5/29/09

Effective on: 8/2/09

Tre Hargett

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which shall be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

RULE: 1660-01-11-.02

New	_____
Amendment	<u> X </u>
Repeal	_____

There were no public comments to the above-described rule.

Attached hereto are the responses to public comments.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule;

The Commission does not anticipate any impact on small businesses that are currently permitted. The Commission is unable to determine if any impact could be felt in area small businesses.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

The Commission anticipates no record keeping associated with this rule.

(3) A statement of the probable effect on impacted small businesses and consumers;

Again, the Commission anticipates no probable effect to small businesses and is without sufficient information to make such a statement.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business;

The Commission is unaware of alternatives of the proposed rule and does not believe the rule as proposed would be burdensome to small businesses.

(5) A comparison of the proposed rule with any federal or state counterparts;

The Commission is not aware of any federal or state counterparts to this rule.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The Commission anticipates no probable effect to small businesses and exemptions to this rule would likely not be beneficial.

Additional Information Required

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 amendment would prohibit the issue of a big game preserve permit for new facilities. The amendment does not prohibit the renewal of big game preserve permits for existing facilities.

- (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;

T.C.A. 70-1-206 grants authority to the Tennessee Wildlife Resources Commission (T.W.R.C.) to promulgate rules. Furthermore, T.C.A. 70-4-413 grants authority to the Tennessee Wildlife Resources Commission to promulgate rules and regulations in regard to private wildlife preserves.

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

Private wildlife preserve operators and the Tennessee Wildlife Resources Agency are effected most directly by this rule. Current private wildlife preserve operators and the Tennessee Wildlife Resources Agency are urging the adoption of this rule.

- (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;

If this rule amendment passes, it would preclude the revenue of additional big game preserve permits and the agency's expenditure in association with new permits. Since expenditures exceed revenue per permit, a savings of agency dollars would occur.

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

Walter Cook
T.W.R.A. Captive Wildlife Coordinator
615-781-6647

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

Nat Johnson, TWRA Assistant Executive Director, will explain the rule at the scheduled meeting of the Government Operations Committees.

- (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

Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 781-6555.

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

Since January, 2008, six additional big game preserves have been permitted. These preserves, while in compliance with the rule, are smaller than most of the established preserves. This has prompted concerns over fair-chase and the spread of disease. In addition, with the growing population of the State of Tennessee, some of these new preserves have located themselves adjacent in populated areas, thus resulting in conflict between the preserves and the citizenry.