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312 Rosa L. Parks Avenue, 8th Floor Tennessee Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: sos.information@state.tn.us

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Sequence Number: 07-19-09
Rule ID(s): 4260
File Date: 07/27/2009
Effective Date: 10/25/2009

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: Boating
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 (for additional chapters, copy and paste table)

| Chapter Number | Chapter Title |
|----------------|---|
| 1660-02-07 | Rules and Regulations Governing Operations of Vessels |
| Rule Number | Rule Title |
| 1660-02-07-.37 | Emory River |

Rules and Regulations
of the
Tennessee Wildlife Resources Agency

Chapter 1660-02-07
Rules and Regulations Governing Operations of Vessels

New Rule

Rule 1660-02-07, Rules and Regulations Governing Operations of Vessels, is amended by adding a new rule, 1660-02-07-.37, Emory River, to read as follows:

Rule 1660-02-07-.37 Emory River

All motorboats being operated within Emory River Mile (ERM) 1.2 and ERM 3.0 shall be operated at a "Slow- No Wake" speed and shall not tow a person on water skis, surfboard or similar devices.

Authority: T.C.A. §§69-9-209 and 70-1-206.

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

| Board Member | Aye | No | Abstain | Absent |
|-------------------|-----|----|---------|--------|
| Johnny Coleman | ✓ | | | |
| William L. Brown | ✓ | | | |
| Mike Chase | ✓ | | | |
| 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 06/18/2009, 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: 04/27/2009

Notice published in the Tennessee Administrative Register on: 05/01/2009

Rulemaking Hearing(s) Conducted on: (add more dates). 06/18/2009

Date: 6/22/09

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 6/22/09

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

7-21-09

Date

Department of State Use Only

Filed with the Department of State on: 7/27/09

Effective on: 10/25/09

Tre Hargett by Tre Hargett, PDR

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: 1660-02-07-.37
Rules and Regulations Governing Operations of Vessels
Emory River

New X
Amendment
Repeal

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

Attached hereto are the responses to public comments.

Regulatory Flexibility Addendum

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

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

The commission does not anticipate significant impact to small businesses in Tennessee. The rule establishes a "No Wake" zone in a section of the Emory River for safety concerns.

(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; and

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

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

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

Additional Information Required

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

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

This rule would establish a Slow, No-Wake zone on the Emory River – Emory River Mile (ERM) 1.2 to 3.0 in Roane County.

- (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;

There is no mandate in state or federal law to establish this rule. There are guidelines and legal directives that must be followed if a river zoning is established.

- (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;

Recreational boaters who utilize this particular section of the river will be most affected. The Tennessee Valley Authority officials who are conducting ash spill recovery operations in this section of the river urge adoption as does the Tennessee Wildlife Resources Agency.

- (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 new rule 1660-02-07-.37.

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

Darren Rider, Assistant Chief of Boating, 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 Executive Director, will explain the rule at the scheduled meeting of the Government Operations Committees.

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

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

- (I)** What prompted the promulgation of the rule? Also include any additional information relevant to the rule proposed for continuation which the committee requests.

This no wake zone will include the area where dredging has begun for the Kingston ash recovery operations. This zone will protect the recreational boaters from hazards, staged TVA equipment (dredges, recovery craft,