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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

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(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

New Rule

Chapter 0400-01-01
Fees and Charges for Certain Departmental Services

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0400-01-01-.01 Reserved

0400-01-01-.02 Miscellaneous Fees

(1) Purpose

The purpose of this Rule is to establish a process for assessing fees and charges for certain departmental services. Pursuant to T.C.A. § 11-3-302, fees and charges related to park operations shall be placed in the state park fund. Pursuant to T.C.A. § 68-203-101, fees and charges, for the environmental programs listed in subsection (b) of that statute, shall be placed in the Tennessee Environmental Protection Fund.

(2) Assessment of certain fees and charges

To defray the cost of park operation and the administration of environmental regulatory programs, the Commissioner shall establish fees and charges as are necessary to make the department as self-sufficient as possible. The Commissioner may set fees and charges for:

- (a) Revenue-generating facilities, including marinas, campgrounds, golf courses, cabins, gift shops, restaurants;
- (b) Miscellaneous services provided by the Department; and,
- (c) Regulatory functions and services provided for which fees are not otherwise specified in statutes or rules.

(3) In setting such fees and charges the Commissioner shall consider:

- (a) Maintenance costs;
- (b) Short and long term operational cost;
- (c) Mileage;
- (d) Lab expense;
- (e) The State's current overhead rate;
- (f) Costs billed to the State by contractors and consultants; and,
- (g) A reasonable portion of the amount expended by the Department in gathering and posting data, computer program development cost, etc.

0400-01-01-.03 State Parks Entrance Fees and Parking Fees.

(1) Purpose.

This rule is promulgated for the purpose of establishing entrance fees and parking fees to provide funding to maintain and improve the quality of facilities and services offered to all patrons of Tennessee State Parks System. It is the commissioner's intent that funds raised pursuant to this part rule will remain exclusively within the Tennessee State Parks System.

(2) Entrance Permit Required.

All persons who enter a Designated Fee Area within the Tennessee State Parks System must have a valid entrance permit. Permits may be obtained at all Parks Visitor Centers and other locations designated by the commissioner.

(3) Designated Fee Area.

An area is a "Designated Fee Area" if the entrances to the area are so posted. Such postings may include the portion of the calendar year for which fees shall be charged and shall specify where entrance permits may be obtained. Any person who fails to obtain a permit as directed shall be subject to enforcement pursuant to Rule 0400-02-01-.04.

(4) Types of Permits.

(a) Complimentary Permit. Entrance permits shall be provided free of charge to the following persons:

1. Any person taking part in an organized tour or outing conducted for educational or scientific purposes related to the resources of the area visited by bona fide institutions established for these purposes. (Applicants for waiver of fees on this basis will be required to provide documentation of their official recognition as educational or scientific institutions by Federal, State or local government bodies and will also be required to provide a statement as to the purposes of the visit proposed. Waivers granted on this basis will include all participating students and instructors, as well as accompanying non instructor chaperones;
2. Any person conducting State, local, or Federal government business within any Designated Fee Area;
3. Any person who has not reached thirteen (13) years of age; or
4. Any person performing approved volunteer projects/work in a State park.

(b) Tennessee State Parks Passport.

1. The Tennessee State Parks Passport is valid for admission to any Designated Fee Area.
2. The charge for the Tennessee State Parks Passport shall be determined by the Commissioner.
3. Except as provided in part 4 of this subparagraph, the Tennessee State Parks Passport shall be valid for one year from date of purchase.
4. For an additional fee determined by the Commissioner, a Tennessee State Parks Passport that is purchased by a person sixty-five (65) years of age or older shall be valid for the lifetime of that person.

(c) Single-Visit Permit.

1. A Single-Visit Permit shall be required for all persons not admitted by a Complimentary Permit or Tennessee State Parks Passport.

2. The charge for the Single-Visit Permit shall not be more than two dollars (\$2.00) per person. In lieu of this per person charge, the commissioner may establish a per vehicle charge. Any per vehicle charge established shall not exceed the total charge that would result if all passengers in the vehicle were charged on a per person basis.
 3. A Single-Visit Permit shall be valid at the Designated Fee Area for which the permit is purchased during the same calendar day of purchase.
- (5) Display and Nontransferability of Entrance Permits.
- (a) Every permit shall be exhibited/displayed in the manner designated in the permit.
 - (b) Permits are nontransferable.
- (6) Parking Fees.
- (a) The Commissioner may charge a fee for the privilege of parking motor vehicles on State Park property. Such parking fees may be in addition to entrance fees.
 1. The parking fee for vehicles capable of carrying fifteen (15) passengers or less shall range between one dollar (\$ 1.00) and fifteen dollars (\$15.00) per day.
 2. The parking fee for vehicles capable of carrying more than fifteen (15) passengers shall range between ten dollars (\$ 10.00) and fifty dollars (\$50.00) per day.
 3. The Commissioner may establish weekly, monthly, or annual parking fees that do not exceed the daily rates.
 - (b) Areas where a parking fee is charged shall be clearly posted. The posted sign shall include the rate and directions for making payment.
- (7) Entrance Permits and Parking Fees Distinguished from Recreation Use Fees.
- Neither Entrance Fee Permits nor the payment of parking fees authorizes the use of any facility for which a recreation use fee is charged. These fees are in addition to all other fees (e.g., green fees, slip fees, etc).
- (8) The Commissioner may waive all or part of any fees otherwise due under this rule if he finds that such waiver is in the best interest of the park system. Such waivers may include the grant of free access on dates selected by the Commissioner, reduced group fees, special promotional fees, etc.

Authority: T.C.A. §§ 11-1-101, 11-1-108 and 68-203-103.

Chapter 0400-02-01
General

Amendment

Chapter 0400-02-01 General is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-01 shall read as follows:

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0400-02-01-.01 Applicability and Scope	0400-02-01-.03 Definitions
0400-02-01-.02 Reserved	0400-02-01-.04 Penalties

0400-02-01-.01 Applicability and Scope.

Tennessee State Parks and natural areas belong to the people of the State and are for the recreational use of the public and require protection and preservation. All visitors are welcome. To prevent abuse and misuse of the privileges and facilities provided, the following rules and regulations governing public use are adopted. The following rules and regulations apply to all state parks and state natural areas. If there is a conflict between these rules and a Natural Resource Rule in Chapter 0400-06-02, the more stringent rule shall apply.

Authority: T.C.A. §§ 11-1-108 and 11-14-104.

0400-02-01-.02 Reserved.

Authority: T.C.A. § 11-1-108.

0400-02-01-.03 Definitions.

- (1) The following definitions shall apply to these regulations:
 - (a) The term "Commissioner" shall mean the Commissioner of the Tennessee Department of Environment and Conservation.
 - (b) The term "Assistant Commissioner" shall mean the Director of the Division of State Parks.
 - (c) The term "Park Manager" includes any official in charge of a park area, or his authorized representative.
 - (d) The term "Authorized Person" includes any person authorized to enforce the provisions of these regulations.
 - (e) The term "Park Area" includes all state-owned or controlled lands administered by the Tennessee Department of Environment and Conservation, Division of Parks and Recreation.
 - (f) The term "Natural Area" includes all natural areas which are designated as natural areas by the Legislature.
 - (g) The term "Cultural Area" includes all those park areas which due to their cultural significance are determined to be on or eligible for listing on the National Register of Historic Places.
 - (h) The term "Recreational Area" includes all State lakeshores, scenic riverways, recreational areas, and all other park areas administered by the Division of State Parks primarily for the purpose of public recreation.

Authority: T.C.A. §§ 11-1-108 and 11-3-101.

0400-02-01-.04 Penalties.

Any violation of these rules and regulations for the care and management of such properties as may be made under the authority of T.C.A. §11-1-108 shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

Authority: T.C.A. §11-1-108.

Chapter 0400-02-02
Public Use and Recreation

Amendment

Chapter 0400-02-02 Public Use and Recreation is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-02 shall read as follows:

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0400-02-02-.01 Abandoned and Unattended Property	0400-02-02-.18 Preservation of Public Property, Natural Features, Curiosities, and Resources
0400-02-02-.02 Aircraft	0400-02-02-.19 Public Assemblies, Meetings
0400-02-02-.03 Audio Devices	0400-02-02-.20 Report of Injury or Damage
0400-02-02-.04 Begging and Soliciting	0400-02-02-.21 Saddle and Pack Animals
0400-02-02-.05 Camping	0400-02-02-.22 Sanitation
0400-02-02-.06 Closing of Areas	0400-02-02-.23 Scientific Specimens
0400-02-02-.07 Disorderly Conduct	0400-02-02-.24 Skates, Skateboards, Roller Blades, Segways, Scooters and Like Recreational Equipment
0400-02-02-.08 Dogs, Cats, and Other Pets	0400-02-02-.25 Special Events
0400-02-02-.09 Explosives	0400-02-02-.26 Swimming and Bathing
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0400-02-02-.13 Fishing	0400-02-02-.30 Wildlife; Hunting
0400-02-02-.14 Alcoholic Beverages	0400-02-02-.31 Winter Sports
0400-02-02-.15 Lost and Found Articles	0400-02-02-.32 Reserved
0400-02-02-.16 Picnicking	
0400-02-02-.17 Portable Engines and Motors	

0400-02-02-.01 Abandoned and Unattended Property.

- (1) Abandonment of any vehicle or other personal property is prohibited in a park area and such property may be impounded by the Park Manager or an authorized person.
- (2) Leaving any vehicle or other personal property unattended for longer than 24 hours, without prior permission of the Park Manager, is prohibited and any property so left shall be impounded by the Park Manager. In the event unattended property interferes with a safe and orderly management of the park area, it may be impounded by the Park Manager at any time.

Authority: T.C.A. § 11-1-108.

0400-02-02-.02 Aircraft.

- (1) The operation or use of aircraft on lands or waters other than at the landing areas designated in special regulations is prohibited. Where a water surface is designated as a landing area, the operation or use of aircraft on the water within 500 feet of bathing beaches, boat docks, floats, piers, ramps, or within one mile of water controlled structures, except as otherwise provided by special regulations, is prohibited.
- (2) Except in extreme emergencies involving the safety of human life or threat of serious property loss, the air delivery of any person or thing by parachute, helicopter, or other means without prior written permission of the Park Manager is prohibited.
- (3) The provisions of this rule shall not be applicable to aircraft engaged on official business of the Federal Government or State Government, or used in emergency rescue in accordance with the directions of the Park Manager, or forced to land due to circumstances beyond the control of the operator.
- (4) The operation of aircraft shall be in accordance with current applicable regulations of the Federal Aviation Agency, State Aviation Commission and posted regulations of the individual Recreation Airports within the park areas.

Authority: T.C.A. § 11-1-108.

0400-02-02-.03 Audio Devices.

- (1) The operation or use of any audio devices including radios, television sets, musical instruments, and noise producing devices such as electric generating plants, or other equipment driven by motors or engines in such a manner and at such times so as to unreasonably annoy persons in campgrounds,

picnic areas, lodges, or at other public places or gatherings is prohibited.

- (2) The operation or use of public address systems, whether fixed, portable, or vehicle mounted on lands, waters, and highways, is prohibited except when such use or operation is in connection with public gatherings or special events for which permits have been issued by the Park Manager.
- (3) The installation of aerials or other special radio, telephone, or television equipment is prohibited unless authorized by the Park Manager.

Authority: T.C.A. § 11-1-108.

0400-02-02-.04 Begging and Soliciting.

- (1) Begging is prohibited.
- (2) Hitchhiking or the soliciting of transportation is prohibited.
- (3) Commercial soliciting of any kind without a permit is prohibited: provided, that this rule shall not apply to transactions with authorized concessioners.

Authority: T.C.A. § 11-1-108.

0400-02-02-.05 Camping.

- (1) Camping and the use of trailers or other camper units is permitted only at designated location: provided, however, that the Park Manager may issue written permits to persons desiring to camp in backcountry, or other isolated sections of a park area, or may designate portions of the park area in which such permits will not be required by marking on a map which shall be available for public inspection in the Park Offices.
- (2) Within designated locations, the pitching of tents or parking of trailers or other camper units is permitted only at the sites designated.
- (3) The Assistant Commissioner and/or Area Manager may establish limitations on the length of time persons may camp within a park area, either in a single period or in combined separate periods. Such limitations shall be posted at campgrounds, ranger stations, or other appropriate locations.
- (4) The installation of permanent camping facilities is prohibited.
- (5) The digging or leveling of the ground at any campsite is prohibited.
- (6) Camping equipment must be completely removed and camping sites cleaned by campers before departure.
- (7) Quiet shall be maintained in all campgrounds between the hours of 10:00 p.m. and 6:00 a.m.
- (8) The gathering of wood for use as fuel in campgrounds or picnic areas shall be limited to dead material on the ground, except where such gathering is prohibited by the Park Manager by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.06 Closing of Areas.

The Park Manager may establish a reasonable schedule of visiting hours for all portions of a park area and close or restrict the public use of all or any portion of a park area, when necessary for the protection of the area or the safety and welfare of persons or property by the posting of appropriate signs indicating the extent and scope of closure. All persons shall observe and abide by the officially posted signs designating closed areas and visiting hours.

Authority: T.C.A. § 11-1-108.

0400-02-02-.07 Disorderly Conduct.

- (1) Disorderly conduct is prohibited.
- (2) Offense defined: A person is guilty of disorderly conduct with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, if he shall:
 - (a) Engage in fighting or in threatening, violent or tumultuous behavior; or
 - (b) Make unreasonable noise or make an offensively coarse utterance, gesture, or display, or address abusive language to any person present; or
 - (c) Create a hazardous or physically offensive condition by any act or threat of action.

Authority: T.C.A. § 11-1-108.

0400-02-02-.08 Dogs, Cats, and Other Pets.

- (1) Dogs, cats and other pets are prohibited unless they are crated, caged or on a leash, or otherwise under physical restrictive control at all times.
- (2) Pets are prohibited in park inns, cabins, lodges (except in areas specifically designated for pets), public eating places, food stores, and on designated swimming beaches, public spray pads and pools at all times. The Park Manager may also designate, by the posting of appropriate signs, other portions of park areas where pets are not permitted. This prohibition shall not apply to Seeing Eye Dogs or Hearing Ear Dogs or service animals with their master.
- (3) The keeping of dogs, cats or other pets by residents is prohibited unless authorized by the Park Manager under such conditions as they may prescribe.
- (4) Dogs, cats or other pets running at large and observed in the act of killing, injuring or molesting humans or wildlife may be disposed of in the interest of public safety and protection of the wildlife.
- (5) In park areas where hunting is permitted, the use of dogs may be allowed in accordance with rules of the Tennessee Wildlife Resources Commission.
- (6) Persons shall clean up a pet's waste in any park area. Failure to clean up the waste is a violation of park rules.

Authority: T.C.A. §11-1-108.

0400-02-02-.09 Explosives.

- (1) The use or possession of explosives is prohibited except upon written permission of the Park Manager. Any authorized use or possession of explosives shall conform with all applicable Federal, State, and local laws.
- (2) The use or possession of fireworks and firecrackers is prohibited, except upon written permission of the Park Manager.

Authority: T.C.A. § 11-1-108.

0400-02-02-.10 False Reports.

The giving of any false or fictitious report or other information to any authorized person investigating an accident or any violation of law or regulations is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-.11 Firearms, Traps, and Other Weapons.

In park, natural, and historical areas the use of traps, seines, handthrown spears, nets (except landing nets), firearms (including air and gas powered pistols and rifles), blow guns, bows and arrows or crossbows, and any other implements designed to discharge missiles in the air or under the water which are capable of destroying animal life is prohibited. The possession of such objects or implements is prohibited unless they are unloaded and adequately cased, or broken down or otherwise packed in such a way as to prevent their use while in the park areas.

- Exception 1: Shooters may use recreational target shooting ranges available for skeet, trap and bow and arrow target shooting within a park area as long as these weapons are properly cased when not on the range.
- Exception 2: Authorized Federal, State, County and City law enforcement officers may carry firearms in the performance of their official duties.
- Exception 3: Persons using park area facilities while participating in authorized open or managed hunts within the park areas or beyond, may use and possess firearms under the specific rules and regulations pertaining to the authorized hunt and only in the authorized hunting zones or compartments.

Authority: T.C.A. § 11-1-108.

0400-02-02-.12 Fires.

- (1) The kindling of any fire is permitted only:
 - (a) In designated camping and picnic grounds when the fire is confined in a fireplace provided for the use of visitors, or grills, or in locations marked by the Park Manager; or
 - (b) In other locations, including backcountry, wilderness and remote sections of the park areas when a written permit has been secured from the Park Manager; or
 - (c) In stoves or lanterns using gasoline, propane, butane gas or similar fuels.
- (2) Fires must be kindled in such manner that no tree, shrub, grass, or other inflammable or combustible matter will be set on fire or caused to be set on fire.
- (3) When no longer needed, the fire shall be completely extinguished. Leaving a fire unattended is prohibited.
- (4) Throwing or dropping a lighted cigarette, cigar, pipe heel, match or other burning material is prohibited.
- (5) The kindling of fires on park area lands and privately owned lands under the legislative jurisdiction of the State of Tennessee may be prohibited or limited by the Park Manager by posted signs when the fire hazard makes such action necessary.
- (6) The Park Manager, during such periods of time as he may prescribe, may prohibit smoking on any lands, including roads and trails, by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.13 Fishing.

- (1) Unless further restricted herein or by special regulation, fishing within park areas shall be in accordance with the laws and regulations of the Tennessee Wildlife Resources Agency.
- (2) Fishing in all park lakes may require a fishing permit for which there may be a nominal charge.

- (3) Digging for bait is prohibited within all park areas.
- (4) The transplanting or introducing of any live fish or fish eggs into the waters of any park area is prohibited.
- (5) Fishing is prohibited from within 200 feet of any public raft or float designed for water sports or within the limits of designated mooring areas or swimming areas. Fishing from within 200 feet of public boat docks with designated harbors may be prohibited by the Park Manager by the posting of appropriate signs.
- (6) Fishing from motor vehicle bridges is prohibited.
- (7) State fishing licenses and park permits must be exhibited upon demand to any person authorized to enforce the provisions of these regulations.

Authority: T.C.A. § 11-1-108

0400-02-02-.14 Alcoholic Beverages.

- (1) Except in facilities that are licensed to sell alcoholic beverages, consumption of alcoholic beverages within state park areas that are open to the general public is forbidden.
- (2) Except in facilities that are licensed to sell alcoholic beverages, the public display of any container of alcoholic beverages is prohibited within state park areas that are open to the general public.

Authority: T.C.A. § 11-1-108.

0400-02-02-.15 Lost and Found Articles.

All lost articles shall be deposited by the finder at the office of the Park Manager or at the nearest Ranger Station, leaving the name and address of the finder. Articles not claimed within thirty (30) days will be sent to the finder if they so request.

Authority: T.C.A. § 11-1-108.

0400-02-02-.16 Picnicking.

- (1) In Natural and Cultural areas, picnicking is prohibited except in those locations designated by the Park Manager, by posting of appropriate signs.
- (2) In recreation areas, picnicking is permitted unless appropriate signs have been posted by the Park Manager identifying locations where picnicking is not permitted.

Authority: T.C.A. § 11-1-108.

0400-02-02-.17 Portable Engines and Motors.

The operation or use of a portable motor-driven electric generating plant, pump, or other equipment driven by a portable engine or motor outside any developed or public use area without written permission from the Park Manager, is prohibited. The Park Manager may issue a permit for the use if he determines that the applicant has submitted satisfactory justification for the use of such equipment, that natural resources will not be impaired, and that no undue interference with public enjoyment of the park area will result. This rule does not apply to outboard motors in areas where outboard motorboating is permitted, nor does it apply to electric generating plants on vessels.

Authority: T.C.A. § 11-1-108.

0400-02-02-.18 Preservation of Public Property, Natural Features, Curiosities and Resources.

- (1) The intentional or wanton destruction, defacement, or removal of any natural or cultural feature or non-

renewable natural resource is prohibited without a permit granted pursuant to rule 0400-02-02-.23 Scientific Specimens.

- (2) The intentional or wanton destruction, injury, defacement, removal or disturbance in any manner of any public buildings, signs, equipment, monument, marker or other structure or of any relic, artifact, ruin or historic or pre-historic feature or of any other similar public property is prohibited. The intentional or wanton possession of park equipment is prohibited without the authorization of the Park Manager or his designate.
- (3) Gathering or collecting for personal use reasonable quantities of natural products of a renewable nature including but not limited to fruits, berries, and driftwood is permitted; however, the gathering or collecting of such products for the purpose of commercial sale or other commercial use is prohibited.
- (4) The gathering or collecting of small quantities of pebbles or small rocks by hand for personal use is permitted; however, the collection of such objects for the purpose of commercial sale or other commercial use is prohibited.
- (5) The destroying, digging, cutting, removing, or possession of any tree, shrub, or other plant is prohibited without a permit granted by the Assistant Commissioner of Parks and Recreation.
- (6) The use of any mineral or metal detecting device capable of detecting the underground or underwater location of geological, archaeological or historical objects or materials is prohibited. Provided, however, that this rule shall not apply to:
 - (a) fathometers, radar equipment and electronic equipment used primarily for the navigation and safe operation of boats and aircraft;
 - (b) persons possessing a permit from the State Archaeologist to conduct legitimate archaeological research when such permit is signed by the Assistant Commissioner of Parks and Recreation; and
 - (c) an individual engaged in a limited search for a lost item under supervision of the Park Manager.

Authority: T.C.A. § 11-1-108.

0400-02-02-.19 Public Assemblies, Meetings.

- (1) Public meetings, assemblies, gatherings, demonstrations, parades and other public expressions of views are permitted within park areas on lands which are open to the general public provided a permit has been issued by the Park Manager.
- (2) Any application for such a permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, and estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith.
- (3) The Park Manager shall issue a permit on proper application unless:
 - (a) A prior application for the same time and place has been made which has been or will be granted; or
 - (b) The event will present a clear and present danger to the public health or safety; or
 - (c) The event is of such nature or duration that it cannot reasonably be accommodated in the particular park area applied for.

Authority: T.C.A. § 11-1-108.

0400-02-02-.20 Report of Injury or Damage.

All incidents resulting in injury to persons or damage to property must be reported by the person or persons involved as soon as possible to the Park Manager. This report does not relieve persons from the responsibility of making any other accident reports which may be required under State law.

Authority: T.C.A. § 11-1-108.

0400-02-02-.21 Saddle and Pack Animals.

- (1) Horses and other saddle or pack animals are permitted only on those trails or routes established for their use, except in those areas where cross-country travel is permitted by the Park Manager.
- (2) The use of horses or other saddle or pack animals upon the main traveled or maintained portion of roadways is prohibited except where such travel is necessary for ingress to and egress from trails or privately owned property, or is incidental to authorized travel.
- (3) In the interest of the public safety and welfare the Park Manager, by special regulation, may require that saddle horse parties and pack trains shall be in the charge of a guide who has been licensed under State or local laws or who meets qualifications which may be established by the Park Manager, or both, if the Park Manager deems it necessary.
- (4) Riding or hitching horses, or other saddle or pack animals in campgrounds, picnic areas, or within the immediate vicinity of trail shelters, eating or sleeping establishments or other areas of public gatherings, except where trails and facilities are designated or provided for such use, is prohibited.
- (5) Riders shall slow their horses to a walk or slow trot when passing persons on foot or on bicycles.

Authority: T.C.A. § 11-1-108.

0400-02-02-.22 Sanitation.

- (1) All garbage, papers, cans, bottles, waste materials and rubbish of any kind must be disposed of only at points or places designated for the disposal thereof, or removed from the area.
- (2) Draining or dumping refuse or wastes from any trailer, or other vehicle except in places or receptacles provided for such use is prohibited.
- (3) Cleaning food or washing clothing or articles of household use at campground hydrants is prohibited.
- (4) Polluting or contaminating in any manner any watershed, water supplies or water used for drinking purposes is prohibited.
- (5) Fish entrails or other inedible parts of fish shall not be thrown into fresh waters or onto park area lands in areas of public concentration.
- (6) Depositing any body waste in or on any portion of any comfort station or other public structure except into fixtures provided for that purpose is prohibited. Placing any bottle, can, cloth, rag, metal, wood, or stone substances in any of the plumbing fixtures in such station or structure is prohibited. All comfort stations shall be used in a clean, sanitary, and orderly manner.
- (7) Urinating or defecating other than at the places provided is prohibited, except in backcountry, wilderness or other remote areas.
- (8) Using State refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought as such from private property is prohibited.
- (9) Washing of vehicles, trailers, and boats at campground hydrants is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-.23 Scientific Specimens.

Unless specifically permitted by other regulations, the collection of plants, rocks, minerals, animal life, botanical specimens, or other natural objects or artifacts, or cultural artifacts is permitted only after the collector has received a written permit from the Assistant Commissioner of Parks and Recreation.

- (1) No permits will be issued to any individuals or associations to collect specimens for personal use but only to persons officially representing reputable scientific or educational institutions in procuring specimens for research, group study or museum display.
- (2) Permits will be issued only on condition that the specimens taken will become part of the permanent collection of a public museum or herbarium or will in some suitable way be made permanently available to the public and the scientific community.
- (3) No permits may be granted for the collection of specimens, the removal of which would disturb the remaining natural features or mar the appearance of a park area.
- (4) Permits to secure "rare" natural objects, flora or fauna will be granted by the Assistant Commissioner only upon proof of special need for scientific use and of the fact that such cannot be secured elsewhere.
- (5) The Assistant Commissioner may require that the collector provide a complete report of the scientific investigation to the Department of Environment and Conservation as a condition of granting a permit.
- (6) The Assistant Commissioner of Parks and Recreation is responsible for coordinating the approvals of the Division of Ecological Services and the Division of Archaeology before granting permits to collectors on state park properties in cases where these Divisions have oversight interests.

Authority: T.C.A. § 11-1-108.

0400-02-02-.24 Skates, Skateboards, Roller Blades, Segways, Scooters and Like Recreational Equipment.

The use of roller skates, skateboards, roller blades, segways, scooters and like recreational equipment are prohibited except in locations designated by the Park Manager by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.25 Special Events.

Sports events, pageants, reenactments, regattas, entertainments and the like, characterized as public spectator attractions, are prohibited unless written permission has been given by the Park Manager. Such permits may be issued only after a finding that the issuance of such permit will not be inconsistent with the purposes for which the area is established and maintained, and will cause the minimum possible interference with use of the area by the general public. The permit may contain such reasonable conditions and restrictions as to duration and area occupied as are necessary for protection of the area and public use thereof.

Authority: T.C.A. §11-1-108.

0400-02-02-.26 Swimming and Bathing.

- (1) Swimming and bathing are prohibited except in designated beach areas, waters and pools.
- (2) The Park Manager, with the approval of the Assistant Commissioner of Parks and Recreation, may post and enforce appropriate rules and regulations governing swimming areas. Violators of posted rules governing the use of pools and beaches will be subject to removal from the premises if the violation is flagrant or repeated or if in the judgment of the Park Manager the continued presence of the violator would create a hazardous condition in the area.
- (3) The Park Manager or his designated staff in a pool or beach area are charged with providing a safe condition in these areas and as such may, from time to time, regulate public use of these facilities for the

protection of public health and safety. Nothing in these rules shall be construed as limiting the authority of a lifeguard or other personnel in regulating public behavior at beaches and other swimming areas, to only posted rules.

- (4) Scuba diving is prohibited within the limits of designated swimming, boat mooring, and boat docking areas.
- (5) Scuba diving will be permitted in those state park lakes which are within the borders of a park but only upon receiving a permit to do so from the Park Manager or his authorized representative. This permit will be granted upon demonstration by the applicant that he/she has received scuba certification which is granted to those successfully completing courses meeting the "Revised Instructional Standards: Minimum Course Content for Entry-Level Scuba Certification," January 16, 1986, including any subsequent revision to these standards. These standards are subscribed to by: National Association of Scuba Diving Schools, National Association of Underwriter Instructors, NAVI, PADI, Scuba Schools International and the YMCA. Provided, however, the Park Manager may refuse to grant a permit whenever in his judgment safety conditions or park operation concerns dictate.

Authority: T.C.A. § 11-1-108.

0400-02-02-.27 Tampering with Vehicle or Vessel.

Tampering or attempting to tamper with any vehicle, vessel or other equipment which is not lawfully in one's possession or control, or entering or going upon, moving or manipulating any of the parts or components of any vehicle, vessel or other equipment or starting or setting the same in motion, except under such lawful possession or control, are prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-.28 Travel on Trails.

- (1) The use of bicycles, motorcycles, snowmobiles, and other motor vehicles is prohibited on trails in park areas unless otherwise designated by the Park Manager by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.29 Water Skiing.

- (1) In lakes which are totally within the boundaries of a park area, the towing of water skis and similar devices by vessels is prohibited. In other lakes, water skiing is permitted except in waters which are posted by appropriate signs or markers.

Authority: T.C.A. § 11-1-108.

0400-02-02-.30 Wildlife; Hunting.

- (1) The hunting, killing, wounding, frightening or capture at any time of any wildlife is prohibited, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury. Exception: On park areas during those times when hunts are being conducted in accordance with Tennessee Wildlife Resources Agency's laws and regulations.
- (2) Except as otherwise provided herein, the feeding, touching, teasing, molesting or intentional disturbance of any wildlife or the activities or phenomena of wildlife is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-.31 Winter Sports.

- (1) Skiing, sledding, tobogganing, snowshoeing, skating, and other similar winter sports are permitted except upon roads and parking areas when such roads and parking areas are open to motor vehicle traffic and in

other places where these activities are prohibited by posted signs.

- (2) The towing of persons on skis, sleds, or other sliding devices is permitted only on routes or in locations designated by the Park Manager. Such designations may be made by marking on a map of the area which shall be available for public inspection at the park office, or by posting of signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.32 Reserved

Authority: T.C.A. § 11-1-108.

Chapter 0400-02-03
Boating

Amendment

Chapter 0400-02-03 Boating is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-03 shall read as follows:

Table of Contents

0400-02-03-.01 Additional Regulations	0400-02-03-.04 Safety Factors
0400-02-03-.02 Definitions	0400-02-03-.05 Prohibited Operations
0400-02-03-.03 Boat Launching	0400-02-03-.06 Restricted Waters

0400-02-03-.01 Additional Regulations.

In addition to the Park Regulations contained in this rule, the U.S. Coastguard Regulations, Titles 33 and 46 Code of Federal Regulations, and the Tennessee Boating Safety Act of 1965, as amended, must also be observed.

Authority: T.C.A. § 11-1-108.

0400-02-03-.02 Definitions.

- (1) "Vessel" includes every type or description of craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. This definition includes but is not limited to the following: Boat, motorboat, houseboat, rowboat, powerboat, jet boat, fishing boat, towboat, scow, flatboat, sailboat, cruiser, motor vessels, ship, barge, tug, floating cabana, party boat, charter boat, ferryboat, canoe, raft, or any buoyant device permitting or capable of free flotation.
- (2) "Motorboat" means any vessel propelled by machinery of 65 feet or less in length, whether or not such machinery is the principal source of power.
- (3) "Motor Vessel" means any vessel propelled by machinery over 65 feet in length, whether or not such machinery is the principal source of power.
- (4) "Sailboat" or "Sail Vessel" means any vessel propelled solely by wind effect on the sail.

Authority: T.C.A. § 11-1-108.

0400-02-03-.03 Boat Launching.

- (1) The Division of Parks and Recreation may establish a charge for the launching of private boats into lakes, rivers, or navigable streams accessible from park lands where such charge is otherwise permitted by statute or by the conditions under which the Division accepted title to these park lands.
- (2) The Division of Parks and Recreation may prohibit the launching of personally owned boats on park lakes

which are totally within the boundaries of a park.

Authority: T.C.A. § 11-1-108.

0400-02-03-.04 Safety Factors.

- (1) All persons under sixteen (16) years of age must be accompanied by an adult before fishing from boats except those children between 12 and 15 not using power-operated boats on the small park lakes.
- (2) Boats shall not be operated in a reckless manner and shall not exceed five (5) miles an hour (except on open waters adjacent to park areas where there are no other speed restrictions).
- (3) All occupants of a canoe must wear a life preserver on park-managed lakes and streams.
- (4) All occupants of other types of park-owned boats are required to have a flotation device (furnished by the park) for every passenger.

Authority: T.C.A. § 11-1-108.

0400-02-03-.05 Prohibited Operations.

- (1) No operator or person in charge of any vessel shall operate or knowingly permit any other person to operate a vessel in a reckless or negligent manner, or in a manner so as to endanger or be likely to endanger any person or property.
- (2) No operator shall permit any person to ride on the gunwales, transom, or on the decking over the bow of a vessel propelled by machinery while the vessel is underway, unless the vessel is adequately equipped with rails or guards: provided, however, that this shall not apply while the vessel is being maneuvered for mooring or unmooring, or when embarking or disembarking passengers.
- (3) No privately owned vessel shall be used to carry passengers for hire, or be used in any other commercial operation, unless written authorization has been granted by the Assistant Commissioner, except as provided by special regulations for areas having navigable waters.
- (4) Vessels transported by vehicles must be launched or removed from the waters only at designated launching sites.
- (5) No vessel shall be operated within 200 feet of any designated swimming area.
- (6) All vessels shall proceed with due caution and at slow speed while underway when in the vicinity of any diver's marker, designated by a standard square-shaped flag containing a white diagonal stripe on a red field.
- (7) No vessel shall be operated in excess of five (5) miles per hour within designated harbors.
- (8) Attaching a vessel to or interfering with any marker, navigational buoy, or other navigational aid is prohibited.
- (9) Leaving any vessel unattended, outside of designated mooring or beaching areas, for a period in excess of 24 hours without prior written permission of the Park Manager is prohibited, and any vessel so left may be impounded by the Park Manager.
- (10) Vessels equipped with a propeller above the water line, commonly referred to as an "airboat" are prohibited.
- (11) No log boom, pier, dock, fence, pile, raft, anchorage, or other obstruction shall be installed in the waters of any park.

Authority: T.C.A. § 11-1-108.

0400-02-03-.06 Restricted Waters.

- (1) No vessel shall be operated on any waters which are zoned or marked as migratory bird waters, or for fish cultural or wildlife uses.
- (2) No vessel shall approach any dam or other engineering works closer than the limits posted with appropriate signs or markers.
- (3) The Park Manager may close or otherwise restrict the use of any body of water when necessary to protect life or property, or for any other emergency. Such restricted area shall be defined, whenever practicable, by signs or markers.
- (4) The Park Manager may, by the posting of appropriate signs, establish limitations on the time allowed for camping on or from vessels, either in single periods, or combined separate periods, in any area waters or portions thereof.

Authority: T.C.A. § 11-1-108.

Chapter 0400-02-05
Vehicles and Traffic Safety

Amendment

Chapter 0400-02-05 Vehicles and Traffic Safety is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-05 shall read as follows:

Table of Contents

0400-02-05-.01 State Law Applicable	0400-02-05-.13 Obstructing Traffic
0400-02-05-.02 Definitions	0400-02-05-.14 Reckless or Careless Driving
0400-02-05-.03 Bicycles	0400-02-05-.15 Report of Vehicle Accident
0400-02-05-.04 Commercial Towing Service	0400-02-05-.16 Right of Way
0400-02-05-.05 Driver's License	0400-02-05-.17 Speed Limits
0400-02-05-.06 Driving Under Influence of Intoxicating Liquor or Drugs	0400-02-05-.18 Traffic Control and Signs
0400-02-05-.07 Entrances and Exits	0400-02-05-.19 Travel on Roads
0400-02-05-.08 Excessive Acceleration	0400-02-05-.20 Vehicle Registration
0400-02-05-.09 False Report	0400-02-05-.21 Use of Motorcycles
0400-02-05-.10 Following Vehicles	0400-02-05-.22 Trail Bikes, Minibikes, and Other Off-Road Vehicles
0400-02-05-.11 Load, Weight, Length, and Width Limitations	
0400-02-05-.12 Mufflers	

0400-02-05-.01 State Law Applicable.

Unless specifically covered by the general and special regulations set forth in this chapter, the laws and regulations of the State shall govern traffic and the operation and use of vehicles in all State Parks. Such State laws and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this chapter.

Authority: T.C.A. § 11-1-108.

0400-02-05-.02 Definitions.

The following terms and phrases when used in this chapter have the meanings respectively ascribed:

- (1) "Vehicle". Every device in, upon, or by which any person or property is or may be transported or drawn on

land, except devices moved by human power or used exclusively upon stationary rails or tracks.

- (2) "Motor Vehicle". Every vehicle which is self-propelled by internal combustion, electric or any other mechanical motor, but not operated upon rails, or upon water.
- (3) "Bicycle". Every device propelled by human power upon which a person or persons may ride on land, having one, two, three or four wheels.
- (4) "ATV". All Terrain Vehicle.
- (5) "Motorcycle". Every motor vehicle having a seat for the use of the rider and designed to travel on not more than four wheels in contact with the ground, but excluding a tractor.
- (6) "Authorized Emergency Vehicle". Any vehicle in official use for emergency purposes by local, state or federal agencies and other emergency vehicles such as ambulances and fire engines.
- (7) "Operator". Any person who operates, drives, controls or otherwise has charge of a vehicle.

Authority: T.C.A. § 11-1-108.

0400-02-05-.03 Bicycles.

- (1) Bicycle riders must comply with all applicable traffic regulations. Bicycle riders shall keep well to the right side of the road and shall keep the bicycle under complete control at all times. Bicycles shall not be ridden abreast of one another except on roads designed for bicycle use only.
- (2) Each bicycle must exhibit a white light on the front and a red light or red reflector on the rear during periods of low visibility or during the period between sundown and sunup.
- (3) Helmets are required by all riders while operating or riding bicycles on any state park property.

Authority: T.C.A. § 11-1-108.

0400-02-05-.04 Commercial Towing Service.

An operator of a vehicle used to provide commercial towing service for another vehicle following an accident or for any other reasons must give immediate notice by the quickest available means of communication to the Park Manager before moving the vehicle, unless traffic is being obstructed, in which case notification shall be made before leaving the park area.

Authority: T.C.A. § 11-1-108.

0400-02-05-.05 Driver's License.

Driving or permitting another person to drive a vehicle unless such operator has a valid license, when such is required by laws of the State in which the operator is resident or in which the vehicle is registered, is prohibited. A valid driver's or operator's license, registration and proof of insurance must be displayed upon the request of any authorized person.

Authority: T.C.A. § 11-1-108.

0400-02-05-.06 Driving Under Influence of Intoxicating Liquor or Drugs.

No operator of a vehicle shall be under the influence of intoxicating liquor or drugs.

Authority: T.C.A. § 11-1-108.

0400-02-05-.07 Entrances and Exits.

No operator of a motor vehicle shall enter or leave the park with such vehicle at any place except established entrances and exits, and during such hours as may be designated by the Park Manager through the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-05-.08 Excessive Acceleration.

The excessive acceleration of the engine of a motor vehicle or motorcycle or ATV when such vehicle is not moving, or is approaching or leaving a stopping place, is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-.09 False Report.

The giving of any false or fictitious report or information to any authorized person investigating an accident or other violation of law or regulations is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-.10 Following Vehicles.

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the roadway. The responsibility for conformance with this rule rests with the operator of the following vehicle.

Authority: T.C.A. § 11-1-108.

0400-02-05-.11 Load, weight, Length, and Width Limitations.

- (1) Load, weight, length, and width limitations of vehicles except as provided herein shall be in accordance with applicable State law: provided, however, the Park Manager may by the posting of appropriate signs, establish lesser limits, when limits within the State are determined to be greater than sufficient and proper for preservation of the roadway and the safety and welfare of the public, any may also establish hours during which heavy equipment may be operated over government roads.
- (2) No vehicle, or load thereon, the total outside width of which exceeds eight (8) feet, shall be permitted on park roads without a permit from the Park Manager.
- (3) Trailers more than 35 feet long are prohibited without a permit from the Park Manager.
- (4) The transporting of explosives in any quantity or form without a permit from the Park Manager is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-.12 Mufflers.

Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle.

Authority: T.C.A. § 11-1-108.

0400-02-05-.13 Obstructing Traffic.

- (1) Stopping, parking, or leaving any vehicle, whether attended or unattended, upon the paved or maintained surface of a road so as to leave less than 10 feet of the width of the same traffic lane for the free or unobstructed movement of other vehicles or upon a designated fire lane is prohibited, except in the event

of accident or other conditions beyond the immediate control of the operator, or as otherwise directed by an authorized person.

- (2) Causing or permitting a motor vehicle under one's control to obstruct traffic by making turns from the wrong traffic lane, or by weaving in and out of traffic, or by driving so slowly as to interfere with the normal flow of traffic, or in any other manner, is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-.14 Reckless or Careless Driving.

- (1) Driving or operating any vehicle carelessly or heedlessly, or in willful or wanton disregard for the rights or safety of other persons, or without due care or at a speed greater than is reasonable and prudent under prevailing conditions, having regard to traffic, weather, wildlife, road, and light conditions, and surface, width, and character of the road, is prohibited.
- (2) Texting while operating a vehicle or distracted operation of a vehicle is prohibited.
- (3) Every operator shall maintain such control of the vehicle as may be necessary to avoid danger to persons or property or wildlife.

Authority: T.C.A. § 11-1-108.

0400-02-05-.15 Report of Vehicle Accidents.

- (1) The operator of any vehicle involved in a collision or upset shall give notice of such accident forthwith by the quickest available means of communication to the Park Manager or his authorized representative and shall also provide a written report of the incident within twenty-four (24) hours when requested by the Park Manager or his authorized representative. This report does not relieve the operator from the responsibility of making any other motor vehicle accident report which may be required by State law.

Authority: T.C.A. § 11-1-108.

0400-02-05-.16 Right of Way.

- (1) The operator of any vehicle, when being approached from any direction by any authorized emergency vehicle giving an audible or visual signal, shall yield the right of way to the emergency vehicle.
- (2) Pedestrians, saddle horses, pack trains, and horsedrawn vehicles have right of way over motor vehicles.

Authority: T.C.A. § 11-1-108.

0400-02-05-.17 Speed Limits.

- (1) The Park Manager may establish greater or lesser speed limits upon any road or other way when the maximum speed limits set forth are determined to be greater or less than is reasonable or safe. Such speed limits shall be established by the posting of appropriate signs and no person shall drive any vehicle at a speed in excess of the maximum limits so posted.
- (2) The provisions of this rule shall not apply to authorized emergency vehicles: provided, however, that such vehicles shall not be operated at speeds in excess of those which are prudent under the circumstances.

Authority: T.C.A. § 11-1-108.

0400-02-05-.18 Traffic Control and Signs.

- (1) The Park Manager may erect signs which regulate traffic, prohibit or restrict stopping, standing or parking, the direction of travel, and the hours during which roads and parking areas are open to the public. All persons shall comply with the directions of any signal or posted traffic sign.

- (2) All persons shall obey the lawful order or signal of any authorized person directing, controlling, or regulating the movement of traffic.
- (3) The operator of a motor vehicle shall comply with and observe all visual or audible signals given by any authorized person directing the operator to bring his motor vehicle to a stop.

Authority: T.C.A. § 11-1-108.

0400-02-05-.19 Travel on Roads.

- (1) Operating a vehicle outside of established public roads, parking areas, or routes designated by the Park Manager is prohibited. Such routes may be designated by the posting of appropriate signs, or by marking a map which shall be available for public inspection in the office of the Park Manager, or both.
- (2) Operating a vehicle, equipped with any fitting or device which damages or is likely to damage the road surface is prohibited: however, this rule shall not be construed to prohibit the use of ordinary detachable tire or skid chains or comparable safety devices under adverse road conditions.

Authority: T.C.A. § 11-1-108.

0400-02-05-.20 Vehicle Registration.

The operation of a vehicle which does not bear valid license plates and is not properly certificated or registered in accordance with applicable State laws is prohibited. Valid proof of ownership of State registry of the vehicle must be displayed upon the request of any authorized person. Valid proof of liability insurance must be displayed upon the request of any authorized person.

Authority: T.C.A. § 11-1-108.

0400-02-05-.21 USE OF MOTORCYCLES.

- (1) Motorcycles (any two-, three- or four wheel vehicle of more than 5 horsepower) are only permitted on paved park roads, and must obey all traffic laws that any other motor vehicle operator must observe.
- (2) Motorcycles must be equipped with brakes, lights, approved crash bars, seat and foot rests for operator and passenger, windshield or safety goggles for operator and passenger, and rear view mirror.
- (3) Motorcycle operators must possess a valid Motorcycle Drivers License, Vehicle Registration Certificate, and vehicle must have proper license plates.

Authority: T.C.A. § 11-1-108.

0400-02-05-.22 Trail Bikes, Minibikes, and Other Off-road Vehicles.

Trail bikes, minibikes and other off-road vehicles having two, three or four wheels are restricted to use of designated trails only. These designated areas may be used only during daylight hours as posted. These vehicles will be equipped with properly functioning mufflers and spark arresters. Neither vehicle nor operator's license is required when vehicle is used within designated area. Safety is the responsibility of the user. All operators must operate within posted boundaries, or on trails as posted. Operator hours shall be from 9:00 a.m. to 30 minutes before sundown. Sanctioned competitive events are prohibited. One-way trails must be traveled in the direction indicated. No harassment or disturbance of people or wildlife is permitted. All riders of these vehicles shall follow the safety practices recommended by the American Motorcycle Association. Riders shall have a safety helmet and wear heavy shoes, protective clothing, and protective eyewear of shatterproof material. Safety of others must be a primary consideration at all times.

Authority: T.C.A. § 11-1-108.

Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-10 shall read as follows:

Table of Contents

0400-02-10-.01 Purpose	0400-02-10-.07 Obedience of Laws, Rules and Regulations, License Requirements and Conditions
0400-02-10-.02 Raft, Inflatable Boats, Kayaks and Canoe Requirements for Commercial Operators	0400-02-10-.08 Termination
0400-02-10-.03 Personal Safety Equipment and Devices	0400-02-10-.09 Cooperation with Parks
0400-02-10-.04 Transportation	0400-02-10-.10 Notification of Accidents or Casualties
0400-02-10-.05 Guides and Guide Trainees	0400-02-10-.11 Scheduling and Carrying Capacity
0400-02-10-.06 Safety Procedures	0400-02-10-.12 Penalties
	0400-02-10-.13 Organized Groups and Private Boaters
	0400-02-10-.14 Pets in the Ocoee River Recreation Area

0400-02-10-.01 Purpose.

- (1) To provide information to the authorized Commercial Operator whereby he shall have full knowledge of Department of Environment and Conservation, Division of State Parks requirements, intentions, rules and regulations.
- (2) To provide the Department with an effective means to manage commercial use that may infringe on the outdoor recreation opportunities of others.
- (3) To preserve the scenic and recreational values of the river and the integrity of publicly-owned land (State, TVA, and U.S. Forest Service) contiguous to the river, and natural resources within the area.
- (4) To preserve the integrity of the park facilities that boaters may come in contact with.
- (5) To provide for the maximum safety of the public.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.02 Raft, Inflatable Boats, Kayaks and Canoe Requirements for Commercial Operators.

Rafts, Inflatable Boats, Kayaks and Canoes (hereinafter known as "craft" unless otherwise specifically designated)

- (1) Each raft must contain at least three (3) separate inflatable compartments.
- (2) Each inflatable craft must be constructed of a tough rubberized fabric, or its equal, capable of repeated daily abrasion and abuse on a class III/IV river. Single thickness non-reinforced vinyl or other poorly or cheaply constructed rafts, canoes and kayaks are prohibited for use in commercial operations.
- (3) Each raft must be of "4-man" size or larger. Each raft must be at least 11' in length and 5' wide.
- (4) All kayaks, canoes or funyaks must have flotation such that the craft has positive buoyancy in still water when filled with water and occupied by the number of persons for which the craft is designed in white water usage.
- (5) All commercial watercraft must meet or exceed the safety recommendations of the American White Water Affiliations, "Safety Code" of 1977, as revised from time to time.
- (6) Each craft must be maintained in a reasonable operating condition for its intended use. Each craft shall be inspected after each trip for damage such as punctures, tears and excessive abrasions and wear which materially affect the structural integrity of the craft. If such damage is found, repairs must be made to the craft before it can be used for commercial boating purposes on the river.

(7) No tubes or tube-like crafts shall be allowed.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.03 Personal Safety Equipment and Devices.

- (1) Commercial Operators shall require each customer to properly wear a Type V U.S. Coast Guard approved personal flotation device (PFD) of appropriate size, while on or in the river.
- (2) Each personal flotation device must be inspected prior to each issuance. Personal flotation devices must be removed from service immediately and repaired or disposed of if:
 - (a) the PFD becomes water logged;
 - (b) the PFD is damaged such that it can no longer be worn or attached to the user as originally intended by the manufacturer; and/or
 - (c) the device is of such age or worn condition that the fabric, flotation material, webbing, fastening devices, etc., can no longer be reasonably expected to withstand the ordinary forces expected to be encountered in the normal course of customer usage on the river.
- (3) Commercial Operators shall require all passengers and guides, in inflatable rafts, kayaks or canoes, to wear an appropriate helmet in addition to an approved personal flotation device, while on or in the river.
- (4) All equipment including rafts, PFD's, paddles, shall be subject to inspection by any authorized representative of the Division at any reasonable time, including but not limited to times when the equipment is in use on or about the river and equipment deemed to be in an unsafe condition by the above representative must be immediately repaired or removed from service.
- (5) One (1) or more buoyant heaving line, 3/8" diameter and at least fifty (50) feet in length shall be carried on each trip.
- (6) The Commercial Operator shall provide one (1) waterproof First Aid Kit for each trip of eight (8) craft or less, two (2) First Aid Kits for each trip of more than eight (8) craft. Each kit shall contain at least the following items:
 - (a) Semi-rigid or rigid splints for immobilization of fractures
 - (b) Emergency space blanket, shock blanket or equivalent
 - (c) Triangular bandages
 - (d) Ace bandages
 - (e) Quick cold packs
 - (f) Gauze compresses at least 2 x 2 or larger
 - (g) Roller gauze 2"- up
 - (h) Box of Band-aids 3/4"- up
 - (i) Butterfly band-aid
 - (j) Safety Pins
 - (k) Sting Swaps

- (l) Adhesive Tape
- (m) Antiseptic solution for cleaning, or moist sterile towelettes
- (n) Scissors
- (o) Tweezers
- (p) Tongue Depressors (Finger splints)
- (q) Knife
- (r) Sun Screen
- (s) Sanitary Napkins (for compress)
- (t) Eye Patches
- (u) Tie strips for splints
- (v) Pad for splints
- (w) Gloves
- (x) Biohazard Bag
- (y) CPR Mask

(7) Passengers on trips shall be at least twelve (12) years of age.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.04 Transportation.

- (1) The Commercial Operator shall restrict all parking of vehicles to areas approved by the Division and shall comply with all rules of the road.
- (2) The Commercial Operator shall comply with the Department of Safety Rules and Regulations regarding the transportation of passengers.
- (3) The Commercial Operator shall comply with the Department of Safety Rules and Regulations regarding commercial vehicles.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.05 Guides and Guide Trainees.

- (1) All guides and guide trainees shall be at least 18 years of age.
- (2) A minimum of one guide per trip shall have completed the American Red Cross Advanced First Aid Course, or an approved equivalent course, be qualified in C.P.R., and hold currently validated certificates.
- (3) All guides shall have completed an American Red Cross or American Heart Association C.P.R. course, a basic multi-media first aid course and possess current valid certificates, or the equivalent as approved by the Division.
- (4) Those guides which act as trip leaders (Commercial Operator's principle representative for a given trip) must have at least one season's experience as a guide on the Ocoee or a river similar in difficulty to the Ocoee.

- (5) Copies of certifications required in paragraphs (2) and (3) of this rule, a photocopy of each guide's driver's license and a guide trainee list, shall be provided to the Park Manager upon request and filed in the Commercial Operator's place of business and continually updated throughout the season.
- (6) There shall be one guide or guide trainee per craft. No more than 25% of the crafts on a commercial trip shall have guide trainees controlling the craft for the entire trip.
- (7) All guides shall be instructed by the Commercial Operator in safety and emergency techniques such as handling throwlines and other means of river rescue and equipment management techniques.
- (8) Commercial Operator(s) shall cause all guides and guide trainees, to become knowledgeable with State Park and U.S. Forest Service Rules and Regulations; a copy of such rules and regulations shall be given to each guide or guide trainee.
- (9) It shall be the responsibility of each Commercial Operator to instruct all guides or guide trainees as to the availability of emergency aid and/or assistance such as nearest ambulance, fire department, State Police, state park personnel, doctors and hospital(s).
- (10) Every guide trainee must have all employee paperwork on file, including current CPR certification or dates of enrolled CPR classes.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.06 Safety Procedures.

- (1) The Commercial Operator shall enforce all safety measures outlined in these requirements dealing with condition and quality of equipment, training and conduct of guides and occupants.
- (2) The Commercial Operator shall conduct a white water safety seminar for all passengers to include at least the following topics:
 - (a) Description of the river and rapids;
 - (b) Equipment;
 - (c) Paddling safety
 - (d) Swimming in white water;
 - (e) Danger of strainers.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.07 Obedience of Laws, Rules and Regulations, License Requirements and Conditions.

- (1) The Commercial Operator shall abide by all federal, state and/or local laws, rules and regulations including those pertaining to commercial boating and those of the Tennessee Department of Conservation, the U.S. Forest Service and the Tennessee Valley Authority.
- (2) The Commercial Operators, in the exercise of privileges granted under license agreement with TVA shall require that its (his/her) employees, agents, sublessees, contractors, subcontractors and their employees abide by and comply with all of TVA's conditions and requirements.
- (3) The Commercial Operator shall pay full balance of all fees owed by the annual pre-season public meeting on the First Tuesday of March.
- (4) The Commercial Operator shall provide the State the information required, including but not limited to, "cap" numbers and accident reports.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.08 Termination.

- (1) Upon violation of any regulation herein by the Commercial Operator, its guide(s), guide trainee(s), its employee(s) and/or agents, the Division may cause the Commercial Operator to cease and terminate any and all river operation(s) by one of the following procedures:
 - (a) If the violation is of such a degree that it may cause loss of life and/or damage to person or property, including damage to the river and/or the land contiguous to the river, the Division may, at its sole discretion, upon written notice to the Commercial Operator demand and require that the Commercial Operator terminate and cease any and all river operations until the Commercial Operator has satisfactorily demonstrated to the Division that such violation has been corrected.
 - (b) If the violation does not cause an immediate danger to life or property:
 1. The Division shall give to the Commercial Operator, written notice specifying the particulars of the alleged unsatisfactory performance.
 2. Not less than fifteen (15) days after receipt by the Commercial Operator of such notice, the Division shall grant to the Commercial Operator an opportunity to be heard upon the charges.
 3. Following such opportunity to be heard, the Division shall, at its sole discretion, determine whether there has been a violation.
 4. If the Division decides that there has been a violation of the regulations, it shall give to the Commercial Operator written notice of such decision, specifying the particulars thereof.
 5. All hearings conducted under this rule shall be in accordance with the Uniform Administrative Procedures Act, T.C.A. §4-5-301, et seq.
 6. If the Commercial Operator fails or refuses to remedy such violation within such reasonable period of time as may be fixed by the Division, the Division shall request that TVA terminate the Commercial Operator's permit upon such date or upon contingency as it may deem proper to protect the public interest.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.09 Cooperation with Parks.

- (1) The Commercial Operator shall not cause any environmental damage to the river and/or river corridor and shall accomplish prompt clean-up and policing of litter generated by employees or guests as integral parts of his daily float trips.
- (2) The Commercial Operator shall not allow any glass containers, aluminum drink cans or styrofoam containers of any kind on the river.
- (3) The Commercial Operator shall, in cooperation with the park manager, instruct his guides so that they may properly inform passengers of the Ocoee River State Park facilities, U.S. Forest Service property, local history and natural features along their route of travel on the Ocoee River.
- (4) The Commercial Operator shall hold the Department harmless and indemnify Department from any and all liability for personal injuries, property damage or for loss of life, or property suffered or sustained by the Commercial Operator, its members, its agents and employees, its licensees, invitees and guests resulting from, or in any way connected with, the use of water(s)/land(s) of the Ocoee River State Recreation Area.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.10 Notification of Accidents or Casualties.

- (1) The Commercial Operator shall report to the Park Manager (P.O. Box 5, Delano, TN 37325), by use of accident form, any and all accidents or casualties resulting in loss of life, personal injury requiring a physician's attention or property damage in excess of \$200.00. Notification must be hand delivered or faxed within forty-eight (48) hours of said incident. The Division in turn will notify TVA.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.11 Scheduling and Carrying Capacity.

- (1) The Commercial Operators may prepare a proposed schedule assigning the times each Commercial Operator shall schedule daily trips for the forthcoming season. The proposed schedule shall be based on the Recreational Water Release Days and Times as determined by TVA. It shall include the schedule for all Commercial Operators licensed by TVA for the forthcoming year. A proposed schedule must be presented to the Department, and shall be open for discussion, at the annual preseason public meeting on the first Tuesday of March each year. The proposed schedule shall be utilized until a final schedule is issued by the Department. The Department shall review the proposed schedule and may approve it as presented, review the proposed schedule or reject the proposal and assign schedule times, as necessary, to optimize recreational opportunities, protect the whitewater resource and insure public safety. If a proposed schedule is not submitted, the Department shall schedule the daily trips. The Department shall announce (issue) a final schedule by April 15, of each year. The department may also, in its discretion, limit commercial use of the Ocoee on an emergency basis.
- (2) The daily commercial carrying capacity for the middle Ocoee River Recreational Area (the area of the river between the Rogers Branch Put-In and the Caney Creek Take-Out) shall be 4,000 commercial customers for those day(s) for which the commercial usage during the last season exceeded 4,000 customers. Days which were capped for the last season will be capped for the next season unless the commercial usage on the "cap" day during the last season fell below 3,800 customers. The commercial "cap" is established in order to optimize recreational opportunities for all classes of users (private paddlers as well as commercial customers), to protect the recreational whitewater resource, and to insure public safety. The Department shall announce the "cap" days for the upcoming season at the annual post-season public meeting on the second Tuesday of October of each year.
- (3) The Commercial Operators, utilizing a methodology acceptable to the Department, may allocate the commercial use for the "cap" days for the upcoming season. The allocation shall be based on a maximum of 4,000 commercial customers. The proposed allocation shall be presented by the Commercial Operators to the Department, and open for discussion, at the annual pre-season public meeting on the first Tuesday of March. The Department shall review the proposed allocation and may approve it as presented, revise it or reject the proposal and allocate the commercial carrying capacity among the commercial operators, as necessary, to optimize recreational opportunities, protect the whitewater resource and insure public safety. If an allocation is not submitted, the Department shall allocate the commercial customers. The Department shall utilize the "historical use" method in allocating the commercial capacity among the commercial operators. The "historical use" method shall be based on each commercial operator's daily customers totals from at least two prior seasons. The historical use allocation methodology shall be determined as follows: Each commercial operator's largest daily customer total from at least two prior seasons is summed. If the sum exceeds 4,000, each commercial operator's next largest daily customer total is averaged with that operator's largest daily customer total. The average for each commercial operator are summed. If this sum exceed 4,000, each commercial operator's next largest daily customer total is averaged in until the sum of the averages for all commercial operators falls below 4,000. Each commercial operator's average becomes that commercial operator's allocation of commercial customers on "cap" day(s). Each commercial operator is allowed 15% of its allocation as overage to allow for no-shows and cancellations. For purposes of this allocation calculation, operations owned by the same person, association, corporation or political subdivision of the state under separate licenses shall be consolidated and considered to be a single commercial operator. The final commercial "cap" day(s) allocation shall be announced by the Department on or before April 15 of each year.

- (4) The Commercial Operator must use the CAP Exchange form on "cap" days if their company is going over their allotted "cap". The form must be faxed into the Park Office prior to the trip(s) causing the Operator to exceed the allotted "cap".
- (5) Each Commercial Operator shall not use more than twelve (12) rafts or carry more than one hundred (100) customers per time slot without prior approval from the Park Manager or Park Ranger in charge of the recreational use of the Middle Ocoee River Recreational Area. Commercial Operators shall adhere to the final daily trip schedule, or on "cap" days the final commercial use "cap" day allocation, at all times.
- (6) Each raft shall not have more than seven (7) customers or guide trainees, in addition to one (1) guide.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.12 Penalties.

- (1) Any violation of these rules and regulations shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.13 Organized Groups and Private Boaters.

- (1) While on the river, all noncommercial boaters whether organized groups or private individual boaters shall wear a personal flotation device of appropriate size which meets the following:
 - (a) The Coastguard approved bouyancy jacket must be made of nonabsorbent flotation materials equally distributed front and back, in jacket or vest worn about the upper torso. It must have bouyancy sufficient to float a 6 kg legalized lead weight and should be designed to keep a conscious person face up in the water. It must be Coastguard approved.
- (2) All noncommercial boaters whether organized groups or private individual boaters shall not carry any glass containers, aluminum drink cans or styrofoam containers of any kind on the river.
- (3) All noncommercial organized groups, paddle clubs or universities shall have with them at all times club rosters and identifications. These groups shall provide this information upon request.
- (4) No tubes or tube like crafts shall be allowed.
- (3)(5) Violation of paragraphs (1) through (4) of this rule, shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.14 Pets in the Ocoee River Recreation Area

- (1) Animals left un-attended in vehicles, tied to the bumpers of vehicles or tied to stationary objects are subject to Tennessee Animal Cruelty Laws T.C.A. §§ 39-14-202 and 39-14-212.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Environment and Conservation on 05/28/2010 (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: 01/11/10

Rulemaking Hearing(s) Conducted on: (add more dates). 03/24/10

Date: 5/28/10

Signature: James H. Fyke

Name of Officer: James H. Fyke

Title of Officer: Commissioner



Subscribed and sworn to before me on: May 28, 2010

Notary Public Signature: Glenda B. McCloud

My commission expires on: January 24, 2012

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 and Reporter

6-11-10
Date

Department of State Use Only

Filed with the Department of State on: 6/14/10

Effective on: 9/12/10

Tre Hargett
Tre Hargett
Secretary of State

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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 can 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.

Comment: A commenter suggested that the contents of Rule 0400-02-02-.32 State Parks Entrance Fees and Parking Fees, as proposed, be moved to Chapter 0400-01-01 Fees and Charges for Certain Departmental Services in order to have these types of miscellaneous fees into one rule chapter.

Response: The Department agrees and has moved the contents of amended Rule 0400-02-02-.32 to new Rule 0400-01-01-.03 with the title and content remaining unchanged as proposed.

Comment: A commenter suggested that Rule 0400-02-02-.24 be amended to include segways, scooters and like recreational equipment in addition to the proposed addition of roller blades.

Response: The Department agrees and the rule as proposed has been changed as suggested.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

The vast majority of these amendments affects state parks and do not involve small businesses, except for small businesses conducting rafting services on the Ocoee River. Chapter 0400-05-01 Fees for Copies of Departmental Public Records was repealed and its contents moved to new Chapter 0400-01-01 as Rule 0400-01-01 Fees for Copies of Departmental Public Records.

- (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, or directly benefit from the proposed rule:

New Rule 0400-01-01-.02 Miscellaneous Fees does not specifically target any small business. The new rule will impact a small business that requires a service from the Department that the Commissioner determines is necessary to recover the cost of delivering that service by charging a fee. This fee shall only be charged for regulatory functions and services for which fees are not otherwise specified in statutes or rules. The amendments to Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will require Commercial Operators: to manage funyaks in the same manner that is currently required for kayaks and canoes; to add gloves, a biohazard bag, and CRP Mask to their first aid kits; to comply with Department of Safety rules and regulations regarding the transportation of passengers and commercial vehicles; to require the records for every guide trainee to contain a current CPR certification or dates of enrolled CPR classes; to use the CAP Exchange form on "cap" days if the company is going over their allotted "cap"; and to limit the each raft to no more than seven customers or guide trainees, in addition to the guide.

- (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:

Rule 0400-01-01-.02 Miscellaneous Fees will add an insignificant administrative cost when required to pay a fee for a service delivered. Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will add a small recordkeeping and administrative cost to for adding the additional items to their first aid kits to document the trainees have CPR certification or are taking the required CPR class to obtain CPR certification.

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

Those small businesses that require a service for which a fee will then be due to cover the costs to the Department, in accordance with Rule 0400-01-01-.02 Miscellaneous Fees, will be impact only for that cost of rendering that service. Impacts from the other amendments in this rulemaking are minimal.

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

No other alternatives are known nor were they suggested during the public comment period for achieving the purposes of these rule changes.

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

There is no exact match with any federal or state counterparts. These rule changes are specifically designed to meet the specific needs of the Department.

- (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.

Exempting small businesses from these rule changes would defeat the purpose for the changes.

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;

New Rule 0400-01-01-.02 Miscellaneous Fees requires persons and businesses requesting services from the Department that the Commissioner determines is necessary to recover the cost of delivering that service by charging a fee. This fee shall only be charged for regulatory functions and services for which fees are not otherwise specified in statutes or rules. The amendments to Chapters 0400-02-02, 0400-02-03, and 0400-02-05 are being made to update the language used and adjust the requirements to current needs such as cleaning up a pet's waste in any park area, managing roller blades, segways, scooters and like recreational equipment in the same manner as skates and skateboards, and requiring the use of helmet by all bicycle riders. Rule 0400-02-02-.32 State Parks Entrance Fees and Parking Fees were moved to 0400-01-01-.03 and were amended to remove the specific dollar amount from the rule and replacing it with language that the amount will be determined by the Commissioner. The amendments to Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will require Commercial Operators: to manage funyaks in the same manner that is currently required for kayaks and canoes; to add gloves, a biohazard bag, and CRP Mask to their first aid kits; to comply with Department of Safety rules and regulations regarding the transportation of passengers and commercial vehicles; to require the records for every guide trainee to contain a current CPR certification or dates of enrolled CPR classes; to use the CAP Exchange form on "cap" days if the company is going over their allotted "cap"; and to limit the each raft to no more than seven customers or guide trainees, in addition to the guide.

- (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;

The rule changes are authorized by T.C.A §§ 4-3-504, 11-1-101, 11-1-108, 11-3-101, 11-14-104 and 68-203-101.

- (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;

Rule 0400-01-01-.02 Miscellaneous Fees has the potential to impact any person, organization, corporation or governmental entity that requires a service from the Department when those services are not previously covered by an existing statute or rule. Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will impact commercial businesses conducting these activities with its updated requirements. No potentially impacted person commented on these rule changes.

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

The Department is not aware of any.

- (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;

The increase in revenues resulting from these rule changes are expected to be less than two percent of the Department's annual budget and less than \$500,000.

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

Wayne Gregory

Office of General Counsel
11th Floor, L&C Tower, 401 Church Street
Nashville, Tennessee 37243
Phone: 615-253-5420
E-Mail: Wayne.Gregory@tn.gov

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

Alan M. Leiserson
Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
E-mail: Alan.Leiserson@tn.gov

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

Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L&C Tower
Nashville, Tennessee 37243-1548
Phone: 615-532-0131

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

The Department is not aware of any.

bDepartment of State
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 Nashville, TN 37243
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Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

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:	Environment and Conservation
Division:	Office of the Commissioner
Contact Person:	Wayne Gregory
Address:	11 th Floor, L & C Tower 401 Church Street Nashville, Tennessee
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Email:	Wayne.Gregory@tn.gov

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
0400-01-01	Fees and Charges for Certain Departmental Services
Rule Number	Rule Title
0400-01-01-.01	Reserved
0400-01-01-.02	Miscellaneous Fees
0400-01-01-.03	State Parks Entrance Fees and Parking Fees

Chapter Number	Chapter Title
0400-02-01	General
Rule Number	Rule Title
0400-02-01-.01	Applicability and Scope
0400-02-01-.02	Statutes Governing Reserved
0400-02-01-.03	Definitions
0400-02-01-.04	Penalties

Chapter Number	Chapter Title
0400-02-02	Public Use and Recreation
Rule Number	Rule Title
0400-02-02-.01	Abandoned and Unattended Property
0400-02-02-.02	Aircraft
0400-02-02-.03	Audio Devices
0400-02-02-.04	Begging and Soliciting
0400-02-02-.05	Camping
0400-02-02-.06	Closing of Areas

0400-02-02-.07	Disorderly Conduct
0400-02-02-.08	Dogs, Cats, and Other Pets
0400-02-02-.09	Explosives
0400-02-02-.10	False Reports
0400-02-02-.11	Firearms, Traps, and Other Weapons
0400-02-02-.12	Fires
0400-02-02-.13	Fishing
0400-02-02-.14	Alcoholic Beverages
0400-02-02-.15	Lost and Found Articles
0400-02-02-.16	Picnicking
0400-02-02-.17	Portable Engines and Motors
0400-02-02-.18	Preservation of Public Property, Natural Features, Curiosities, and Resources
0400-02-02-.19	Public Assemblies, Meetings
0400-02-02-.20	Report of Injury or Damage
0400-02-02-.21	Saddle and Pack Animals
0400-02-02-.22	Sanitation
0400-02-02-.23	Scientific Specimens
0400-02-02-.24	Skating, Skateboards, Roller Blades, Segways, Scooters and Like Recreational Equipment
0400-02-02-.25	Special Events
0400-02-02-.26	Swimming and Bathing
0400-02-02-.27	Tampering with Vehicle or Vessel
0400-02-02-.28	Travel on Trails
0400-02-02-.29	Water Skiing
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0400-02-10-.02	Raft, Inflatable Boats, Kayaks and Canoe Requirements for Commercial Operations
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(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

New Rule

Chapter 0400-01-01 Fees and Charges for Certain Departmental Services

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0400-01-01-.01 **Reserved**

0400-01-01-.02 Miscellaneous Fees

0400-01-01-.03 State Parks Entrance Fees and Parking Fees

0400-01-01-.01 Reserved

0400-01-01-.02 Miscellaneous Fees

(1) Purpose

The purpose of this Rule is to establish a process for assessing fees and charges for certain departmental services. Pursuant to T.C.A. § 11-3-302, fees and charges related to park operations shall be placed in the state park fund. Pursuant to T.C.A. § 68-203-101, fees and charges, for the environmental programs listed in subsection (b) of that statute, shall be placed in the Tennessee Environmental Protection Fund.

(2) Assessment of certain fees and charges

To defray the cost of park operation and the administration of environmental regulatory programs, the Commissioner shall establish fees and charges as are necessary to make the department as self-sufficient as possible. The Commissioner may set fees and charges for:

- (a) Revenue-generating facilities, including marinas, campgrounds, golf courses, cabins, gift shops, restaurants;
- (b) Miscellaneous services provided by the Department; and,
- (c) Regulatory functions and services provided for which fees are not otherwise specified in statutes or rules.

(3) In setting such fees and charges the Commissioner shall consider:

- (a) Maintenance costs;
- (b) Short and long term operational cost;
- (c) Mileage;
- (d) Lab expense;
- (e) The State's current overhead rate;
- (f) Costs billed to the State by contractors and consultants; and,
- (g) A reasonable portion of the amount expended by the Department in gathering and posting data, computer program development cost, etc.

0400-01-01-.03 State Parks Entrance Fees and Parking Fees.

(1) Purpose.

This rule is promulgated for the purpose of establishing entrance fees and parking fees to provide funding to maintain and improve the quality of facilities and services offered to all patrons of Tennessee State Parks System. It is the commissioner's intent that funds raised pursuant to this part rule will remain exclusively within the Tennessee State Parks System.

(2) Entrance Permit Required.

All persons who enter a Designated Fee Area within the Tennessee State Parks System must have a valid entrance permit. Permits may be obtained at all Parks Visitor Centers and other locations designated by the commissioner.

(3) Designated Fee Area.

An area is a "Designated Fee Area" if the entrances to the area are so posted. Such postings may include the portion of the calendar year for which fees shall be charged and shall specify where entrance permits may be obtained. Any person who fails to obtain a permit as directed shall be subject to enforcement pursuant to Rule 0400-02-01-.04.

(4) Types of Permits.

(a) Complimentary Permit. Entrance permits shall be provided free of charge to the following persons:

1. Any person taking part in an organized tour or outing conducted for educational or scientific purposes related to the resources of the area visited by bona fide institutions established for these purposes. (Applicants for waiver of fees on this basis will be required to provide documentation of their official recognition as educational or scientific institutions by Federal, State or local government bodies and will also be required to provide a statement as to the purposes of the visit proposed. Waivers granted on this basis will include all participating students and instructors, as well as accompanying non instructor chaperones;
2. Any person conducting State, local, or Federal government business within any Designated Fee Area;
3. Any person who has not reached thirteen (13) years of age; or
4. Any person performing approved volunteer projects/work in a State park.

(b) Tennessee State Parks Passport.

1. The Tennessee State Parks Passport is valid for admission to any Designated Fee Area.
2. The charge for the Tennessee State Parks Passport shall be ~~twenty dollars (\$20.00)~~ determined by the Commissioner.
3. Except as provided in part 4 of this subparagraph, the Tennessee State Parks Passport shall be valid for one year from date of purchase.
4. For an additional fee of ~~twenty dollars (\$20.00)~~ determined by the Commissioner, a Tennessee State Parks Passport that is purchased by a person sixty-five (65) years of age or older shall be valid for the lifetime of that person.

(c) Single-Visit Permit.

1. A Single-Visit Permit shall be required for all persons not admitted by a Complimentary Permit or Tennessee State Parks Passport.
 2. The charge for the Single-Visit Permit shall not be more than two dollars (\$2.00) per person. In lieu of this per person charge, the commissioner may establish a per vehicle charge. Any per vehicle charge established shall not exceed the total charge that would result if all passengers in the vehicle were charged on a per person basis.
 3. A Single-Visit Permit shall be valid at the Designated Fee Area for which the permit is purchased during the same calendar day of purchase.
- (5) Display and Nontransferability of Entrance Permits.
- (a) Every permit shall be exhibited/displayed in the manner designated in the permit.
 - (b) Permits are nontransferable.
- (6) Parking Fees.
- (a) The Commissioner may charge a fee for the privilege of parking motor vehicles on State Park property. Such parking fees may be in addition to entrance fees.
 1. The parking fee for vehicles capable of carrying fifteen (15) passengers or less shall range between one dollar (\$ 1.00) and fifteen dollars (\$15.00) per day.
 2. The parking fee for vehicles capable of carrying more than fifteen (15) passengers shall range between ten dollars (\$ 10.00) and fifty dollars (\$50.00) per day.
 3. The Commissioner may establish weekly, monthly, or annual parking fees that do not exceed the daily rates.
 - (b) Areas where a parking fee is charged shall be clearly posted. The posted sign shall include the rate and directions for making payment.
- (7) Entrance Permits and Parking Fees Distinguished from Recreation Use Fees.
- Neither Entrance Fee Permits nor the payment of parking fees authorizes the use of any facility for which a recreation use fee is charged. These fees are in addition to all other fees (e.g., green fees, slip fees, etc).
- (8) The Commissioner may waive all or part of any fees otherwise due under this rule if he finds that such waiver is in the best interest of the park system. Such waivers may include the grant of free access on dates selected by the Commissioner, reduced group fees, special promotional fees, etc.

Authority: T.C.A. §§ 11-1-101, 11-1-108 and 68-203-103.

Chapter 0400-02-01
General

Amendment

Chapter 0400-02-01 General is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-01 shall read as follows:

Table of Contents

0400-02-01-.01 Applicability and Scope
0400-02-01-.02 ~~Statutes Governing Reserved~~

0400-02-01-.03 Definitions
0400-02-01-.04 Penalties

0400-02-01-.01 Applicability and Scope.

Tennessee State Parks **and natural areas** belong to the people of the State and are for the recreational use of the public **and require protection and preservation**. All visitors are welcome. To prevent abuse and misuse of the privileges and facilities provided, the following rules and regulations governing public use are adopted. **The following rules and regulations apply to all state parks and state natural areas. If there is a conflict between these rules and a Natural Resource Rule in Chapter 0400-06-02, the more stringent rule shall apply.**

Authority: T.C.A. §§ 11-1-108 and 11-14-104.

~~0400-02-01-.02 Statutes Governing. The statutes governing the establishment and operation of the Tennessee State Park System are as follows: T.C.A. §§11-101, 11-1-108, 11-109, 11-301, 11-302, 11-303, 11-304 and 11-307. Reserved.~~

Authority: T.C.A. § 11-1-108.

0400-02-01-.03 Definitions.

(1) The following definitions shall apply to these regulations:

- (a) The term "Commissioner" shall mean the Commissioner of the Tennessee Department of **Environment and Conservation**.
- (b) The term ~~Director~~ **"Assistant Commissioner"** shall mean the Director of the Division of State Parks.
- (c) The term ~~Superintendent~~ **"Park Manager"** includes any official in charge of a park area, or his authorized representative.
- (d) The term "Authorized Person" includes any person authorized to enforce the provisions of these regulations.
- (e) The term "Park Area" includes all state-owned or controlled lands administered by the Tennessee Department of **Environment and Conservation**, Division of Parks and Recreation.
- (f) The term "Natural Area" includes all **park natural** areas which are designated as natural areas by the Legislature ~~and which are subject to the rules for management of Natural Resource Areas as defined in rule 0400-02-08-.03.~~
- (g) The term "Cultural Area" includes all those park areas which due to their cultural significance are determined to be on or eligible for listing on the National Register of Historic Places.
- (h) The term "Recreational Area" includes all State lakeshores, scenic riverways, recreational areas, and all other park areas administered by the Division of State Parks primarily for the purpose of public recreation.

Authority: T.C.A. §§ 11-1-108 and 11-3-101.

0400-02-01-.04 Penalties.

Any violation of these rules and regulations for the care and management of such properties as may be made under the authority of T.C.A. §11-1-108 shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

Authority: T.C.A. §11-1-108.

Chapter 0400-02-02
Public Use and Recreation

Amendment

Chapter 0400-02-02 Public Use and Recreation is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-02 shall read as follows:

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0400-02-02-.01 Abandoned and Unattended Property	0400-02-02-.18 Preservation of Public Property, Natural Features, Curiosities, and Resources
0400-02-02-.02 Aircraft	0400-02-02-.19 Public Assemblies, Meetings
0400-02-02-.03 Audio Devices	0400-02-02-.20 Report of Injury or Damage
0400-02-02-.04 Begging and Soliciting	0400-02-02-.21 Saddle and Pack Animals
0400-02-02-.05 Camping	0400-02-02-.22 Sanitation
0400-02-02-.06 Closing of Areas	0400-02-02-.23 Scientific Specimens
0400-02-02-.07 Disorderly Conduct	0400-02-02-.24 Skating -Skates, Skateboards, Roller Blades, Segways, Scooters and Like Recreational Equipment
0400-02-02-.08 Dogs, Cats, and Other Pets	0400-02-02-.25 Special Events
0400-02-02-.09 Explosives	0400-02-02-.26 Swimming and Bathing
0400-02-02-.10 False Reports	0400-02-02-.27 Tampering with Vehicle or Vessel
0400-02-02-.11 Firearms, Traps, and Other Weapons	0400-02-02-.28 Travel on Trails
0400-02-02-.12 Fires	0400-02-02-.29 Water Skiing
0400-02-02-.13 Fishing	0400-02-02-.30 Wildlife; Hunting
0400-02-02-.14 Alcoholic Beverages	0400-02-02-.31 Winter Sports
0400-02-02-.15 Lost and Found Articles	0400-02-02-.32 Reserved
0400-02-02-.16 Picnicking	
0400-02-02-.17 Portable Engines and Motors	

0400-02-02-.01 Abandoned and Unattended Property.

- (1) Abandonment of any vehicle or other personal property is prohibited in a park area and such property may be impounded by the **Superintendent Park Manager** or an authorized person.
- (2) Leaving any vehicle or other personal property unattended for longer than 24 hours, without prior permission of the **Superintendent Park Manager**, is prohibited and any property so left shall be impounded by the **Superintendent Park Manager**. In the event unattended property interferes with a safe and orderly management of the park area, it may be impounded by the **Superintendent Park Manager** at any time.

Authority: T.C.A. § 11-1-108.

0400-02-02-.02 Aircraft.

- (1) The operation or use of aircraft on lands or waters other than at the landing areas designated in special regulations is prohibited. Where a water surface is designated as a landing area, the operation or use of aircraft on the water within 500 feet of bathing beaches, boat docks, floats, piers, ramps, or within one mile of water controlled structures, except as otherwise provided by special regulations, is prohibited.
- (2) Except in extreme emergencies involving the safety of human life or threat of serious property loss, the air delivery of any person or thing by parachute, helicopter, or other means without prior written permission of the **Superintendent Park Manager** is prohibited.
- (3) The provisions of this **section rule** shall not be applicable to aircraft engaged on official business of the Federal Government or State Government, or used in emergency rescue in accordance with the directions of the **Superintendent Park Manager**, **ef or** forced to land due to circumstances beyond the control of the operator.
- (4) The operation of aircraft shall be in accordance with current applicable regulations of the Federal Aviation SS-7039 (October 2009)

Agency, State Aviation Commission and posted regulations of the individual Recreation Airports within the park areas.

Authority: T.C.A. § 11-1-108.

0400-02-02-.03 Audio Devices.

- (1) The operation or use of any audio devices including radios, television sets, musical instruments, and noise producing devices such as electric generating plants, or other equipment driven by motors or engines in such a manner and at such times so as to unreasonably annoy persons in campgrounds, picnic areas, lodges, or at other public places or gatherings is prohibited.
- (2) The operation or use of public address systems, whether fixed, portable, or vehicle mounted on lands, waters, and highways, is prohibited except when such use or operation is in connection with public gatherings or special events for which permits have been issued by the ~~Superintendent~~ Park Manager.
- (3) The installation of aials or other special radio, telephone, or television equipment is prohibited unless authorized by the ~~Superintendent~~ Park Manager.

Authority: T.C.A. § 11-1-108.

0400-02-02-.04 Begging and Soliciting.

- (1) Begging is prohibited.
- (2) Hitchhiking or the soliciting of transportation is prohibited.
- (3) Commercial soliciting of any kind without a permit is prohibited: provided, that this ~~section~~ rule shall not apply to transactions with authorized concessioners.

Authority: T.C.A. § 11-1-108.

0400-02-02-.05 Camping.

- (1) Camping and the use of trailers or other camper units is permitted only at designated location: provided, however, that the ~~Superintendent~~ Park Manager may issue written permits to persons desiring to camp in backcountry, or other isolated sections of a park area, or may designate portions of the park area in which such permits will not be required by marking on a map which shall be available for public inspection in the Park Offices.
- (2) Within designated locations, the pitching of tents or parking of trailers or other camper units is permitted only at the sites designated.
- (3) The ~~Director~~ Assistant Commissioner and/or ~~Superintendent~~ Area Manager may establish limitations on the length of time persons may camp within a park area, either in a single period or in combined separate periods. Such limitations shall be posted at campgrounds, ranger stations, or other appropriate locations.
- (4) The installation of permanent camping facilities is prohibited.
- (5) The digging or leveling of the ground at any campsite is prohibited.
- (6) Camping equipment must be completely removed and camping sites cleaned by campers before departure.
- (7) Quiet shall be maintained in all campgrounds between the hours of 10:00 p.m. and 6:00 a.m.
- (8) The gathering of wood for use as fuel in campgrounds or picnic areas shall be limited to dead material on the ground, except where such gathering is prohibited by the ~~Superintendent~~ Park Manager by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.06 Closing of Areas.

The ~~Superintendent~~ Park Manager may establish a reasonable schedule of visiting hours for all portions of a park area and close or restrict the public use of all or any portion of a park area, when necessary for the protection of the area or the safety and welfare of persons or property by the posting of appropriate signs indicating the extent and scope of closure. All persons shall observe and abide by the officially posted signs designating closed areas and visiting hours.

Authority: T.C.A. § 11-1-108.

0400-02-02-.07 Disorderly Conduct.

- (1) Disorderly conduct is prohibited.
- (2) Offense defined: A person is guilty of disorderly conduct with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, if he shall:
 - (a) Engage in fighting or in threatening, violent or tumultuous behavior; or
 - (b) Make unreasonable noise or make an offensively coarse utterance, gesture, or display, or address abusive language to any person present; or
 - (c) Create a hazardous or physically offensive condition by any act or threat of action.

Authority: T.C.A. § 11-1-108.

0400-02-02-.08 Dogs, Cats, and Other Pets.

- (1) Dogs, cats and other pets are prohibited unless they are crated, caged or on a leash, or otherwise under physical restrictive control at all times.
- (2) Pets are prohibited in park inns, cabins, lodges (~~except in areas specifically designated for pets~~), public eating places, food stores, and on designated swimming beaches, ~~public spray pads~~ and pools at all times. The ~~Superintendent~~ Park Manager may also designate, by the posting of appropriate signs, other portions of park areas where pets are not permitted. This prohibition shall not apply to Seeing Eye Dogs or Hearing Ear Dogs or ~~service animals~~ with their master.
- (3) The keeping of dogs, cats or other pets by residents is prohibited unless authorized by the ~~Superintendent~~ Park Manager under such conditions as ~~he~~ they may prescribe.
- (4) Dogs, cats or other pets running at large and observed in the act of killing, injuring or molesting humans or wildlife may be disposed of in the interest of public safety and protection of the wildlife.
- (5) In park areas where hunting is permitted, the use of dogs may be allowed in accordance with rules of the Tennessee Wildlife Resources Commission.
- (6) ~~Persons shall clean up a pet's waste in any park area. Failure to clean up the waste is a violation of park rules.~~

Authority: T.C.A. §11-1-108.

0400-02-02-.09 Explosives.

- (1) The use or possession of explosives is prohibited except upon written permission of the ~~Superintendent~~ Park Manager. Any authorized use or possession of explosives shall conform with all applicable Federal, State, and local laws.

- (2) The use or possession of fireworks and firecrackers is prohibited, except upon written permission of the ~~Superintendent~~ Park Manager.

Authority: T.C.A. § 11-1-108.

0400-02-02-.10 False Reports.

The giving of any false or fictitious report or other information to any authorized person investigating an accident or any violation of law or regulations is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-.11 Firearms, Traps, and Other Weapons.

In park, natural, and historical areas the use of traps, seines, handthrown spears, nets (except landing nets), firearms (including air and gas powered pistols and rifles), blow guns, bows and arrows or crossbows, and any other implements designed to discharge missiles in the air or under the water which are capable of destroying animal life is prohibited. The possession of such objects or implements is prohibited unless they are unloaded and adequately cased, or broken down or otherwise packed in such a way as to prevent their use while in the park areas.

- Exception 1: Shooters may use recreational target shooting ranges available for skeet, trap and bow and arrow target shooting within a park area as long as these weapons are properly cased when not on the range.
- Exception 2: Authorized Federal, State, County and City law enforcement officers may carry firearms in the performance of their official duties.
- Exception 3: Persons using park area facilities while participating in authorized open or managed hunts within the park areas or beyond, may use and possess firearms under the specific rules and regulations pertaining to the authorized hunt and only in the authorized hunting zones or compartments.

Authority: T.C.A. § 11-1-108.

0400-02-02-.12 Fires.

- (1) The kindling of any fire is permitted only:
- (a) In designated camping and picnic grounds when the fire is confined in a fireplace provided for the use of visitors, or grills, or in locations marked by the ~~Superintendent~~ Park Manager; or
 - (b) In other locations, including backcountry, wilderness and remote sections of the park areas when a written permit has been secured from the ~~Superintendent~~ Park Manager; or
 - (c) In stoves or lanterns using gasoline, propane, butane gas or similar fuels.
- (2) Fires must be kindled in such manner that no tree, shrub, grass, or other inflammable or combustible matter will be set on fire or caused to be set on fire.
- (3) When no longer needed, the fire shall be completely extinguished. Leaving a fire unattended is prohibited.
- (4) Throwing or dropping a lighted cigarette, cigar, pipe heel, match or other burning material is prohibited.
- (5) The kindling of fires on park area lands and privately owned lands under the legislative jurisdiction of the State of Tennessee may be prohibited or limited by the ~~Superintendent~~ Park Manager by posted signs when the fire hazard makes such action necessary.

- (6) The ~~Superintendent~~ Park Manager, during such periods of time as he may prescribe, may prohibit smoking on any lands, including roads and trails, by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-. 13 Fishing.

- (1) Unless further restricted herein or by special regulation, fishing within park areas shall be in accordance with the laws and regulations of the Tennessee Wildlife Resources Agency.
- (2) Fishing in all park lakes may require a fishing permit for which there may be a nominal charge.
- (3) Digging for bait is prohibited within all park areas.
- (4) The transplanting or introducing of any live fish or fish eggs into the waters of any park area is prohibited.
- (5) Fishing is prohibited from within 200 feet of any public raft or float designed for water sports or within the limits of designated mooring areas or swimming areas. Fishing from within 200 feet of public boat docks with designated harbors may be prohibited by the ~~Superintendent~~ Park Manager by the posting of appropriate signs.
- (6) Fishing from motor vehicle bridges is prohibited.
- (7) State fishing licenses and park permits must be exhibited upon demand to any person authorized to enforce the provisions of these regulations.

Authority: T.C.A. § 11-1-108

0400-02-02-. 14 Alcoholic Beverages.

- (1) Except in facilities that are licensed to sell alcoholic beverages, consumption of alcoholic beverages within state park areas that are open to the general public is forbidden.
- (2) Except in facilities that are licensed to sell alcoholic beverages, the public display of any container of alcoholic beverages is prohibited within state park areas that are open to the general public.

Authority: T.C.A. § 11-1-108.

0400-02-02-. 15 Lost and Found Articles.

All lost articles shall be deposited by the finder at the office of the ~~Superintendent~~ Park Manager or at the nearest Ranger Station, leaving the name and address of the finder. Articles not claimed within thirty (30) days will be sent to the finder if they so request.

Authority: T.C.A. § 11-1-108.

0400-02-02-. 16 Picnicking.

- (1) In Natural and Cultural areas, picnicking is prohibited except in those locations designated by the ~~Superintendent~~ Park Manager, by posting of appropriate signs.
- (2) In recreation areas, picnicking is permitted unless appropriate signs have been posted by the ~~Superintendent~~ Park Manager identifying locations where picnicking is not permitted.

Authority: T.C.A. § 11-1-108.

0400-02-02-. 17 Portable Engines and Motors.

The operation or use of a portable motor-driven electric generating plant, pump, or other equipment driven by a
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portable engine or motor outside any developed or public use area without written permission from the ~~Superintendent~~ Park Manager, is prohibited. The ~~Superintendent~~ Park Manager may issue a permit for the use if he determines that the applicant has submitted satisfactory justification for the use of such equipment, that natural resources will not be impaired, and that no undue interference with public enjoyment of the park area will result. This ~~section~~ rule does not apply to outboard motors in areas where outboard motorboating is permitted, nor does it apply to electric generating plants on vessels.

Authority: T.C.A. § 11-1-108.

0400-02-02-.18 Preservation of Public Property, Natural Features, Curiosities and Resources.

- (1) The intentional or wanton destruction, defacement, or removal of any natural or cultural feature or non-renewable natural resource is prohibited without a permit granted pursuant to rule 0400-02-02-.23 Scientific Specimens.
- (2) The intentional or wanton destruction, injury, defacement, removal or disturbance in any manner of any public buildings, signs, equipment, monument, marker or other structure or of any relic, artifact, ruin or historic or pre-historic feature or of any other similar public property is prohibited. The intentional or wanton possession of park equipment is prohibited without the authorization of the ~~Superintendent~~ Park Manager or his designate.
- (3) Gathering or collecting for personal use reasonable quantities of natural products of a renewable nature including but not limited to fruits, berries, and driftwood is permitted; however, the gathering or collecting of such products for the purpose of commercial sale or other commercial use is prohibited.
- (4) The gathering or collecting of small quantities of pebbles or small rocks by hand for personal use is permitted; however, the collection of such objects for the purpose of commercial sale or other commercial use is prohibited.
- (5) The destroying, digging, cutting, removing, or possession of any tree, shrub, or other plant is prohibited without a permit granted by the ~~Director~~ Assistant Commissioner of Parks and Recreation.
- (6) The use of any mineral or metal detecting device capable of detecting the underground or underwater location of geological, archaeological or historical objects or materials is prohibited. Provided, however, that this ~~section~~ rule shall not apply to:
 - (a) fathometers, radar equipment and electronic equipment used primarily for the navigation and safe operation of boats and aircraft;
 - (b) ~~to~~ persons possessing a permit from the State Archaeologist to conduct legitimate archaeological research when such permit is signed by the ~~Director~~ Assistant Commissioner of Parks and Recreation; and
 - (c) ~~to~~ an individual engaged in a limited search for a lost item under supervision of the ~~park~~ ~~Superintendent~~ Park Manager.

Authority: T.C.A. § 11-1-108.

0400-02-02-.19 Public Assemblies, Meetings.

- (1) Public meetings, assemblies, gatherings, demonstrations, parades and other public expressions of views are permitted within park areas on lands which are open to the general public provided a permit ~~therefor~~ has been issued by the ~~Superintendent~~ Park Manager.
- (2) Any application for such a permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, and estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith.
- (3) The ~~Superintendent~~ Park Manager shall issue a permit on proper application unless:

- (a) A prior application for the same time and place has been made which has been or will be granted; or
- (b) The event will present a clear and present danger to the public health or safety; or
- (c) The event is of such nature or duration that it cannot reasonably be accommodated in the particular park area applied for.

Authority: T.C.A. § 11-1-108.

0400-02-02-.20 Report of Injury or Damage.

All incidents resulting in injury to persons or damage to property must be reported by the person or persons involved as soon as possible to the **Superintendent Park Manager**. This report does not relieve persons from the responsibility of making any other accident reports which may be required under State law.

Authority: T.C.A. § 11-1-108.

0400-02-02-.21 Saddle and Pack Animals.

- (1) Horses and other saddle or pack animals are permitted only on those trails or routes established for their use, except in those areas where cross-country travel is permitted by the **Superintendent Park Manager**.
- (2) The use of horses or other saddle or pack animals upon the main traveled or maintained portion of roadways is prohibited except where such travel is necessary for ingress to and egress from trails or privately owned property, or is incidental to authorized travel.
- (3) In the interest of the public safety and welfare the **Superintendent Park Manager**, by special regulation, may require that saddle horse parties and pack trains shall be in the charge of a guide who has been licensed under State or local laws or who meets qualifications which may be established by the **Superintendent Park Manager**, or both, if the **Superintendent Park Manager** deems it necessary.
- (4) Riding or hitching horses, or other saddle or pack animals in campgrounds, picnic areas, or within the immediate vicinity of trail shelters, eating or sleeping establishments or other areas of public gatherings, except where trails and facilities are designated or provided for such use, is prohibited.
- (5) Riders shall slow their horses to a walk or slow trot when passing persons on foot or on bicycles.

Authority: T.C.A. § 11-1-108.

0400-02-02-.22 Sanitation.

- (1) All garbage, papers, cans, bottles, waste materials and rubbish of any kind must be ~~burned in authorized fires, or~~ disposed of only at points or places designated for the disposal thereof, or removed from the area. ~~All noncombustible waste materials shall be deposited only in places designated from the disposal of such materials or removed from the area.~~
- (2) Draining or dumping refuse or wastes from any trailer, or other vehicle except in places or receptacles provided for such use is prohibited.
- (3) Cleaning food or washing clothing or articles of household use at campground hydrants is prohibited.
- (4) Polluting or contaminating in any manner any watershed, water supplies or water used for drinking purposes is prohibited.
- (5) Fish entrails or other inedible parts of fish shall not be thrown into fresh waters or onto park area lands in areas of public concentration.

- (6) Depositing any body waste in or on any portion of any comfort station or other public structure except into fixtures provided for that purpose is prohibited. Placing any bottle, can, cloth, rag, metal, wood, or stone substances in any of the plumbing fixtures in such station or structure is prohibited. All comfort stations shall be used in a clean, sanitary, and orderly manner.
- (7) Urinating or defecating other than at the places provided ~~therefor~~ is prohibited, except in backcountry, wilderness or other remote areas.
- (8) Using State refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought as such from private property is prohibited.
- (9) Washing of vehicles, trailers, and boats at campground hydrants is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-.23 Scientific Specimens.

Unless specifically permitted by other regulations, the collection of plants, rocks, minerals, animal life, botanical specimens, or other natural objects or artifacts, or cultural artifacts is permitted only after the collector has received a written permit from the ~~Director Assistant Commissioner~~ of Parks and Recreation.

- (1) No permits will be issued to any individuals or associations to collect specimens for personal use but only to persons officially representing reputable scientific or educational institutions in procuring specimens for research, group study or museum display.
- (2) Permits will be issued only on condition that the specimens taken will become part of the permanent collection of a public museum or herbarium or will in some suitable way be made permanently available to the public and the scientific community.
- (3) No permits may be granted for the collection of specimens, the removal of which would disturb the remaining natural features or mar the appearance of a park area.
- (4) Permits to secure "rare" natural objects, flora or fauna will be granted by the ~~Director Assistant Commissioner~~ only upon proof of special need for scientific use and of the fact that such cannot be secured elsewhere.
- (5) The ~~Director Assistant Commissioner~~ may require that the collector provide a complete report of the scientific investigation to the Department of ~~Environment and Conservation~~ as a condition of granting a permit.
- (6) The ~~Director Assistant Commissioner~~ of Parks and Recreation is responsible for coordinating the approvals of the Division of Ecological Services and the Division of Archaeology before granting permits to collectors on state park properties in cases where these Divisions have oversight interests.

Authority: T.C.A. § 11-1-108.

0400-02-02-.24 ~~Skating Skates, Skateboards, Roller Blades, Segways, Scooters and Like Recreational Equipment.~~

The use of roller skates, ~~and~~ skateboards, roller blades, segways, scooters and like recreational equipment ~~is~~ are prohibited except in locations designated by the ~~Superintendent Park Manager~~ by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.25 Special Events.

Sports events, pageants, reenactments, regattas, entertainments and the like, characterized as public spectator attractions, are prohibited unless written permission ~~therefor~~ has been given by the ~~Superintendent Park~~

Manager. Such permits may be issued only after a finding that the issuance of such permit will not be inconsistent with the purposes for which the area is established and maintained, and will cause the minimum possible interference with use of the area by the general public. The permit may contain such reasonable conditions and restrictions as to duration and area occupied as are necessary for protection of the area and public use thereof.

Authority: T.C.A. §11-1-108.

0400-02-02-26 Swimming and Bathing.

(1) Swimming and bathing are prohibited except in designated beach areas, waters and pools.

(2) The Park **Superintendent Manager**, with the approval of the **Director Assistant Commissioner** of Parks and Recreation, may post and enforce appropriate rules and regulations governing swimming areas. Violators of posted rules governing the use of pools and beaches will be subject to removal from the premises if the violation is flagrant or repeated or if in the judgment of the Park **Superintendent Manager** the continued presence of the violator would create a hazardous condition in the area.

(3) The Park **Superintendent Manager** or his designated staff in a pool or beach area are charged with providing a safe condition in these areas and as such may, from time to time, regulate public use of these facilities for the protection of public health and safety. Nothing in these rules shall be construed as limiting the authority of a lifeguard or other personnel in regulating in public behavior at beaches and other swimming areas, to only posted rules.

(4) Scuba diving is prohibited within the limits of designated swimming, boat mooring, and boat docking areas.

(5) Scuba diving will be permitted in those state park lakes which are within the borders of a park but only upon receiving a permit to do so from the **Superintendent Park Manager** or his authorized representative. This permit will be granted upon demonstration by the applicant that he/she has received scuba certification which is granted to those successfully completing courses meeting the "Revised Instructional Standards: Minimum Course Content for Entry-Level Scuba Certification," January 16, 1986, including any subsequent revision to these standards. These standards are subscribed to by: National Association of Scuba Diving Schools, National Association of Underwater Instructors, NAVI, PADI, Scuba Schools International and the YMCA. Provided, however, the Park **Superintendent Manager** may refuse to grant a permit whenever in his judgment safety conditions or park operation concerns dictate.

Authority: T.C.A. § 11-1-108.

0400-02-02-27 Tampering with Vehicle or Vessel.

Tampering or attempting to tamper with any vehicle, vessel or other equipment which is not lawfully in one's possession or control, or entering or going upon, moving or manipulating any of the parts or components of any vehicle, vessel or other equipment or starting or setting the same in motion, except under such lawful possession or control, are prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-28 Travel on Trails.

(1) The use of bicycles, motorcycles, snowmobiles, and other motor vehicles is prohibited on trails in park areas unless otherwise designated by the **Superintendent Park Manager** by the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-29 Water Skiing.

(1) In lakes which are totally within the boundaries of a park area, the towing of water skis and similar devices by vessels is prohibited. In other lakes, water skiing is permitted except in waters which are

posted by appropriate signs or markers.

Authority: T.C.A. § 11-1-108.

0400-02-02-.30 Wildlife; Hunting.

- (1) The hunting, killing, wounding, frightening or capture at any time of any wildlife is prohibited, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury. Exception: On park areas during those times when hunts are being conducted in accordance with Tennessee Wildlife Resources Agency's laws and regulations.
- (2) Except as otherwise provided herein, the feeding, touching, teasing, molesting or intentional disturbance of any wildlife or the activities or phenomena of wildlife is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-02-.31 Winter Sports.

- (1) Skiing, sledging, tobogganing, snowshoeing, skating, and other similar winter sports are permitted except upon roads and parking areas when such roads and parking areas are open to motor vehicle traffic and in other places where these activities are prohibited by posted signs.

- (2) The towing of persons on skis, sleds, or other sliding devices is permitted only on routes or in locations designated by the ~~Superintendent~~ Park Manager. Such designations may be made by marking on a map of the area which shall be available for public inspection at the park office, or by posting of signs.

Authority: T.C.A. § 11-1-108.

0400-02-02-.32 Reserved State Parks Entrance Fees and Parking Fees.

(1) Purpose:

This rule is promulgated for the purpose of establishing entrance fees and parking fees to provide funding to maintain and improve the quality of facilities and services offered to all patrons of Tennessee State Park System. It is the commissioner's intent that funds raised pursuant to this part rule will remain exclusively within the Tennessee State Park System.

(2) Entrance Permit Required:

All persons who enter a Designated Fee Area within the Tennessee State Park System must have a valid entrance permit. Permits may be obtained at all Parks Visitor Centers and other locations designated by the commissioner.

(3) Designated Fee Area:

An area is a "Designated Fee Area" if the entrances to the area are so posted. Such postings may include the portion of the calendar year for which fees shall be charged and shall specify where entrance permits may be obtained. Any person who fails to obtain a permit as directed shall be subject to enforcement pursuant to Rule 0400-02-01-04.

(4) Types of Permits:

(a) ~~Complementary Permit. Entrance permits shall be provided free of charge to the following persons:~~

1. ~~Any person taking part in an organized tour or outing conducted for educational or scientific purposes related to the resources of the area visited by bona fide institutions established for these purposes. (Applicants for waiver of fees on this basis will be required to provide documentation of their official recognition as educational or scientific~~

~~institutions by Federal, State or local government bodies and will also be required to provide a statement as to the purposes of the visit proposed. Waivers granted on this basis will include all participating students and instructors, as well as accompanying non-instructor chaperones~~

- ~~2. Any person conducting State, local, or Federal government business within any Designated Fee Area;~~
- ~~3. Any person who has not reached thirteen (13) years of age; or~~
- ~~4. Any person performing approved volunteer projects/work in a State park.~~

~~(b) Tennessee State Parks Passport.~~

- ~~1. The Tennessee State Parks Passport is valid for admission to any Designated Fee Area.~~
- ~~2. The charge for the Tennessee State Parks Passport shall be twenty dollars (\$20.00) determined by the Commissioner.~~
- ~~3. Except as provided in part 4 of this subparagraph, the Tennessee State Parks Passport shall be valid for one year from date of purchase.~~
- ~~4. For an additional fee of twenty dollars (\$20.00) determined by the Commissioner, a Tennessee State Parks Passport that is purchased by a person sixty-five (65) years of age or older shall be valid for the lifetime of that person.~~

~~(c) Single-Visit Permit.~~

- ~~1. A Single-Visit Permit shall be required for all persons not admitted by a Complimentary Permit or Tennessee State Parks Passport.~~
- ~~2. The charge for the Single-Visit Permit shall not be more than two dollars (\$2.00) per person. In lieu of this per person charge, the commissioner may establish a per vehicle charge. Any per vehicle charge established shall not exceed the total charge that would result if all passengers in the vehicle were charged on a per person basis.~~
- ~~3. A Single-Visit Permit shall be valid at the Designated Fee Area for which the permit is purchased during the same calendar day of purchase.~~

~~(5) Display and Nontransferability of Entrance Permits.~~

- ~~(a) Every permit shall be exhibited/displayed in the manner designated in the permit.~~
- ~~(b) Permits are nontransferable.~~

~~(6) Parking Fees.~~

- ~~(a) The Commissioner may charge a fee for the privilege of parking motor vehicles on State Park property. Such parking fees may be in addition to entrance fees.~~
 - ~~1. The parking fee for vehicles capable of carrying fifteen (15) passengers or less shall range between one dollar (\$ 1.00) and fifteen dollars (\$15.00) per day.~~
 - ~~2. The parking fee for vehicles capable of carrying more than fifteen (15) passengers shall range between ten dollars (\$ 10.00) and fifty dollars (\$50.00) per day.~~
 - ~~3. The Commissioner may establish weekly, monthly, or annual parking fees that do not exceed the daily rates.~~

~~(b) Areas where a parking fee is charged shall be clearly posted. The posted sign shall include the rate and directions for making payment.~~

~~(7) Entrance Permits and Parking Fees Distinguished from Recreation Use Fees.~~

~~Neither Entrance Fee Permits nor the payment of parking fees authorizes the use of any facility for which a recreation use fee is charged. These fees are in addition to all other fees (e.g., green fees, slip fees, etc).~~

~~(8) The Commissioner may waive all or part of any fees otherwise due under this rule if he finds that such waiver is in the best interest of the park system. Such waivers may include the grant of free access on dates selected by the Commissioner, reduced group fees, special promotional fees, etc.~~

Authority: T.C.A. ~~§§ 11-1-101(e) and (f)~~ and 11-1-108.

Chapter 0400-02-03

Boating

Amendment

Chapter 0400-02-03 Boating is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-03 shall read as follows:

Table of Contents

0400-02-03-.01 Additional Regulations	0400-02-03-.04 Safety Factors
0400-02-03-.02 Definitions	0400-02-03-.05 Prohibited Operations
0400-02-03-.03 Boat Launching	0400-02-03-.06 Restricted Waters

0400-02-03-.01 Additional Regulations.

In addition to the Park Regulations contained in this ~~part rule~~, the U.S. Coastguard Regulations, Titles 33 and 46 Code of Federal Regulations, and the Tennessee Boating Safety Act of 1965, as amended, must also be observed.

Authority: T.C.A. § 11-1-108.

0400-02-03-.02 Definitions.

- (1) "Vessel" includes every type or description of craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. This definition includes but is not limited to the following: Boat, motorboat, houseboat, rowboat, powerboat, jet boat, fishing boat, towboat, scow, flatboat, sailboat, cruiser, motor vessels, ship, barge, tug, floating cabana, party boat, charter boat, ferryboat, canoe, raft, or any buoyant device permitting or capable of free flotation.
- (2) "Motorboat" means any vessel propelled by machinery of 65 feet or less in length, whether or not such machinery is the principal source of power.
- (3) "Motor Vessel" means any vessel propelled by machinery over 65 feet in length, whether or not such machinery is the principal source of power.
- (4) "Sailboat" or "Sail Vessel" means any vessel propelled solely by wind effect on the sail.

Authority: T.C.A. § 11-1-108.

0400-02-03-.03 Boat Launching.

- (1) The Division of Parks and Recreation may establish a charge for the launching of private boats into lakes,

rivers, or navigable streams accessible from park lands where such charge is otherwise permitted by statute or by the conditions under which the Division accepted title to these park lands.

- (2) The Division of Parks and Recreation may prohibit the launching of personally owned boats on park lakes which are totally within the boundaries of a park.

Authority: T.C.A. § 11-1-108.

0400-02-03-.04 Safety Factors.

- (1) All persons under sixteen (16) years of age must be accompanied by an adult before fishing from boats except those children between 12 and 15 not using power-operated boats on the small park lakes.
- (2) Boats shall not be operated in a reckless manner and shall not exceed five (5) miles an hour (except on open waters adjacent to park areas where there are no other speed restrictions).
- (3) All occupants of a canoe must wear a life preserver on park-managed lakes and streams.
- (4) All occupants of other types of park-owned boats are required to have a flotation device (furnished by the park) for every passenger.

Authority: T.C.A. § 11-1-108.

0400-02-03-.05 Prohibited Operations.

- (1) No operator or person in charge of any vessel shall operate or knowingly permit any other person to operate a vessel in a reckless or negligent manner, or in a manner so as to endanger or be likely to endanger any person or property.
- (2) No operator shall permit any person to ride on the gunwales, transom, or on the decking over the bow of a vessel propelled by machinery while the vessel is underway, unless the vessel is adequately equipped with rails or guards: provided, however, that this shall not apply while the vessel is being maneuvered for mooring or unmooring, or when embarking or disembarking passengers.
- (3) No privately owned vessel shall be used to carry passengers for hire, or be used in any other commercial operation, unless written authorization has been granted by the ~~Director~~ Assistant Commissioner, except as provided by special regulations for areas having navigable waters.
- (4) Vessels transported by vehicles must be launched or removed from the waters only at designated launching sites.
- (5) No vessel shall be operated within 200 feet of any designated swimming area.
- (6) All vessels shall proceed with due caution and at slow speed while underway when in the vicinity of any diver's marker, designated by a standard square-shaped flag containing a white diagonal stripe on a red field.
- (7) No vessel shall be operated in excess of five (5) miles per hour within designated harbors.
- (8) Attaching a vessel to or interfering with any marker, navigational buoy, or other navigational aid is prohibited.
- (9) Leaving any vessel unattended, outside of designated mooring or beaching areas, for a period in excess of 24 hours without prior written permission of the ~~Superintendent~~ Park Manager is prohibited, and any vessel so left may be impounded by the ~~Superintendent~~ Park Manager.
- (10) Vessels equipped with a propeller above the water line, commonly referred to as an "airboat" are prohibited.

- (11) No log boom, pier, dock, fence, pile, raft, anchorage, or other obstruction shall be installed in the waters of any park.

Authority: T.C.A. § 11-1-108.

0400-02-03-.06 Restricted Waters.

- (1) No vessel shall be operated on any waters which are zoned or marked as migratory bird waters, or for fish cultural or wildlife uses.
- (2) No vessel shall approach any dam or other engineering works closer than the limits posted with appropriate signs or markers.
- (3) The **Superintendent Park Manager** may close or otherwise restrict the use of any body of water when necessary to protect life or property, or for any other emergency. Such restricted area shall be defined, whenever practicable, by signs or markers.
- (4) The **Superintendent Park Manager** may, by the posting of appropriate signs, establish limitations on the time allowed for camping on or from vessels, either in single periods, or combined separate periods, in any area waters or portions thereof.

Authority: T.C.A. § 11-1-108.

Chapter 0400-02-05
Vehicles and Traffic Safety

Amendment

Chapter 0400-02-05 Vehicles and Traffic Safety is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-05 shall read as follows:

Table of Contents

0400-02-05-.01 State Law Applicable	0400-02-05-.13 Obstructing Traffic
0400-02-05-.02 Definitions	0400-02-05-.14 Reckless or Careless Driving
0400-02-05-.03 Bicycles	0400-02-05-.15 Report of Vehicle Accident
0400-02-05-.04 Commercial Towing Service	0400-02-05-.16 Right of Way
0400-02-05-.05 Driver's License	0400-02-05-.17 Speed Limits
0400-02-05-.06 Driving Under Influence of Intoxicating Liquor or Drugs	0400-02-05-.18 Traffic Control and Signs
0400-02-05-.07 Entrances and Exits	0400-02-05-.19 Travel on Roads
0400-02-05-.08 Excessive Acceleration	0400-02-05-.20 Vehicle Registration
0400-02-05-.09 False Report	0400-02-05-.21 Use of Motorcycles
0400-02-05-.10 Following Vehicles	0400-02-05-.22 Trail Bikes, Minibikes, and Other Off-Road Vehicles
0400-02-05-.11 Load, Weight, Length, and Width Limitations	
0400-02-05-.12 Mufflers	

0400-02-05-.01 State Law Applicable.

Unless specifically covered by the general and special regulations set forth in this chapter, the laws and regulations of the State shall govern traffic and the operation and use of vehicles in all State Parks. Such State laws and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this **part chapter**.

Authority: T.C.A. § 11-1-108.

0400-02-05-.02 Definitions.

The following terms and phrases when used in this **part chapter** have the meanings respectively ascribed:

- (1) "Vehicle". Every device in, upon, or by which any person or property is or may be transported or drawn on land, except devices moved by human power or used exclusively upon stationary rails or tracks.
- (2) "Motor Vehicle". Every vehicle which is self-propelled ~~and every vehicle which is propelled by electric power by internal combustion, electric or any other mechanical motor~~, but not operated upon rails, or upon water.
- (3) "Bicycle". Every device propelled by human power upon which a person or persons may ride on land, having one, two, ~~or~~ three ~~or four~~ wheels.
- (4) "ATV". All Terrain Vehicle.
- ~~(4)~~(5) "Motorcycle". Every motor vehicle having a seat for the use of the rider and designed to travel on not more than ~~three~~ four wheels in contact with the ground, but excluding a tractor.
- ~~(5)~~(6) "Authorized Emergency Vehicle". Any vehicle in official use for emergency purposes by local, state or federal agencies and other emergency vehicles such as ambulances and fire engines.
- ~~(6)~~(7) "Operator". Any person who operates, drives, controls or otherwise has charge of a vehicle.

Authority: T.C.A. § 11-1-108.

0400-02-05-.03 Bicycles.

- (1) Bicycle riders must comply with all applicable traffic regulations. Bicycle riders shall keep well to the **right** side of the road and shall ~~keep~~ **keep** the bicycle under complete control at all times. Bicycles shall not be ridden abreast of one another except on roads designed for bicycle use only.
- (2) Each bicycle must exhibit a white light on the front and a red light or red reflector on the rear during periods of low visibility or during the period between sundown and sunup.
- (3) **Helmets are required by all riders while operating or riding bicycles on any state park property.**

Authority: T.C.A. § 11-1-108.

0400-02-05-.04 Commercial Towing Service.

An operator of a vehicle used to provide commercial towing service for another vehicle following an accident or for any other reasons must give immediate notice by the quickest available means of communication to the **Superintendent Park Manager** before moving the vehicle, unless traffic is being obstructed, in which case notification shall be made before leaving the park area.

Authority: T.C.A. § 11-1-108.

0400-02-05-.05 Driver's License.

Driving or permitting another person to drive a vehicle unless such operator has a valid license, when such is required by laws of the State in which the operator is resident or in which the vehicle is registered, is prohibited. A valid driver's or operator's license, **registration and proof of insurance** must be displayed upon the request of any authorized person.

Authority: T.C.A. § 11-1-108.

0400-02-05-.06 Driving Under Influence of Intoxicating Liquor or Drugs.

No operator of a vehicle shall be under the influence of intoxicating liquor or drugs.

Authority: T.C.A. § 11-1-108.

0400-02-05-.07 Entrances and Exits.

No operator of a motor vehicle shall enter or leave the park with such vehicle at any place except established entrances and exits, and during such hours as may be designated by the ~~Superintendent~~ Park Manager through the posting of appropriate signs.

Authority: T.C.A. § 11-1-108.

0400-02-05-.08 Excessive Acceleration.

The excessive acceleration of the engine of a motor vehicle or motorcycle or ATV when such vehicle is not moving, or is approaching or leaving a stopping place, is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-.09 False Report.

The giving of any false or fictitious report or information to any authorized person investigating an accident or other violation of law or regulations is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-.10 Following Vehicles.

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the roadway. The responsibility for conformance with this ~~section~~ rule rests with the operator of the following vehicle.

Authority: T.C.A. § 11-1-108.

0400-02-05-.11 Load, weight, Length, and Width Limitations.

- (1) Load, weight, length, and width limitations of vehicles except as provided herein shall be in accordance with applicable State law: provided, however, the ~~Superintendent~~ Park Manager may by the posting of appropriate signs, establish lesser limits, when limits within the State are determined to be greater than sufficient and proper for preservation of the roadway and the safety and welfare of the public, any may also establish hours during which heavy equipment may be operated over government roads.
- (2) No vehicle, or load thereon, the total outside width of which exceeds eight (8) feet, shall be permitted on park roads without a permit from the ~~Superintendent~~ Park Manager.
- (3) Trailers more than 35 feet long are prohibited without a permit from the ~~Superintendent~~ Park Manager.
- (4) The transporting of explosives in any quantity or form without a permit from the ~~Superintendent~~ Park Manager is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-.12 Mufflers.

Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle.

Authority: T.C.A. § 11-1-108.

0400-02-05-. 13 Obstructing Traffic.

- (1) Stopping, parking, or leaving any vehicle, whether attended or unattended, upon the paved or maintained surface of a road so as to leave less than 10 feet of the width of the same traffic lane for the free or unobstructed movement of other vehicles or upon a designated fire lane is prohibited, except in the event of accident or other conditions beyond the immediate control of the operator, or as otherwise directed by an authorized person.
- (2) Causing or permitting a motor vehicle under one's control to obstruct traffic by making turns from the wrong traffic lane, or by weaving in and out of traffic, or by driving so slowly as to interfere with the normal flow of traffic, or in any other manner, is prohibited.

Authority: T.C.A. § 11-1-108.

0400-02-05-. 14 Reckless or Careless Driving.

- (1) Driving or operating any vehicle carelessly or heedlessly, or in willful or wanton disregard for the rights or safety of other persons, or without due care or at a speed greater than is reasonable and prudent under prevailing conditions, having regard to traffic, weather, wildlife, road, and light conditions, and surface, width, and character of the road, is prohibited.
- (2) Texting while operating a vehicle or distracted operation of a vehicle is prohibited.
- (3) Every operator shall maintain such control of the vehicle as may be necessary to avoid danger to persons or property or wildlife.

Authority: T.C.A. § 11-1-108.

0400-02-05-. 15 Report of Vehicle Accidents.

- (1) The operator of any vehicle involved in a collision or upset shall give notice of such accident forthwith by the quickest available means of communication to the Park ~~Superintendent~~ **Manager** or his authorized representative and shall also provide a written report of the incident within twenty-four (24) hours when requested by the Park ~~Superintendent~~ **Manager** or his authorized representative. This report does not relieve the operator from the responsibility of making any other motor vehicle accident report which may be required by State law.

Authority: T.C.A. § 11-1-108.

0400-02-05-. 16 Right of Way.

- (1) The operator of any vehicle, when being approached from any direction by any authorized emergency vehicle giving an audible or visual signal, shall yield the right of way to the emergency vehicle.
- (2) Pedestrians, saddle horses, pack trains, and horsedrawn vehicles have right of way over motor vehicles.

Authority: T.C.A. § 11-1-108.

0400-02-05-. 17 Speed Limits.

- (1) The ~~Superintendent~~ **Park Manager** may establish greater or lesser speed limits upon any road or other way when the maximum speed limits set forth are determined to be greater or less than is reasonable or safe. Such speed limits shall be established by the posting of appropriate signs and no person shall drive any vehicle at a speed in excess of the maximum limits so posted.
- (2) The provisions of this ~~section~~ **rule** shall not apply to authorized emergency vehicles: provided, however, that such vehicles shall not be operated at speeds in excess of those which are prudent under the circumstances.

Authority: T.C.A. § 11-1-108.

0400-02-05-.18 Traffic Control and Signs.

- (1) The ~~Superintendent~~ Park Manager may erect signs which regulate traffic, prohibit or restrict stopping, standing or parking, the direction of travel, and the hours during which roads and parking areas are open to the public. All persons shall comply with the directions of any signal or posted traffic sign.
- (2) All persons shall obey the lawful order or signal of any authorized person directing, controlling, or regulating the movement of traffic.
- (3) The operator of a motor vehicle shall comply with and observe all visual or audible signals given by any authorized person directing the operator to bring his motor vehicle to a stop.

Authority: T.C.A. § 11-1-108.

0400-02-05-.19 Travel on Roads.

- (1) Operating a vehicle outside of established public roads, parking areas, or routes designated by the ~~Superintendent~~ Park Manager is prohibited. Such routes may be designated by the posting of appropriate signs, or by marking a map which shall be available for public inspection in the office of the ~~Superintendent~~ Park Manager, or both.
- (2) Operating a vehicle, equipped with any fitting or device which damages or is likely to damage the road surface is prohibited: however, this ~~section~~ rule shall not be construed to prohibit the use of ordinary detachable tire or skid chains or comparable safety devices under adverse road conditions.

Authority: T.C.A. § 11-1-108.

0400-02-05-.20 Vehicle Registration.

The operation of a vehicle which does not bear valid license plates and is not properly certificated or registered in accordance with applicable State laws is prohibited. Valid proof of ownership of State registry of the vehicle must be displayed upon the request of any authorized person. Valid proof of liability insurance must be displayed upon the request of any authorized person.

Authority: T.C.A. § 11-1-108.

0400-02-05-.21 USE OF MOTORCYCLES.

- (1) Motorcycles (any two-, ~~or three-~~ or four wheel vehicle of ~~MORE~~ more than 5 horsepower) are only permitted on paved park roads, and must obey all traffic laws that any other motor vehicle operator must observe.
- (2) Motorcycles must be equipped with brakes, lights, approved crash bars, seat and foot rests for operator and passenger, windshield or safety goggles for operator and passenger, and rear view mirror.
- (3) Motorcycle operators must possess a valid Motorcycle Drivers License, Vehicle Registration Certificate, and vehicle must have proper license plates.

Authority: T.C.A. § 11-1-108.

0400-02-05-.22 Trail Bikes, Minibikes, and Other Off-road Vehicles.

Trail bikes, minibikes and other off-road vehicles having two, ~~or three~~ or four wheels are restricted to use of designated trails only. These designated areas may be used only during daylight hours as posted. These vehicles will be equipped with properly functioning mufflers and spark arresters. Neither vehicle nor operator's license is required when vehicle is used within designated area. Safety is the responsibility of the user. All operators must operate within posted boundaries, or on trails as posted. Operator hours shall be from 9:00 a.m. to 30 minutes

before sundown. Sanctioned competitive events are prohibited. One-way trails must be traveled in the direction indicated. No harassment or disturbance of people or wildlife is permitted. All riders of these vehicles shall follow the safety practices recommended by the American Motorcycle Association. Riders shall have a safety helmet and wear heavy shoes, protective clothing, and protective eyewear of shatterproof material. Safety of others must be a primary consideration at all times.

Authority: T.C.A. § 11-1-108.

Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River is amended by deleting it in its entirety and replacing it with the following so that, as amended, the Chapter 0400-02-10 shall read as follows:

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0400-02-10-.01 Purpose	0400-02-10-.07 Obedience of Laws, Rules and Regulations, License Requirements and Conditions
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0400-02-10-.01 Purpose.

- (1) To provide information to the authorized Commercial Operator whereby he shall have full knowledge of Department of Environment and Conservation, Division of State Parks requirements, intentions, rules and regulations.
- (2) To provide the Department with an effective means to manage commercial use that may infringe on the outdoor recreation opportunities of others.
- (3) To preserve the scenic and recreational values of the river and the integrity of publicly-owned land (State, TVA, and U.S. Forest Service) contiguous to the river, and natural resources within the area.
- (4) To preserve the integrity of the park facilities that boaters may come in contact with.
- (5) To provide for the maximum safety of the public.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.02 Raft, Inflatable Boats, Kayaks and Canoe Requirements for Commercial Operators.

Rafts, Inflatable Boats, Kayaks and Canoes (hereinafter known as "craft" unless otherwise specifically designated)

- (1) Each raft must contain at least three (3) separate inflatable compartments.
- (2) Each inflatable craft must be constructed of a tough rubberized fabric, or its equal, capable of repeated daily abrasion and abuse on a class III/IV river. Single thickness non-reinforced vinyl or other poorly or cheaply constructed rafts, canoes and kayaks are prohibited for use in commercial operations.
- (3) Each raft must be of "4-man" size or larger. Each raft must be at least 11' in length and 5' wide.
- (4) All kayaks, ~~or~~ canoes or funyaks must have flotation such that the craft has positive buoyancy in still water when filled with water and occupied by the number of persons for which the craft is designed in

white water usage.

- (5) All commercial watercraft must meet or exceed the safety recommendations of the American White Water Affiliations, "Safety Code" of 1977, as revised from time to time.
- (6) Each craft must be maintained in a reasonable operating condition for its intended use. Each craft shall be inspected after each trip for damage such as punctures, tears and excessive abrasions and wear which materially affect the structural integrity of the craft. If such damage is found, repairs must be made to the craft before it can be used for commercial boating purposes on the river.
- (7) No tubes or tube-like crafts shall be allowed.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.03 Personal Safety Equipment and Devices.

- (1) Commercial Operators shall require each customer to properly wear a Type V U.S. Coast Guard approved personal flotation device (PFD) of appropriate size, while on or in the river.
- (2) Each personal flotation device must be inspected prior to each issuance. Personal flotation devices must be removed from service immediately and repaired or disposed of if:
 - (a) the PFD becomes water logged;
 - (b) the PFD is damaged such that it can no longer be worn or attached to the user as originally intended by the manufacturer; and/or
 - (c) the device is of such age or worn condition that the fabric, flotation material, webbing, fastening devices, etc., can no longer be reasonably expected to withstand the ordinary forces expected to be encountered in the normal course of customer usage on the river.
- (3) Commercial Operators shall require all passengers and guides, in inflatable rafts, kayaks or canoes, to wear an appropriate helmet in addition to an approved personal flotation device, while on or in the river.
- (4) All equipment including rafts, PFD's, paddles, shall be subject to inspection by any authorized representative of the Division at any reasonable time, including but not limited to times when the equipment is in use on or about the river and equipment deemed to be in an unsafe condition by the above representative must be immediately repaired or removed from service.
- (5) One (1) or more buoyant heaving line, 3/8" diameter and at least fifty (50) feet in length shall be carried on each trip.
- (6) The Commercial Operator shall provide one (1) waterproof First Aid Kit for each trip of eight (8) craft or less, two (2) First Aid Kits for each trip of more than eight (8) craft. Each kit shall contain at least the following items:
 - (a) Semi-rigid or rigid splints for immobilization of fractures
 - (b) Emergency space blanket, shock blanket or equivalent
 - (c) Triangular bandages
 - (d) Ace bandages
 - (e) Quick cold packs
 - (f) Gauze compresses at least 2 x 2 or larger
 - (g) Roller gauze 2"- up

- (h) Box of Band-aids 3/4"- up
- (i) Butterfly band-aid
- (j) Safety Pins
- (k) Sting Swaps
- (l) Adhesive Tape
- (m) Antiseptic solution for cleaning, or moist sterile towelettes
- (n) Scissors
- (o) Tweezers
- (p) Tongue Depressors (Finger splints)
- (q) Knife
- (r) Sun Screen
- (s) Sanitary Napkins (for compress)
- (t) Eye Patches
- (u) Tie strips for splints
- (v) Pad for splints
- (w) Gloves
- (x) Biohazard Bag
- (y) CPR Mask

(7) Passengers on trips ~~should~~ shall be at least twelve (12) years of age.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.04 Transportation.

- (1) The Commercial Operator shall restrict all parking of vehicles to areas approved by the Division and shall comply with all rules of the road.
- (2) The Commercial Operator shall comply with the Department of Safety Rules and Regulations regarding the transportation of passengers.
- (3) The Commercial Operator shall comply with the Department of Safety Rules and Regulations regarding commercial vehicles.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.05 Guides and Guide Trainees.

- (1) All guides and guide trainees shall be at least 18 years of age.
- (2) A minimum of one guide per trip shall have completed the American Red Cross Advanced First Aid

Course, or an approved equivalent course, be qualified in C.P.R., and hold currently validated certificates.

- (3) All guides shall have completed an American Red Cross or American Heart Association C.P.R. course, a basic multi-media first aid course and possess current valid certificates, or the equivalent as approved by the Division.
- (4) Those guides which act as trip leaders (Commercial Operator's principle representative for a given trip) must have at least one season's experience as a guide on the Ocoee or a river similar in difficulty to the Ocoee.
- (5) Copies of certifications required in ~~Section 5. (2) and (3) above~~ paragraphs (2) and (3) of this rule, a photocopy of each guide's driver's license and a guide trainee list, shall be provided to the Park Manager upon request and filed in the Commercial Operator's place of business and continually updated throughout the season.
- (6) There shall be one guide or guide trainee per craft. No more than 25% of the crafts on a commercial trip shall have guide trainees controlling the craft for the entire trip.
- (7) All guides shall be instructed by the Commercial Operator in safety and emergency techniques such as handling throwlines and other means of river rescue and equipment management techniques.
- (8) Commercial Operator(s) shall cause all guides and guide trainees, to become knowledgeable with State Park and U.S. Forest Service Rules and Regulations; a copy of such rules and regulations shall be given to each guide or guide trainee.
- (9) It shall be the responsibility of each Commercial Operator to instruct all guides or guide trainees as to the availability of emergency aid and/or assistance such as nearest ambulance, fire department, State Police, state park personnel, doctors and hospital(s).
- (10) Every guide trainee must have all employee paperwork on file, including current CPR certification or dates of enrolled CPR classes.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.06 Safety Procedures.

- (1) The Commercial Operator shall enforce all safety measures outlined in these requirements dealing with condition and quality of equipment, training and conduct of guides and occupants.
- (2) The Commercial Operator shall conduct a white water safety seminar for all passengers to include at least the following topics:
 - (a) Description of the river and rapids;
 - (b) Equipment;
 - (c) Paddling safety
 - (d) Swimming in white water;
 - (e) Danger of strainers.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.07 Obedience of Laws, Rules and Regulations, License Requirements and Conditions.

- (1) The Commercial Operator shall abide by all federal, state and/or local laws, rules and regulations including those pertaining to commercial boating and those of the Tennessee Department of Conservation, the U.S. Forest Service and the Tennessee Valley Authority.

- (2) The Commercial Operators, in the exercise of privileges granted under license agreement with TVA shall require that its (his/her) employees, agents, sublessees, contractors, subcontractors and their employees abide by and comply with all of TVA's conditions and requirements.
- (3) The Commercial Operator shall pay full balance of all fees owed by the annual pre-season public meeting on the First Tuesday of March.
- (4) The Commercial Operator shall provide the State the information required, including but not limited to, "cap" numbers and accident reports.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.08 Termination.

- (1) Upon violation of any regulation herein by the Commercial Operator, its guide(s), guide trainee(s), its employee(s) and/or agents, the Division may cause the Commercial Operator to cease and terminate any and all river operation(s) by one of the following procedures:
 - (a) If the violation is of such a degree that it may cause loss of life and/or damage to person or property, including damage to the river and/or the land contiguous to the river, the Division may, at its sole discretion, upon written notice to the Commercial Operator demand and require that the Commercial Operator terminate and cease any and all river operations until the Commercial Operator has satisfactorily demonstrated to the Division that such violation has been corrected.
 - (b) If the violation does not cause an immediate danger to life or property:
 1. The Division shall give to the Commercial Operator, written notice specifying the particulars of the alleged unsatisfactory performance.
 2. Not less than fifteen (15) days after receipt by the Commercial Operator of such notice, the Division shall grant to the Commercial Operator an opportunity to be heard upon the charges.
 3. Following such opportunity to be heard, the Division shall, at its sole discretion, determine whether there has been a violation.
 4. If the Division decides that there has been a violation of the regulations, it shall give to the Commercial Operator written notice of such decision, specifying the particulars thereof.
 5. All hearings conducted under this ~~section of the regulations~~ rule shall be in accordance with the Uniform Administrative Procedures Act, T.C.A. §4-5-301, et seq.
 6. If the Commercial Operator fails or refuses to remedy such violation within such reasonable period of time as may be fixed by the Division, the Division shall request that TVA terminate the Commercial Operator's permit upon such date or upon contingency as it may deem proper to protect the public interest.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.09 Cooperation with Parks.

- (1) The Commercial Operator shall not cause any environmental damage to the river and/or river corridor and shall accomplish prompt clean-up and policing of litter generated by employees or guests as integral parts of his daily float trips.
- (2) The Commercial Operator shall not allow any glass containers, aluminum drink cans or styrofoam containers of any kind on the river.

- (3) The Commercial Operator shall, in cooperation with the park manager, instruct his guides so that they may properly inform passengers of the Ocoee River State Park facilities, U.S. Forest Service property, local history and natural features along their route of travel on the Ocoee River.
- (4) The Commercial Operator shall hold the Department harmless and indemnify Department from any and all liability for personal injuries, property damage or for loss of life, or property suffered or sustained by the Commercial Operator, its members, its agents and employees, its licensees, invitees and guests resulting from, or in any way connected with, the use of water(s)/land(s) of the Ocoee River State Recreation Area.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.10 Notification of Accidents or Casualties.

- (1) The Commercial Operator shall report to the Park Manager (P.O. Box ~~255~~ 5, Delano, TN 37325), ~~in writing by use of accident form~~, any and all accidents or casualties resulting in loss of life, personal injury requiring a physician's attention or property damage in excess of \$200.00. Notification must be ~~postmarked or hand delivered or faxed~~ within forty-eight (48) hours of said incident. The Division in turn will notify TVA.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.11 Scheduling and Carrying Capacity.

- (1) The Commercial Operators may prepare a proposed schedule assigning the times each Commercial Operator shall schedule daily trips for the forthcoming season. The proposed schedule shall be based on the Recreational Water Release Days and Times as determined by TVA. It shall include the schedule for all Commercial Operators licensed by TVA for the forthcoming year. A proposed schedule must be presented to the Department, and shall be open for discussion, at the annual preseason public meeting on the first Tuesday of March each year. The proposed schedule shall be utilized until a final schedule is issued by the Department. The Department shall review the proposed schedule and may approve it as presented, review the proposed schedule or reject the proposal and assign schedule times, as necessary, to optimize recreational opportunities, protect the whitewater resource and insure public safety. If a proposed schedule is not submitted, the Department shall schedule the daily trips. The Department shall announce (issue) a final schedule by April 15, of each year. The department may also, in its discretion, limit commercial use of the Ocoee on an emergency basis.
- (2) The daily commercial carrying capacity for the ~~lower middle~~ Ocoee River Recreational Area (the area of the river between the Rogers Branch Put-In and the Caney Creek Take-Out) shall be 4,000 commercial customers for those day(s) for which the commercial usage during the last season exceeded 4,000 customers. Days which were capped for the last season will be capped for the next season unless the commercial usage on the "cap" day during the last season fell below 3,800 customers. The commercial "cap" is established in order to optimize recreational opportunities for all classes of users (private paddlers as well as commercial customers), to protect the recreational whitewater resource, and to insure public safety. The Department shall announce the "cap" days for the upcoming season at the annual post-season public meeting on the second Tuesday of October of each year.
- (3) The Commercial Operators, utilizing a methodology acceptable to the Department, may allocate the commercial use for the "cap" days for the upcoming season. The allocation shall be based on a maximum of 4,000 commercial customers. The proposed allocation shall be presented by the Commercial Operators to the Department, and open for discussion, at the annual pre-season public meeting on the first Tuesday of March. The Department shall review the proposed allocation and may approve it as presented, revise it or reject the proposal and allocate the commercial carrying capacity among the commercial operators, as necessary, to optimize recreational opportunities, protect the whitewater resource and insure public safety. If an allocation is not submitted, the Department shall allocate the commercial customers. The Department shall utilize the "historical use" method in allocating the commercial capacity among the commercial operators. The "historical use" method shall be based on each commercial operator's daily customers totals from at least two prior seasons. The historical use allocation methodology shall be determined as follows: Each commercial operator's largest daily

customer total from at least two prior seasons is summed. If the sum exceeds 4,000, each commercial operator's next largest daily customer total is averaged with that operator's largest daily customer total. The average for each commercial operator are summed. If this sum exceed 4,000, each commercial operator's next largest daily customer total is averaged in until the sum of the averages for all commercial operators falls below 4,000. Each commercial operator's average becomes that commercial operator's allocation of commercial customers on "cap" day(s). Each commercial operator is allowed 15% of its allocation as overage to allow for no-shows and cancellations. For purposes of this allocation calculation, operations owned by the same person, association, corporation or political subdivision of the state under separate licenses shall be consolidated and considered to be a single commercial operator. The final commercial "cap" day(s) allocation shall be announced by the Department on or before April 15 of each year.

- (4) The Commercial Operator must use the CAP Exchange form on "cap" days if their company is going over their allotted "cap". The form must be faxed into the Park Office prior to the trip(s) causing the Operator to exceed the allotted "cap".
- ~~(4)~~(5) Each Commercial Operator shall not use more than twelve (12) rafts or carry more than one hundred (100) customers per time slot without prior ~~written~~ approval from the Park Manager or Park Ranger in charge of the recreational use of the Lower Middle Ocoee River Recreational Area. Commercial Operators shall adhere to the final daily trip schedule, or on "cap" days the final commercial use "cap" day allocation, at all times.
- (6) Each raft shall not have more than seven (7) customers or guide trainees, in addition to one (1) guide.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.12 Penalties.

- (1) Any violation of these rules and regulations shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.13 Organized Groups and Private Boaters.

- (1) While on the river, all noncommercial boaters whether organized groups or private individual boaters shall wear a personal flotation device of appropriate size which meets the following:
 - (a) The Coastguard approved Bbuoyancy jacket: must be made of Nnonabsorbent flotation materials equally distributed front and back, in jacket or vest worn about the upper torso. It must have buoyancy sufficient to float a 6 kg legalized lead weight and should be designed to keep a conscious person face up in the water. It must be Coastguard approved.
- (2) All noncommercial boaters whether organized groups or private individual boaters shall not carry any glass containers, aluminum drink cans or styrofoam containers of any kind on the river.
- (3) All noncommercial organized groups, paddle clubs or universities shall have with them at all times club rosters and identifications. These groups shall provide this information upon request.
- (4) No tubes or tube like crafts shall be allowed.
- ~~(3)~~(5) Violation of paragraphs (1) ~~or (2)~~ through (4), ~~above of this rule~~, shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

0400-02-10-.14 Pets in the Ocoee River Recreation Area

- (1) Animals left un-attended in vehicles, tied to the bumpers of vehicles or tied to stationary objects are

subject to Tennessee Animal Cruelty Laws T.C.A. §§ 39-14-202 and 39-14-212.

Authority: T.C.A. §§ 4-3-504 and 11-1-108.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Environment and Conservation on 05/28/2010, 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: 01/11/10

Rulemaking Hearing(s) Conducted on: (add more dates). 03/24/10

Date: May 28, 2010

Signature: _____

Name of Officer: James H. Fyke

Title of Officer: Commissioner

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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.
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

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 can 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.

Comment: A commenter suggested that the contents of Rule 0400-02-02-.32 State Parks Entrance Fees and Parking Fees, as proposed, be moved to Chapter 0400-01-01 Fees and Charges for Certain Departmental Services in order to have these types of miscellaneous fees into one rule chapter.

Response: The Department agrees and has moved the contents of amended Rule 0400-02-02-.32 to new Rule 0400-01-01-.03 with the title and content remaining unchanged as proposed.

Comment: A commenter suggested that Rule 0400-02-02-.24 be amended to include segways, scooters and like recreational equipment in addition to the proposed addition of roller blades.

Response: The Department agrees and the rule as proposed has been changed as suggested.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

The vast majority of these amendments affects state parks and do not involve small businesses, except for small businesses conducting rafting services on the Ocoee River. Chapter 0400-05-01 Fees for Copies of Departmental Public Records was repealed and its contents moved to new Chapter 0400-01-01 as Rule 0400-01-01-01 Fees for Copies of Departmental Public Records.

- (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, or directly benefit from the proposed rule:

New Rule 0400-01-01-.02 Miscellaneous Fees does not specifically target any small business. The new rule will impact a small business that requires a service from the Department that the Commissioner determines is necessary to recover the cost of delivering that service by charging a fee. This fee shall only be charged for regulatory functions and services for which fees are not otherwise specified in statutes or rules. The amendments to Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will require Commercial Operators: to manage funyaks in the same manner that is currently required for kayaks and canoes; to add gloves, a biohazard bag, and CRP Mask to their first aid kits; to comply with Department of Safety rules and regulations regarding the transportation of passengers and commercial vehicles; to require the records for every guide trainee to contain a current CPR certification or dates of enrolled CPR classes; to use the CAP Exchange form on "cap" days if the company is going over their allotted "cap"; and to limit the each raft to no more than seven customers or guide trainees, in addition to the guide.

- (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:

Rule 0400-01-01-.02 Miscellaneous Fees will add an insignificant administrative cost when required to pay a fee for a service delivered. Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will add a small recordkeeping and administrative cost to for adding the additional items to their first aid kits to document the trainees have CPR certification or are taking the required CPR class to obtain CPR certification.

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

Those small businesses that require a service for which a fee will then be due to cover the costs to the Department, in accordance with Rule 0400-01-01-.02 Miscellaneous Fees, will be impact only for that cost of rendering that service. Impacts from the other amendments in this rulemaking are minimal.

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

No other alternatives are known nor were they suggested during the public comment period for achieving the purposes of these rule changes.

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

There is no exact match with any federal or state counterparts. These rule changes are specifically designed to meet the specific needs of the Department.

- (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.

Exempting small businesses from these rule changes would defeat the purpose for the changes.

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;

New Rule 0400-01-01-.02 Miscellaneous Fees requires persons and businesses requesting services from the Department that the Commissioner determines is necessary to recover the cost of delivering that service by charging a fee. This fee shall only be charged for regulatory functions and services for which fees are not otherwise specified in statutes or rules. The amendments to Chapters 0400-02-02, 0400-02-03, and 0400-02-05 are being made to update the language used and adjust the requirements to current needs such as cleaning up a pet's waste in any park area, managing roller blades, segways, scooters and like recreational equipment in the same manner as skates and skateboards, and requiring the use of helmet by all bicycle riders. Rule 0400-02-02-.32 State Parks Entrance Fees and Parking Fees were moved to 0400-01-01-.03 and were amended to remove the specific dollar amount from the rule and replacing it with language that the amount will be determined by the Commissioner. The amendments to Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will require Commercial Operators: to manage funyaks in the same manner that is currently required for kayaks and canoes; to add gloves, a biohazard bag, and CRP Mask to their first aid kits; to comply with Department of Safety rules and regulations regarding the transportation of passengers and commercial vehicles; to require the records for every guide trainee to contain a current CPR certification or dates of enrolled CPR classes; to use the CAP Exchange form on "cap" days if the company is going over their allotted "cap"; and to limit the each raft to no more than seven customers or guide trainees, in addition to the guide.

- (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;

The rule changes are authorized by T.C.A §§ 4-3-504, 11-1-101, 11-1-108, 11-3-101, 11-14-104 and 68-203-101.

- (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;

Rule 0400-01-01-.02 Miscellaneous Fees has the potential to impact any person, organization, corporation or governmental entity that requires a service from the Department when those services are not previously covered by an existing statute or rule. Chapter 0400-02-10 Requirements for Conducting Rafting Services Ocoee River will impact commercial businesses conducting these activities with its updated requirements. No potentially impacted person commented on these rule changes.

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

The Department is not aware of any.

- (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;

The increase in revenues resulting from these rule changes are expected to be less than two percent of the Department's annual budget and less than \$500,000.

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

Wayne Gregory

Office of General Counsel
11th Floor, L&C Tower, 401 Church Street
Nashville, Tennessee 37243
Phone: 615-253-5420
E-Mail: Wayne.Gregory@tn.gov

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

Alan M. Leiserson
Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
E-mail: Alan.Leiserson@tn.gov

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

Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L&C Tower
Nashville, Tennessee 37243-1548
Phone: 615-532-0131

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

The Department is not aware of any.