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For Department of State Use Only

Sequence Number: 10-05-12
 Rule ID(s): 5313
 File Date: 10/5/12
 Effective Date: 11/3/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Wildlife
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
1660-01-02	Rules and Regulations for Birds
Rule Number	Rule Title
1660-01-02-.02	Migratory Bird Hunting

Chapter 1660-01-02
Migratory Bird Hunting

Amendment

Rule 1660-01-02-.02(2)(d), West Sandy Wildlife Management Area, is amended by adding the following new paragraph:

16. Safety concerns require that the Tennessee Valley Authority (TVA) conduct repairs and maintenance to levee and pump house infrastructures that may create water levels incompatible for waterfowl hunting during the 2012-13, 2013-14 and possibly the 2014-15 waterfowl seasons. During this time, the Executive Director shall have the discretion to deem those permanent registered blind sites duly registered during the period of maintenance and repair by TVA while suspending the registration and all other annual requirements of this rule. Further, the Executive Director shall have the discretion to allow those permanent registered blind site holders to compete for or sign on any other Tennessee Wildlife Resources Agency blind sites in the state. Waterfowl blind drawings at this location will be suspended when TVA repair work creates conditions incompatible for waterfowl hunting.

Authority: T.C.A. §§70-1-206 and 70-4-107. **Administrative History:** Original rule certified May 8, 1974. Amendment filed October 29, 1974; effective November 29, 1974. Amendment filed November 4, 1974; effective December 4, 1974. Amendment filed June 25, 1975; effective July 25, 1975. Amendment filed July 19, 1976; effective August 18, 1976. Amendment filed June 29, 1977, effective July 29, 1977. Amendment filed June 9, 1978; effective July 10, 1978. Amendment filed July 2, 1979; effective August 16, 1979. Amendment filed May 19, 1980; effective July 3, 1980. Amendment filed August 2, 1982; effective August 31, 1982. Amendment filed May 27, 1983; effective June 27, 1983. Amendment filed November 13, 1984 effective December 13, 1984. Amendment filed June 27, 1985; effective July 27, 1985. Amendment filed June 9, 1986; effective July 9, 1986. Amendment filed September 24, 1986; effective November 8, 1986. Amendment filed June 27, 1988; effective August 11, 1988. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed December 18, 1989; effective February 1, 1990. Amendment filed June 7, 1990; effective July 22, 1990. Amendment filed December 12, 1990; effective January 26, 1991. Amendment filed April 28, 1993; effective June 12, 1993. Amendment filed August 9, 1993; effective October 23, 1993. Amendment filed August 26, 1993; effective November 9, 1993. Amendment filed January 30, 1995; effective April 15, 1995. Amendment filed February 8, 1996; effective April 23, 1996. Amendment filed April 22, 1996; effective July 6, 1996. Amendment filed August 13, 1998; effective October 27, 1998. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed September 17, 1998; effective December 1, 1998. Amendment filed November 24, 1999; effective February 7, 2000. Amendment filed May 19, 2000; effective August 2, 2000. Amendment filed October 2, 2000, effective December 16, 2000. Amendment filed December 1, 2000; effective February 14, 2001. Amendment filed July 19, 2001; effective October 2, 2001. Amendment filed March 5, 2002; effective May 19, 2002. Amendment filed May 20, 2003; effective August 3, 2003. Amendment filed June 3, 2004; effective August 17, 2004. Amendment filed May 25, 2005; effective August 8, 2005. Amendment filed March 1, 2009; effective May 16, 2009. Amendment filed June 16, 2010; effective September 14, 2010.

* 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
William L. Brown				✓
Jim Bledsoe				✓
Harold Cannon	✓			
Jeffrey H. Griggs	✓			
Julius Johnson				✓
Robert Martineau				✓
Jeff McMillin	✓			
Mitchell S. Parks	✓			
Julie Schuster				✓
Trey Teague	✓			
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 05/18/2012 (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: 03/02/2012

Rulemaking Hearing(s) Conducted on: (add more dates). 05/18/2012

Date: 5-31-12

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 5-31-12
Notary Public Signature: *Quia Crawford*
My commission expires on: 5-5-15

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 and Reporter
9-25-12 Date

Department of State Use Only

Filed with the Department of State on: 10/5/12
Effective on: 1/3/13
Tre Hargett by *Tre Hargett, PCA*
Tre Hargett
Secretary of State

RECEIVED
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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: 1660-01-02

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

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 impact to small businesses in Tennessee. The rule allows persons holding lifetime rights to permanent registered waterfowl blinds the opportunity to participate in other agency waterfowl hunts during the time that the water levels around their blinds are lowered to unsuitable levels for waterfowl hunting while the TVA conducts maintenance on the levee and the pump house infrastructures.

(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 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 likely 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 not aware of any projected financial impacts on local governments.

Please describe the increase in expenditures or decrease in revenues:

n/a

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 TWRA and TVA cooperatively manage West Sandy Wildlife Management Area for wildlife habitat. The levee system and pump house are in need of repair and maintenance and to safely do this work the water levels will be lowered to a point that waterfowl hunting opportunities will likely be negatively impacted. This area has permanent registered waterfowl blinds which allow the holders lifetime rights to hunt the area but disallows these persons the ability to participate in other TWRA waterfowl blind drawing opportunities. The rule amendment allows these persons the ability to participate in TWRA blind drawing opportunities without losing their status as a registered blind holder during the 2 or possibly 3 years that water levels will be adversely impacted.

- (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 Wildlife Resources Commission (TWRC) to promulgate rules and regulations.

- (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;

This rule affects the permanent registered blind holders at the West Sandy Wildlife Management Area.

- (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;

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

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

Gray Anderson, Assistant Chief of Wildlife and Forestry, (Gray.Anderson@tn.gov)

- (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

- (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

Nat Johnson, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 781-6555, Nat.Johnson@tn.gov

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

None.

Redline

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Chapter 1660-01-02
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Authority: T.C.A. §§70-1-206 and 70-4-107. **Administrative History:** Original rule certified May 8, 1974. Amendment filed October 29, 1974; effective November 29, 1974. Amendment filed November 4, 1974; effective December 4, 1974. Amendment filed June 25, 1975; effective July 25, 1975. Amendment filed July 19, 1976; effective August 18, 1976. Amendment filed June 29, 1977, effective July 29, 1977. Amendment filed June 9, 1978; effective July 10, 1978. Amendment filed July 2, 1979; effective August 16, 1979. Amendment filed May 19, 1980; effective July 3, 1980. Amendment filed August 2, 1982; effective August 31, 1982. Amendment filed May 27, 1983; effective June 27, 1983. Amendment filed November 13, 1984 effective December 13, 1984. Amendment filed June 27, 1985; effective July 27, 1985. Amendment filed June 9, 1986; effective July 9, 1986. Amendment filed September 24, 1986; effective November 8, 1986. Amendment filed June 27, 1988; effective August 11, 1988. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed December 18, 1989; effective February 1, 1990. Amendment filed June 7, 1990; effective July 22, 1990. Amendment filed December 12, 1990; effective January 26, 1991. Amendment filed April 28, 1993; effective June 12, 1993. Amendment filed August 9, 1993; effective October 23, 1993. Amendment filed August 26, 1993; effective November 9, 1993. Amendment filed January 30, 1995; effective April 15, 1995. Amendment filed February 8, 1996; effective April 23, 1996. Amendment filed April 22, 1996; effective July 6, 1996. Amendment filed August 13, 1998; effective October 27, 1998. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed September 17, 1998; effective December 1, 1998. Amendment filed November 24, 1999; effective February 7, 2000. Amendment filed May 19, 2000; effective August 2, 2000. Amendment filed October 2, 2000, effective December 16, 2000. Amendment filed December 1, 2000; effective February 14, 2001. Amendment filed July 19, 2001; effective October 2, 2001. Amendment filed March 5, 2002; effective May 19, 2002. Amendment filed May 20, 2003; effective August 3, 2003. Amendment filed June 3, 2004; effective August 17, 2004. Amendment filed May 25, 2005; effective August 8, 2005. Amendment filed March 1, 2009; effective May 16, 2009. Amendment filed June 16, 2010; effective September 14, 2010.

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Julius Johnson				
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Mitchell S. Parks				
Julie Schuster				
Trey Teague				
Eric Wright				
Danya Welch				

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I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/02/2012

Rulemaking Hearing(s) Conducted on: (add more dates). 05/18/2012

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: _____

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.
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

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Amendment	<u> X </u>
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- There were no public comments to the above-described rule.
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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 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 likely not be beneficial.

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This rule affects the permanent registered blind holders at the West Sandy Wildlife Management Area.

- (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;

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

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

Gray Anderson, Assistant Chief of Wildlife and Forestry, (Gray.Anderson@tn.gov)

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

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Nat Johnson, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 781-6555, Nat.Johnson@tn.gov

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

None.