

**Department of State  
Division of Publications**

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Sequence Number: 06-23-14  
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## Emergency Rule Filing Form

*Emergency rules are effective from date of filing for a period of up to 180 days.*

**Agency/Board/Commission:** Tennessee Department of Commerce and Insurance  
**Division:** Division of Fire Prevention  
**Contact Person:** Joseph Underwood, Chief Counsel for Fire Prevention  
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**Rule Type:**

Emergency Rule

**Revision Type (check all that apply):**

Amendment  
 New  
 Repeal

**Statement of Necessity:**

T.C.A. § 4-5-208 provides that an agency may adopt emergency rules if an immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by this chapter would not adequately protect the public.

On July 4, 2012, Noah Dean Winstead (age 10) and Nate Lymand (age 11) were electrocuted while swimming at a marina in Cherokee Lake, Grainger County, Tennessee. As a result of their deaths, the 108th General Assembly enacted the "Noah Dean and Nate Act" (Public Chapter 923 of the 2014 Acts, codified in Tenn. Code Ann. § 68-102-601 et seq.), and the Governor signed the Act on May 16, 2014. Public Chapter 923 (2014) requires that the State Fire Marshal conduct electrical inspections of boat docks and marinas for the purpose of reducing the risk of electric shock drowning. Therefore, the State Fire Marshal seeks to adopt emergency rules in order to address safety concerns immediately and to prevent potential occurrences of electric shock drowning which poses an imminent risk to public safety and welfare.

Public Chapter 923 (2014) authorizes the State Fire Marshal to inspect all commercial boat docks and marinas, including those on property leased from the U.S. Army Corps of Engineers and the Tennessee Valley Authority (TVA), located in Tennessee. The State Fire Marshal is already receiving requests for inspections by owners of boat docks and marinas to ensure the safety of their facilities, but without the emergency rules, the agency does not have guidelines or a fee structure to govern those inspections. The emergency rule clarifies the statutory requirements of Tenn. Code Ann. § 68-102-601 et seq., and establishes fees so that inspections of the approximately three hundred (300) boat docks and marinas in Tennessee can begin immediately in the interest of public health and safety. Currently, boat docks and marinas are most crowded during the summer which is the busiest season for boating, fishing and water sports in Tennessee. There is not another form of authorized rulemaking, besides emergency rules, that the State Fire Marshal could immediately utilize which would adequately protect the public.

Public Chapter 923 (2014) provides that the State Fire Marshal may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5 for the efficient enforcement of its

provisions. The Commissioner of Commerce and Insurance, as State Fire Marshal, is authorized under Tenn. Code Ann. § 68-102-113 to "make regulations consistent with statutory provisions for safeguarding to a reasonable degree of life and property from the hazards of fire and explosion . . . and from conditions hazardous to life or property in the use of buildings, structures or premises." The Commissioner of Commerce and Insurance, pursuant to Tenn. Code Ann. § 68-102-143(a)(3), "shall provide a program to ensure that electrical inspection services are available throughout the state on a timely basis . . ."

Public Chapter 923 (2014) also provides that if a deficiency is found during a safety inspection, any subsequent inspection required for the inspection of repairs made to address such deficiency shall be conducted by a deputy electrical inspector commissioned under Tenn. Code Ann. § 68-102-143. Additionally, Tenn. Code Ann. § 68-102-143(b)(1) provides that "[e]ach inspector, acting through the inspector's professional corporation, is authorized to charge for and receive a fee for each inspection." Tenn. Code Ann. § 68-102-143(c) also provides that no electric service may be connected to an installation on a permanent basis without an electrical inspection approval. Public Chapter 150 of the 2013 Acts removes the formerly established inspection fees of electrical services in Tenn. Code Ann. § 68-102-143(b)(2), and subsequently provides that "[t]he commissioner has the authority to set maximum inspection fees for services and to facilitate the administration and effective enforcement of this section."

The proposed amendments to Tenn. Comp. R. & Regs. 0780-02-01 [Electrical Installations] will add rule 0780-02-01-.21 [Inspection Fees], which adds inspection fees for boat docks and marinas to the permit fees for electrical inspections pursuant to Tenn. Code Ann. § 68-102-143(b)(2) and Public Chapter 150 (2013). Pursuant to Public Chapter 923 (2014), the proposed amendments will add rule 0780-02-01-.22 [Boat Docks and Marinas], which establishes the State Fire Marshal's authority to inspect boat docks and marinas and the applicability of the adopted enforcement standards in Tenn. Comp. R. & Regs. 0780-02-01 [Electrical Installations].

**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/RuleTitle per row)

<b>Chapter Number</b>	<b>Chapter Title</b>
0780-02-01	Electrical Installations
<b>Rule Number</b>	<b>Rule Title</b>
0780-02-01-.21	Inspection Fees
0780-02-01-.22	Boat Docks and Marinas

(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>)

Amendment  
Chapter 0780-02-01

Chapter 0780-02-01 is amended by adding Rule 0780-02-01-.21 Inspection Fees which shall read as follows:

0780-02-01-.21 Inspection Fees

The inspection fee for each inspection for services shall not exceed the following:

	<u>Fee</u>
0-200 ampere capacity	\$27.00
201-400 ampere capacity	\$40.00
401-600 ampere capacity	\$50.00
601-1000 ampere capacity	\$90.00
1,001 ampere capacity and above ("Nonstandard permit")	Fee is negotiable; however, any such fee shall be subject to review and approval by the commissioner, or designee.
Rough-in Inspection	\$27.00
Re-inspection (based on rejection of 0-1,000 ampere capacity)	\$27.00
Inspection of a dwelling unit's heating and/or cooling system (e.g. HVAC)	\$27.00
Service Release Inspection (valid for 45 days)	Fee is based on ampere capacity of service.
Inspection of Boat Docks and Marinas	Fee is negotiable based upon the number and size of subpanels and panels, and the ampere capacity of service; however, any such fee shall be subject to review and approval by the commissioner, or designee.

Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2), 68-102-602 and 68-102-603.

Chapter 0780-02-01 is amended by adding Rule 0780-02-01-.22 Boat docks and Marinas which shall read as follows:

0780-02-01-.22 Boat Docks and Marinas

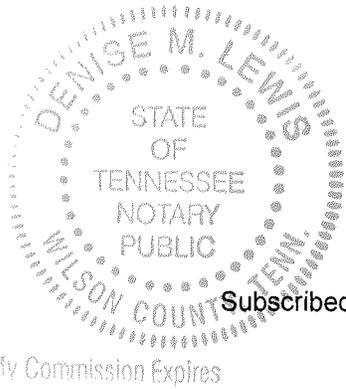
- (1) Safety inspections of boat docks and marinas shall include, but are not limited to, a review of all sources of electrical supply, including ship-to-shore power pedestals, submersible pumps, and sewage pump-out facilities, that could result in unsafe electrical current in the water for the purpose of ensuring compliance with the standards for maintenance of electrical wiring and equipment that were applicable to the marina at the time of installation.
- (2)
  - (a) In the event that a deficiency is found during a safety inspection, any subsequent inspection required for the inspection of repairs made to address such deficiency shall be conducted by a deputy electrical inspector commissioned under T.C.A. § 68-102-143, and in accordance with T.C.A. § 68-102-143 and Tenn. Comp. R. & Regs. 0780-02-01.
  - (b) The permit fee for inspection of boat docks and marinas is negotiable based upon the number of subpanels, panels and the ampere capacity of service; however, any such fee shall be subject to review and approval by the commissioner, or designee.
- (3) Any main overcurrent protective device, installed or replaced on or after April 1, 2015, that feeds a marina shall have ground-fault protection not exceeding one hundred milliamperes (100 mA). Ground-fault protection not exceeding one hundred milliamperes (100 mA) of each individual

branch or feeder circuit shall be permitted as a suitable alternative. Each marina operator may determine which devices to use to achieve the one hundred milliamperes (100 mA) limit that is required herein, including, but not limited to, the use of equipment leakage circuit interrupters or ground fault circuit interrupters.

- (4) Inspections shall be performed in accordance with the adopted electrical code edition effective at the time of installation. If the time of installation cannot be determined, the installation will be inspected in accordance with Article 555 in the edition of the National Electrical Code adopted in Tenn. Comp. R. & Regs. 0780-02-01-.02, unless otherwise authorized or approved by the commissioner, or designee.

Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2), 68-102-602 and 68-102-603.

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.



Date: 6/11/14

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce and Insurance

Subscribed and sworn to before me on: 6/11/14

Notary Public Signature: Denise M Lewis

My commission expires on: 9/15/2016

All emergency 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.

RE Cooper Jr  
Robert E. Cooper, Jr.  
Attorney General and Reporter  
6-18-14  
Date

**Department of State Use Only**

Filed with the Department of State on: 6/27/14

Effective for: 180 \*days

Effective through: 12/24/14

\* Emergency rule(s) may be effective for up to 180 days from the date of filing.

Tre Hargett  
Tre Hargett  
Secretary of State

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### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not impact local governments which are recognized and authorized to conduct electrical inspections and establish permit fees for their respective jurisdictions.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 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 emergency rule establishes the Commissioner of Commerce and Insurance's authority to conduct electrical inspections of boat docks and marinas in Tennessee and enforce adopted codes of provisions established by Public Chapter 923 of the 2014 Acts that became effective on May 16, 2014. The rule also establishes the inspection fee schedule in the rules to reflect the changes in the statutory language pursuant to Public Chapter 150 of the 2013 Acts that became effective on April 12, 2013 and adds the fee for boat dock and marina inspections, which are required as a result of the 2014 legislation.

- (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;

This rule is promulgated pursuant to T.C.A. § 68-102-601 et seq. and Public Chapter 923 (2014) which authorizes the Commissioner of Commerce and Insurance to inspect electrical installations of boat docks and marinas, and T.C.A. § 68-102-143 and Public Chapter 150 (2013), which authorizes the Commissioner of Commerce and Insurance to set maximum inspection fees for electrical services.

- (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;

Public Chapter 923 (2014), codified in T.C.A. § 68-102-601 et seq., became effective on May 16, 2014, and requires electrical inspections of all marinas and boat docks in Tennessee. Marina and boat dock owners will be required to schedule safety inspections of their facilities as compelled by law. This rule will establish fees for the issuing of permits for electrical work conducted on boat docks and marinas with deficiencies. This rule will impact individuals purchasing a state electrical permit pursuant to T.C.A. § 68-102-143 and Tenn. R. & Regs. 0780-02-01. Inspection fees set by this rule are equivalent to the fees in effect prior to the enactment of Public Chapter 150 (2013), except for the fees for marinas and boat docks which have been added to reflect the changes imposed by Public Chapter 923 (2014). The previous electrical permit fee structure based on ampere capacity did not consider the uniqueness of boat docks and marinas; therefore, the fees for the inspections of boat docks and marinas based solely on ampere capacity would be inequitable and burdensome to the property owners as well as the deputy electrical inspectors, who are independent contractors performing inspections on behalf of the department of commerce and insurance. The establishment of a permit fee specifically for boat docks and marinas will ensure these facilities will be treated fairly and reasonably. Nevertheless, most individuals purchasing state electrical permits for inspections after the adoption of this rule will not be affected more significantly than they were affected by the previously established fee schedule.

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

Not applicable.

- (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;

A significant increase in revenues and expenditures is not expected. The inspection fees in the rule reflect the fees established in T.C.A. § 68-102-143(b)(2) prior to the enactment of Public Chapter 150 (2013) except for the permit fee for the inspection of boat docks and marinas established pursuant to in T.C.A. § 68-102-601 et seq. and Public Chapter 923 (2014).

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

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance, and Gary Farley, Director of the Contract Service Section, Division of Fire Prevention, Department of Commerce and Insurance.

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

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance, and Gary Farley, Director of the Contract Service Section, Division of Fire Prevention, Department of Commerce and Insurance.

- (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

Joseph Underwood, 500 James Robertson Pkwy, Davy Crockett Tower, 8th Floor Nashville, TN 37243, (615) 741-3899 [Joseph.Underwood@tn.gov](mailto:Joseph.Underwood@tn.gov); and Gary Farley, 500 James Robertson Pkwy, Davy Crockett Tower, 9th Floor Nashville, TN 37243, (615) 741-7170 [Gary.Farley@tn.gov](mailto:Gary.Farley@tn.gov).

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

Not applicable.

**RULES  
OF  
DEPARTMENT OF COMMERCE AND INSURANCE  
DIVISION OF FIRE PREVENTION**

**CHAPTER 0780-02-01  
ELECTRICAL INSTALLATIONS**

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Inspection of Boat Docks and Marinas	Fee is negotiable based upon the number and size of subpanels and panels, and the ampere capacity of service; however, any such fee shall be subject to review and approval by the commissioner, or designee.

Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2), 68-102-602 and 68-102-603.

0780-02-01-.22 Boat Docks and Marinas

- (1) Safety inspections of boat docks and marinas shall include, but are not limited to, a review of all sources of electrical supply, including ship-to-shore power pedestals, submergible pumps, and sewage pump-out facilities, that could result in unsafe electrical current in the water for the purpose of ensuring compliance with the standards for maintenance of electrical wiring and equipment that were applicable to the marina at the time of installation.

- (2) (a) In the event that a deficiency is found during a safety inspection, any subsequent inspection required for the inspection of repairs made to address such deficiency shall be conducted by a deputy electrical inspector commissioned under T.C.A. § 68-102-143, and in accordance with T.C.A. § 68-102-143 and Tenn. Comp. R. & Regs. 0780-02-01.
- (b) The permit fee for inspection of boat docks and marinas is negotiable based upon the number of subpanels, panels and the ampere capacity of service; however, any such fee shall be subject to review and approval by the commissioner, or designee.
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Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2), 68-102-602 and 68-102-603.