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Division of Publications
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Sequence
Number: 06-14-10
Rule ID(s): 4760
File Date: 06/16/2010
Effective Date: 09/14/2010

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission: Tennessee Wildlife Resources Agency
Division: Wildlife
Contact Person: Lisa Crawford
Address: PO Box 40747, Nashville, TN
Zip: 37204
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1660-01-08	Rules and Regulations Governing Hunts
Rule Number	Rule Title
1660-01-08-.05	Permit Applications and Drawings

Chapter 1660-01-08
Rules and Regulations Governing Hunts

Amendment

Rule 1660-01-08-.05 Permit Applications and Drawings, Waterfowl Hunt Drawing and Allocation Procedure on Bogota Wildlife Management Area (Except Pool 1), is amended by deleting paragraph (3) in its entirety and inserting a new paragraph (3) to read as follows:

- (3) Waterfowl quota hunt computer drawing and allocation procedures
- (a) Each individual desiring to participate in a quota waterfowl hunt must make application at times specified and as per instructions supplied by the Tennessee Wildlife Resources Agency.
- (b) Applicants may apply only once per year. If more than one application is received per hunter, that individual's applications will be rejected.

- (c) Only applicants sixteen (16) years of age on or before the day of the hunt may apply; however, at least one adult, of at least twenty-one years of age, must accompany any youth under sixteen (16) years of age in the hunt party.
- (d) All information requested at the time of application must be completed; failure to provide all information will result in the application being rejected.
- (e) The successful applicant may bring three (3) additional hunters of his choice to the hunt. The number of hunters in a party may not exceed four (4), one of which must be the successful applicant.
- (f) Successful applicants must return a "notice of intention" to TWRA two weeks prior to the hunt date. A confirmation number will be issued to the applicant.
- (g) Successful applicants that fail to return the notice of intention to TWRA two weeks prior to the hunt date will forfeit their reservation. Any vacant hunt units will be filled by a hand-held drawing at a time and location specified and as per instructions supplied by the Tennessee Wildlife Resources Agency.
- (h) Each application must be accompanied by a \$10.00 non-refundable handling fee for each applicant, except Sportsman License holders, Lifetime Sportsman License holders and persons possessing an Annual Senior Citizen Permit (type 167).
- (i) Successful applicants and the additional hunters in the party must also possess appropriate licenses and permits in order to participate in the hunts.
- (j) Priority drawings and procedures for qualifying with priority status will be established as indicated by TWRA.
- (k) A computer drawing will be held to determine successful applicants.

Authority: T.C.A. §§70-1-206 and 70-4-107.

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

Board Member	Aye	No	Abstain	Absent
William L. Brown	✓			
Mike Chase	✓			
Johnny Coleman	✓			
Jim Fyke				✓
Ken Givens				✓
Jeffrey H. Griggs	✓			
Mike Hayes	✓			
Jeff McMillin	✓			
Mitchell S. Parks	✓			
Julie Schuster	✓			
Todd A. Shelton				✓
Eric Wright	✓			
Danya Welch	✓			

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and

adopted by the Tennessee Wildlife Resources Commission on 04/22/2010, 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: 02/19/2010

Rulemaking Hearing(s) Conducted on: (add more dates). 04/22/2010

Date: 4/23/10

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 4/23/10

Notary Public Signature: Lisa Crawford

My commission expires on: 8/23/11

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

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General

6-8-10

Date

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Tre Hargett

Tre Hargett
Secretary of State

Public Hearing Comments

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

Rule 1660-01-08-.05(3)
Rules and Regulations Governing Hunts
Permit Applications and Drawings

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



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



Attached hereto are the public comments and response thereto.

Regulatory Flexibility Addendum

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

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

The Commission does not anticipate significant impact to small businesses in Tennessee. The rule establishes different procedures for obtaining special WMA waterfowl hunting permits and should not affect current business activities.

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

The Commission anticipates no record keeping associated with this rule.

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

The Commission anticipates no probable effect to small businesses.

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

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

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

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

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

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

Additional Information Required

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

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

The rule amendment deletes the Bogota WMA waterfowl pool drawing procedure. The new amendment will allow for computerized drawing for waterfowl quota hunts on wildlife management areas. It will allow the successful applicant to bring along, at his/her choosing, three additional hunters. The rule amendment also outlines procedures for allocating vacant hunt units.

- (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;

TCA §§70-1-206 and 70-4-107 grants authority to the Tennessee Wildlife Resources Commission (TWRC) to promulgate rules and regulations regarding hunts.

- (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;

The Tennessee Wildlife Resources Agency and waterfowl hunters are affected most directly by this rule. The Tennessee Wildlife Resources Agency is urging adoption of this rule.

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

We are not aware of any opinions of the attorney general or any judicial ruling that directly relate to this rule.

- (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;

We do not anticipate any significant fiscal impact to the Agency, local or state revenues as a result of this rule amendment.

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

Greg Wathen, Chief of Wildlife, possesses substantial knowledge and understanding of this rule.

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

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

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

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

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

A need to change the maximum percentage to a non-specific number to be prescribed by law prompted the promulgation of this rule amendment.

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(3) ~~Waterfowl hunt drawing and allocation procedure on Bogota Wildlife Management Area (except Pool 1).~~

~~(a) Each individual desiring to participate in a quota waterfowl hunt must make application at times specified and as per instructions supplied by the Tennessee Wildlife Resources Agency.~~

~~(b) Applicants may apply only once per year. If more than one application is received per hunter, that individual will be rejected, his fee forfeited, and he will be subject to prosecution.~~

~~(c) Youths under sixteen (16) years of age, on or before the day of the hunt, may apply; however, they must apply in a party of at least one adult twenty-one (21) years of age or older.~~

- (d) All information requested at the time of application must be completed; provided, failure to specify all information will result in the application being rejected.
- (e) The number of applicants comprising a party may not exceed four (4) members.
- (f) Each application must be accompanied by a \$10.00 non-refundable handling fee for each applicant, except Sportsman License holders and persons possessing a type 167 permit.
- (g) Successful applicants must also possess appropriate licenses and permits in order to participate in the hunts.
- (h) Priority drawings and procedures for qualifying with priority status will be established as indicated by TWRA.
- (i) A computer drawing will be held to determine successful applicants. Any vacancies will not be filled for that hunt date.

(3) Waterfowl quota hunt computer drawing and allocation procedures

- (a) Each individual desiring to participate in a quota waterfowl hunt must make application at times specified and as per instructions supplied by the Tennessee Wildlife Resources Agency.
- (b) Applicants may apply only once per year. If more than one application is received per hunter, that individual's applications will be rejected.
- (c) Only applicants sixteen (16) years of age on or before the day of the hunt may apply; however, at least one adult, of at least twenty-one years of age, must accompany any youth under sixteen (16) years of age in the hunt party.
- (d) All information requested at the time of application must be completed; failure to provide all information will result in the application being rejected.
- (e) The successful applicant may bring three (3) additional hunters of his choice to the hunt. The number of hunters in a party may not exceed four (4), one of which must be the successful applicant.
- (f) Successful applicants must return a "notice of intention" to TWRA two weeks prior to the hunt date. A confirmation number will be issued to the applicant.
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- (k) A computer drawing will be held to determine successful applicants.

Authority: T.C.A. §§70-1-206 and 70-4-107.