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Sequence Number: 07-18-15  
Rule ID(s): 5989  
File Date: 07/24/15  
Effective Date: 10/22/15

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

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

**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
1660-01-18	Rules and Regulations of Live Wildlife
Rule Number	Rule Title
1660-01-18-.03	Classes of Wildlife

Amendment

1660-01-18-.03, Classes of Wildlife, Paragraph (4), is amended by deleting the language in the paragraph in its entirety and substituting the following language to read as follows:

- (4) The following species or groups of wildlife are added to the group of animals designated by legislation as Class V:
  - (a) Nandaya or Black-Hooded parakeets (*Nandayus nenday*)
  - (b) Quaker or Monk parakeets (*Myiopsitta monachus*)
  - (c) African clawed frog- (*Xenopus lacvis*)

- (d) All non-native freshwater aquatic life except the following:
1. Goldfish
  2. Triploid grass carp
  3. Salmon – all species
  4. Species approved for fish farming
  5. Fish, crustaceans, and mollusks held in aquaria. This exception does not apply to the following species which shall be regarded as Class V:
    - (i) Zebra mussels (*Dreissena polymorpha*)
    - (ii) Black Carp (*Mylopharyngodon piceus*)
    - (iii) Blueback Herring (*Alosa aestivalis*)
    - (iv) Ruffe (*Gymnocephalus cernua*)
    - (v) Bighead carp (*Aristichthys nobilis*)
    - (vi) Silver carp (*Hypophthalmichthys molitrix*)
    - (vii) Snakeheads (all members of the Family *Channidae*)
    - (viii) New Zealand mud snail (*Potamopyrgus antipodarum*)
    - (viii) Round goby (*Neogobius melanostomus*)
    - (x) Rudd (*Scardinius erythrophthalmus*)
    - (xi) Swamp eels (all members of the Family *Synbranchidae*)
    - (xii) Marbled crayfish (Marmorokreb) (*Procambarus fallax f. virginalis*)
- (5) Hybrids involving two species from different Classes of animals shall be regulated as a member of the least restrictive Class involved, unless otherwise specified.

**Authority:** T.C.A. §§70-1-206, 70-4-107, 70-4-401, 70-4-404 and 70-4-405. **Administrative History:** Original rule filed July 15, 1986; effective September 8, 1986. Amendment filed February 26, 1987; effective April, 1987. Amendment filed April 20, 1992; effective June 4, 1992. Amendment filed December 18, 2002; effective March 3, 2003.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent
Jeff McMillin	✓			
Chad Baker	✓			
Jim Bledsoe	✓			
Harold Cannon	✓			
Bill Cox	✓			
Jeff W. Cook, M.D.				✓
Connie King	✓			
Kurt Holbert	✓			
Jim Ripley	✓			
Bill Swan	✓			
Trey Teague	✓			
David Watson	✓			
Jamie Woodson				✓

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish and Wildlife Commission on 06/26/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/22/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 06/26/2015

Date: 6/26/15

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 6-26-15

Notary Public Signature: Lisa Crawford

My commission expires on: 3-10-19



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.

Herbert H. Slatery III  
 Herbert H. Slatery III  
 Attorney General and Reporter  
7/16/2015  
 Date

Department of State Use Only

Filed with the Department of State on: 07/24/15

Effective on: 10/22/15

*Tre Hargett*

Tre Hargett  
Secretary of State

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PUBLICATIONS

## 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.

RULE: 1660-01-18-.03

New	_____
Amendment	_____X_____
Repeal	_____

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

Attached hereto are the responses to public comments.

### **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.

(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 impacts to small businesses in Tennessee. The rule amendment limits public possession of invasive species only.

(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 and customers.

(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 any alternatives to the proposed rule amendment.

(5) A comparison of the proposed rule with any federal or state counterparts; and The Commission is unaware of 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 not be beneficial.

## 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)

Will passage of this rule have a projected financial impact on local governments?  
The Commission is unaware of any projected impacts to local governments.

Please describe the increase in expenditures or decrease in revenues:  
No increases or decreases in revenues are anticipated as a result of this rule change.

**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;

This rule amendment adds invasive species to the list of public prohibited species.

- (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 grants authority to the Tennessee Fish & Wildlife Commission (TFWC) to promulgate rules and regulations. TCA §70-4-401(a) and TCA §70-4-403(5) grants the authority to the TFWC to promulgate rules regarding exotic animals and animals the TFWC deems injurious to the environment.

- (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;

Individuals having any of these invasive species in their possession.

- (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 relates 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;

The impact to state government revenues and expenditures is infinitesimal as a result of this rule change.

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

Bill Reeves, Chief of Biodiversity, ([bill.reeves@tn.gov](mailto:bill.reeves@tn.gov)) has substantial knowledge and understanding of the rule

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

Chris Richardson, TWRA Special Assistant to the Director/Policy and Legislation, will explain the rule at the scheduled meeting of the Government Operations Committee.

- (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

Chris Richardson, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 837-6016, [Chris.Richardson@tn.gov](mailto:Chris.Richardson@tn.gov)

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

A need exists to update the list of prohibited wildlife to protect native species and the public in Tennessee.

Red Line Copy

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Effective Date: \_\_\_\_\_

# Rulemaking Hearing Rule(s) Filing Form

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*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

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

**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
1660-01-18	Rules and Regulations of Live Wildlife
Rule Number	Rule Title
1660-01-18-.03	Classes of Wildlife

Amendment

1660-01-18-.03, Classes of Wildlife, Paragraph (4), is amended by deleting the language in the paragraph in its entirety and substituting the following language to read as follows:

**1660-01-18-.03 CLASSES OF WILDLIFE.**

- (1) The following species or groups of wildlife are added to the existing listing designated by legislation as Class I:
  - (a) Hybrids resulting from the cross of two Class I species shall be considered Class I.
- (2) Native species of wildlife are considered to be Class II unless specifically designated otherwise by T.C.A. §70-4-403 or rules and regulations authorized therein.

- (3) The following species or groups of wildlife are added to the existing listing designated by legislation as Class III:
- (a) All waterfowl species except those defined in Part I, Title 50, of the U. S. Code of Federal regulations as North American migratory game birds.
  - (b) Ostriches, cassowaries, calmans, and gavials.
- (4) The following species or groups of wildlife are added to the group of animals designated by legislation as Class V:
- (a) Nandaya or Black-Hooded parakeets (*Nandayus nenday*)
  - (b) Quaker or Monk parakeets (*Myiopsitta monachus*)
  - (c) African clawed frog- (*Xenopus laevis*)
  - (d) All non-native freshwater aquatic life except the following:
    - 1. Goldfish
    - 2. Triploid grass carp
    - 3. Salmon – all species
    - 4. Species approved for fish farming
    - 5. Fish, crustaceans, and mollusks held in aquaria. This exception does not apply to the following species which shall be regarded as Class V:
      - (i) Zebra mussels (*Dreissena polymorpha*)
      - (ii) Black Carp (*Mylopharyngodon piceus*)
      - (iii) Blueback Herring (*Alosa aestivalis*)
      - (iv) Ruffe (*Gymnocephalus cernua*)
      - (v) Bighead carp (*Aristichthys nobilis*)
      - (vi) Silver carp (*Hypophthalmichthys molitrix*)
      - (vii) Snakeheads (all members of the Family *Channidae*)
      - (viii) New Zealand mud snail (*Potamopyrgus antipodarum*)
      - (viii) Round goby (*Neogobius melanostomus*)
      - (x) Rudd (*Scardinius erythrophthalmus*)
      - (xi) Swamp eels (all members of the Family *Synbranchidae*)
      - (xii) Marbled crayfish (Marmorokreb) (*Procambarus fallax f. virginialis*)
- (5) Hybrids involving two species from different Classes of animals shall be regulated as a member of the least restrictive Class involved, unless otherwise specified.

**Authority:** T.C.A. §§70-1-206, 70-4-107, 70-4-401, 70-4-404 and 70-4-405. **Administrative History:** Original rule filed July 15, 1986; effective September 8, 1986. Amendment filed February 26, 1987; effective April, 1987. Amendment filed April 20, 1992; effective June 4, 1992. Amendment filed December 18, 2002; effective March 3, 2003.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent
Jeff McMillin				
Chad Baker				
Jim Bledsoe				
Harold Cannon				
Bill Cox				
Jeff W. Cook, M.D.				
Connie King				
Kurt Holbert				
Jim Ripley				
Bill Swan				
Trey Teague				
David Watson				
Jamie Woodson				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish and Wildlife Commission on 06/26/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/22/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 06/26/2015

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: 3-10-19

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.

\_\_\_\_\_  
Herbert H. Slatery III  
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.

RULE: 1660-01-18-.03

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

---

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

Attached hereto are the responses to public comments.

### **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.

(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 impacts to small businesses in Tennessee. The rule amendment limits public possession of invasive species only.

(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 and customers.

(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 any alternatives to the proposed rule amendment.

(5) A comparison of the proposed rule with any federal or state counterparts; and The Commission is unaware of 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 not be beneficial.

## **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)

Will passage of this rule have a projected financial impact on local governments?  
The Commission is unaware of any projected impacts to local governments.

Please describe the increase in expenditures or decrease in revenues:  
No increases or decreases in revenues are anticipated as a result of this rule change.

**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;

This rule amendment adds invasive species to the list of public prohibited species.

- (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 grants authority to the Tennessee Fish & Wildlife Commission (TFWC) to promulgate rules and regulations. TCA §70-4-401(a) and TCA §70-4-403(5) grants the authority to the TFWC to promulgate rules regarding exotic animals and animals the TFWC deems injurious to the environment.

- (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;

Individuals having any of these invasive species in their possession.

- (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 relates 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;

The impact to state government revenues and expenditures is infinitesimal as a result of this rule change.

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

Bill Reeves, Chief of Biodiversity, ([bill.reeves@tn.gov](mailto:bill.reeves@tn.gov)) has substantial knowledge and understanding of the rule

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

Chris Richardson, TWRA Special Assistant to the Director/Policy and Legislation, will explain the rule at the scheduled meeting of the Government Operations Committee.

- (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

Chris Richardson, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 837-6016, [Chris.Richardson@tn.gov](mailto:Chris.Richardson@tn.gov)

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

A need exists to update the list of prohibited wildlife to protect native species and the public in Tennessee.