

Department of State
Division of Publications
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For Department of State Use Only

Sequence Number: 10-02-13
 Rule ID(s): 5585
 File Date (effective date): 10/2/13
 End Effective Date: 3/31/14

Emergency Rule Filing Form

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

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

Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment

New

Repeal

Statement of Necessity:

Pursuant to T.C.A. §4-5-208 and T.C.A. §69-9-209, the Tennessee Fish and Wildlife Commission is promulgating this emergency rule regarding operation of vessels on the Cumberland River, specifically the TVA Fossil Plant discharge channel near Cumberland River Mile (CRM) 243. This rule is necessary to insure the safety of recreational boaters and their equipment as well as the safety of TVA workers and TVA equipment.

TVA is constructing new scrubbers and selective catalytic reduction systems at Gallatin to comply with EPA's new Mercury and Air Toxic regulations and TVA's Environmental Agreements with EPA and others. The new scrubbers at Gallatin will be located across the discharge channel from the existing plant requiring construction of a bridge across the discharge channel to tie the duct plenum on the powerhouse side to the scrubber duct above the new access road on the opposite side.

Construction of the bridge and duct (plenum - access road) will involve the lifting of materials over the discharge channel. Prudent safety precautions require that no persons be allowed under the load to avoid the potential of injury if the load should fall. Further, since the construction is over water, if something falls it could present a hidden danger if it is submerged underwater.

TVA will also be constructing a new hatchery for TWRA operation beginning in 2013 and completing in 2014. Hatchery activities will include construction of discharge waterways from the hatchery to the discharge channel and setting of pumps in the discharge channel. The public would also need to be restricted from being within harm's way while these activities are in-progress.

This emergency rule would provide statutory authority to exclude boats from entering the work zone. TVA plans to begin construction in November of 2013 and finish by the spring of 2016. The Commission feels that the normal rulemaking process would not provide the immediate safeguards sought by TVA. Therefore, the Tennessee Fish and Wildlife Commission feels the adoption of an emergency rule is justified and necessary.

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
1660-02-07	Rules and Regulations Governing Operations of Vessels
Rule Number	Rule Title
1660-02-07-.04	Old Hickory Lake

Rulemaking Hearing Rules of the
Tennessee Wildlife Resources Agency

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

Emergency Rule

Rule 1660-02-07-.04, Old Hickory Lake, is amended by adding a new paragraph (21) which shall read as follows:

- (21) Vessels are prohibited from entering the discharge channel at the TVA Fossil Plant near Cumberland River Mile (CRM) 243 as marked by informational buoys and barrier floats.

Authority: T.C.A. §69-9-209. Administrative History: Original rule certified May 8, 1974. Amendment filed May 28, 1975; effective June 28, 1997. Amendment filed February 6, 1978; effective March 8, 1978. Amendment filed July 2, 1979; effective August 16, 1979. Amendment filed August 1, 1990; effective September 15, 1990. Amendment filed April 26, 2013; effective July 25, 2013.

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

Board Member	Aye	No	Abstain	Absent
Jeff McMillin	✓			
Jim Bledsoe	✓			
Harold Cannon	✓			
Bill Cox	✓			
Jeffrey H. Griggs	✓			
Tom Rice	✓			
Jim Ripley				✓
Julie Schuster	✓			
Clayton Stout	✓			
James Stroud	✓			
Trey Teague	✓			
David Watson	✓			
Jamie Woodson				✓

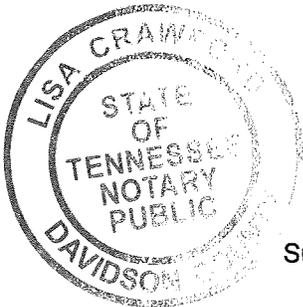
I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 9-24-13

Signature: *Ed Carter*

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 9-24-13

Notary Public Signature: *Lisa Crawford*

My commission expires on: 5-5-15

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.



Robert E. Cooper, Jr.
Attorney General and Reporter

10-1-13

Date

Department of State Use Only

Filed with the Department of State on: 10/2/13

Effective for: 180 *days

Effective through: 3/31/14

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Tre Hargett
Secretary of State

RECEIVED
2013 OCT -2 AM 11:35
DEPARTMENT OF STATE

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)

The Commission is not aware of any projected financial impacts on local governments.

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 would prohibit boats from entering the discharge channel of the TVA Fossil Plant near Cumberland River Mile(CRM) 243 because of construction activities at the plant.

- (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. TCA §69-9-209(b)(1) authorizes the commission to proclaim special rules and regulations governing the operation of vessels in special areas or under special conditions.

- (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;

Boaters who utilize these particular sections of the rivers will be most affected. The Tennessee Valley Authority (TVA) who is contracting the construction operations in this area sections urge adoption as does the Wildlife Resources Agency.

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

None.

- (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;

No increase or decrease in state expenditures is expected as a result of this rule.

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

W. Glenn Moates, Assistant Chief, Boating and Law Enforcement Division, 615-781-6684, Glenn.Moates@tn.gov

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

Barry Sumners, Assistant Executive Director, TWRA

- (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

Barry Sumners, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 781-6600, Barry.Sumners@tn.gov

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

This boat exclusion zone will include the area where TVA will perform EPA mandated construction. This zone will protect recreational boaters from staged equipment and protect workers that will be in the area performing

the construction.

Red Line Copy

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Jeffrey H. Griggs				
Tom Rice				
Jim Ripley				
Julie Schuster				
Clayton Stout				
James Stroud				
Trey Teague				
David Watson				
Jamie Woodson				

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

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: 5-5-15

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.

Robert E. Cooper, Jr.
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective for: _____ *days

Effective through: _____

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Tre Hargett
Secretary of State

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