

Notice of Rulemaking Hearing

Tennessee Wildlife Resources Commission - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Region II Conference Room of the Tennessee Wildlife Resources Agency, Ray Bell Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, at 9:00 a.m., local time, on the 22 day of February, 2007.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Carolyn Wilson, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204, telephone number (615)781-6594.

For a copy of this notice of rulemaking hearing, contact: Sheryl Holtam, Attorney, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

Substance of Proposed Rules

Chapter 1660-1-1 Rules and Regulations for Tennessee Wildlife Resources Agency Managed Access Areas

Amendment

Rule 1660-1-1-.01 Public Usage, is amended by deleting it in its entirety and inserting the following language so it shall read:

- (1) All access areas are open to the general public, free of charge for use subject to the following rules:
 - (a) Picnicking is permitted.
 - (b) Camping is prohibited except when authorized in writing by the Executive Director.
 - (c) Parking:
 1. Unattended boats and/or vehicles used in conjunction with the intended purpose of the Area shall not be left in such a manner as to deprive or interfere with other persons' access to boat ramps, parking areas, and shoreline.
 2. The parking of vehicles, not associated with the intended use of the area is prohibited.

3. At the discretion of the enforcement officer, vehicles or vessels in violation may be removed at the owner's expense and/or the operator / owner issued a citation.
 4. No houseboats, duck blinds, commercial fishing boats or structures shall be left or built within the access areas' boundaries.
 5. Handicapped parking zones, as posted, are reserved exclusively for handicapped users.
- (d) No person, or persons, shall deface or remove trees or other plants, dirt, gravel, sod or any structure placed on the area by the Tennessee Wildlife Resources Agency without the approval of the Tennessee Wildlife Resources Agency.
- (e) No garbage, rubbish, litter or any refuse, sewage or other material which would pollute said areas or waters, or render them unsatisfactory or unsanitary shall be left on the area.
- (f) Commercial: Use:
1. Use of access areas, including cleaning of fish and mussel shell processing is prohibited.
 2. Commercial fisherman may launch or retrieve their boats in said areas.
 3. Any activity that would inhibit the use of the access area, or launching area, for a period of time beyond that associated with the customary launching and retrieval of recreational boats is prohibited.
 4. Boat dealer or manufacturer shows must be authorized in advance through a TWRA Marine Event Permit.
- (g) Firearms:
1. The use of firearms is prohibited except for hunting during the regular state-wide open season, and then is limited to shotguns only.
 2. Target shooting prohibited at all times.
- (h) Disorderly conduct and/or use of intoxicants and/or other behavior modifying substances are prohibited.
- (i) Swimming or fishing from or on ramps is prohibited.
- (j) Docks:
1. Docks, associated with launching ramps, are to be used exclusively for temporary mooring of boats while loading or unloading passengers or gear associated with launch or retrieval of vessels.
 2. Swimming or fishing, and other activities, that would interfere with the intended use of the dock is prohibited.

3. Facilities intended for transient, or temporary mooring of, vessels must be used in conjunction with posted or published guidelines.
- (k) Agricultural use and grazing within access area boundaries is prohibited.
- (l) The use of fireworks is prohibited on Areas where posted.

Statutory Authority: T.C.A. §§70-1-206

Chapter 1660-1-8
Rules and Regulations of Hunts

Amendment

Rule 1660-1-8-.05 (5) Permit Applications and Drawings, is amended by deleting paragraph (5) in its entirety and inserting a new paragraph (5) to read as follows:

- (5) Cherokee Special Hunts (Cherokee Wildlife Management Area in designated Areas).
 - (a) Cherokee special hunts consist of Party Dog Hunts.
 - (b) No person may apply on more than one application. If two or more applications are received representing one individual, all applications of that individual will be rejected, the permit fee forfeited, and will be subject to prosecution. Applications must be postmarked no later than the date specified. Persons applying for party hunts may also apply for quota big game hunts subject to rules found in paragraph (1). Quota big game hunt applicants may also apply for party hunts. Persons are limited to one Party Hunt vacancy permit per hunt year.
 - (c) The party application shall contain a minimum of fifty (50) members and a maximum of seventy-five (75). All information requested on the application must be completed for all party applicants. Each applicant must submit the applicable permit fee. All individuals without appropriate licenses/fees will be deleted from the party. Non-residents may purchase the appropriate license after arrival in Tennessee. If the number of valid applicants on a single application falls below the minimum of fifty (50), the entire party will be deleted from the drawing.
 - (d) A drawing will be held to determine the successful party applicants, hunt areas, and hunt dates. The first drawn and in subsequent order will be given their choice of the compartment and hunt date as specified on their application. Vacant hunts remaining after the drawing will not be issued and the area will be closed to big game hunting during that specific hunt.
 - (e) The party leader may request no substitutions for members of the party who cannot appear, but may request vacancy permits providing the number does not increase the party beyond seventy-five (75) members. The party leader shall send all the hunter information requested on the vacancy application and the applicable fees for each permit requested. No blank permits will be issued. The deadline for requesting vacancy permits shall be shall be fourteen days prior to the hunt date.

Statutory Authority: T.C.A. §§70-1-206, 70-4-107, and 70-5-101

Chapter 1660-2-3
Rules and Regulations Governing Classification Of
Vessels and Equipment and Lights Required

Amendments

Rule 1660-2-3-.02, Lights, is repealed in its entirety.

Rule 1660-2-3-.04, Sound Signaling Appliances for Vessels Less Than 20 Meters (65'6"), is repealed in its entirety.

Rule 1660-2-3-.07, Rules of Road, is amended by changing the title of the rule to "Navigation Rules – Adoption of Federal Code and Regulations" and then deleting paragraph (1) in its entirety and by replacing it with the following:

1660-2-3-.07 Navigation Rules – Adoption of Federal Code and Regulations

- (1) The State of Tennessee hereby adopts, and incorporates by reference, The Inland Navigation Rules Act of 1980, as amended hereinafter, which appears in 33 U.S.C. 2001-2038, et seq., and Annex I through V, 33 CFR 84-88. All vessels operating on or using the waters of Tennessee shall be governed by and follow these rules.

Statutory Authority: T.C.A. Sections 70-1-206, 69-9-209.

New Rules

Chapter 1660-2-12
Rules and Regulations for Boating Education

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1660-2-12-.01 Boating Education Program
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1660-2-12-.01 Boating Education Program.

- (1) Any Tennessee resident born after January 1, 1989, who is operating a boat, must have onboard the TWRA-issued Boating Safety Education Certificate card.
- (2) To receive the Boating Safety Education Certificate card a person must:
 - (a) Purchase the Type 600 Boating Safety Exam Permit from any business that sells hunting and fishing licenses.
 - (b) Take a monitored TWRA administered boating safety examination. To receive a replacement card, a person must purchase the Type 605 Boating Certification Card from any business that sells hunting and fishing licenses.
- (3) Falsification of a document with intent that it will be taken as a genuine government record may be prosecuted pursuant to T.C.A. §39-16-504.

1660-2-12-.02 Boat Dealers.

- (1) Boat dealers who desire to administer the monitored TWRA examination must:
 - (a) Make application to TWRA Boating Division to become a testing monitor.
 - (b) Upon approval, the dealer must administer the examination via the TWRA-monitored internet website.

1660-2-12-.03 Boating Education Course Providers.

- (1) Any National Association of State Boating Law Administrators (NASBLA) approved course provider requesting that the Tennessee Wildlife Resources Agency accept their boating safety course as an avenue to prepare anyone born after January 1, 1989 to pass the monitored TWRA boating safety examination must be able to comply with the following:
 - (a) The course provider must accompany the request with a letter confirming:
 1. That the course provider will not issue a Boating Safety Certificate to any Tennessean born after January 1, 1989.
 2. That by January 31 of each year, the course provider will provide the TWRA with the number of Tennesseans certified in the previous year and their ages so that the TWRA can provide accurate data to the United States Coast Guard in the annual Recreational Boating Safety Performance Report.
 3. That the course provider will provide a valid contact number and/or email address to the TWRA and keep this information updated if any changes occur.
- (2) It is acceptable for course providers to issue a Boating Safety Certificate to anyone born before January 2, 1989, for insurance purposes or for a non-Tennessee resident.
- (3) Falsification of a document with the intent that it will be taken as a genuine government record may be prosecuted pursuant to T.C.A. §39-16-504.

Statutory Authority: T.C.A. §70-1-206

The notice of rulemaking set out herein was properly filed in the Department of State on the 20th day of December, 2007. (12-24-06)