

Notice of Rulemaking Hearing

Tennessee Wildlife Resources Commission

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 20th day of March, 2008.

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 or 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: Lisa Crawford, Legal Assistant, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

Substance of Proposed Rules

Chapter 1660-01-08
Rules and Regulations of Hunts

Amendment

Rule 1660-01-08-.03, Permit Requirements - Wildlife Management Areas, Refuges And Other Agency Controlled Lands, Paragraph (3) is amended deleting paragraph (3) in its entirety and inserting a new paragraph (3) to read as follows:

- (3) Before any person, except those under 16 years of age hunting small game and waterfowl, may hunt on a wildlife management area or refuge, he must possess a permit as outlined below.
 - (a) A WMA Small Game permit is required on the following wildlife management areas and refuges:

AEDC	Cummings Cove	Natchez Trace
Alpine Mountain	Cypress Pond	New Hope
Arnold Hollow	Eagle Creek	Nolichucky
Bark Camp Barrens	Eagle Lake Refuge	Normandy
Barkley (Units I & II)	Ernest Rice Sr.	North Chickamauga Creek
Bean Switch Refuge	Foothills	North Cumberland
Bear Hollow Mountain	Forks of the River	Oak Ridge
Beaver Dam Creek	Haley-Jaqueth	Obion River

Big Sandy (including Gin Creek)	Harmon Creek	Old Hickory (Units I, II, & III)
Black Bayou Refuge	Haynes Bottom	Old Hickory Lock 5 Refuge
Bogota	Henderson Island Refuge	Owl Hollow Mill
Bridgestone/Firestone Centennial	Hick Hill	Pea Ridge
Wilderness	Hickory Flat	Percy Priest (Units I & II)
Browntown	Hiwassee Refuge	Perryville
Buffalo Springs	Holly Fork	Prentice Cooper
Camden (Units I & II)	Hop-In Refuge	Rankin
Catoosa	Jackson Swamp	Shelton Ferry
Cedar Hill Swamp	Jarrell Switch Refuge	Tellico Lake
Charlotte Ann Finnell Neal	John Tully	Tie Camp
Cheatham	Kingston Refuge	Tigrett
Cheatham Lake	Kyker Bottoms Refuge	The Boils
Chickamauga (Candies Creek,	Kyles Ford	Three Rivers
Johnson Bottoms, Rogers	Laurel Hill	Watts Bar (Long Island Unit)
Creek, Yellow Creek Units)	Lick Creek	West Sandy
Chuck Swan	Lick Creek Bottoms	White Lake Refuge
Cold Creek	Maness Swamp Refuge	White Oak
	Maple Springs	Williamsport
Cordell Hull	Meeman-Shelby Forest	Wolf River
Cordell Hull Refuge	Mingo Swamp	Woods Reservoir Refuge
Cove Creek	Moss Island	Yanahli
C. M. Gooch	MTSU	Yuchi Refuge at Smith Bend

A WMA small game permit is required for individuals participating in dog training. A field trial permit is required on Percy Priest WMA and the Tellico Lake – McGhee-Carson Unit.

- (b) A WMA Small Game and Waterfowl permit is required for hunting waterfowl on the following wildlife management areas and refuges:

AEDC	Cummings Cove	Nolichucky
Barkley (Units I & II)	Ernest Rice Sr.	North Chickamauga Creek
Big Sandy (including Gin Creek)	Harmon Creek	Oak Ridge
Bogota	Haynes Bottom	Obion River
C.M. Gooch	Hiwassee Refuge	Old Hickory (Units I, II, & III)
Camden (Units I & II)	Holly Fork	Percy Priest (Units 1 & II)
Cedar Hill Swamp	Jackson Swamp	Shelton Ferry
Charlotte Ann Finnell Neal	Jarrell Switch Refuge	The Boils
Cheatham Lake	Moss Island	Three Rivers
Chickamauga (Candies Creek,	Lick Creek	Tigrett
Johnson Bottoms, Rogers	Lick Creek Bottoms	Watts Bar (Long Island Unit)

Creek, Yellow Creek Units)	Meeman-Shelby Forest	West Sandy
Cold Creek	Mingo Swamp	White Oak
Cordell Hull	Moss Island	Yanahli
Cordell Hull Refuge	New Hope	Yuchi Refuge at Smith Bend

(c) A WMA big game permit is required for hunting deer, bear, boar, feral hogs, and turkey on the following wildlife management areas and refuges:

AEDC	Eagle Creek	New Hope
Alpine Mountain	Eagle Lake Refuge	Nolichucky
Arnold Hollow	Ernest Rice Sr.	Normandy
Bark Camp Barrens	Fall Creek Falls State Park	North Chickamauga Creek
Barkley (Units I & II)	Foothills	North Cumberland
Bear Hollow Mountain	Forks of the River	Oak Ridge
Bean Switch Refuge	Gallatin Steam Plant	Obion River
Beaver Dam Creek	Harmon Creek	Old Hickory (Units I, II, & III))
Big Sandy (including Gin Creek)	Haynes Bottom	Old Hickory Lock 5 Refuge
Bogota	Henderson Island Refuge	Owl Hollow Mill
Bridgestone/Firestone Centennial Wilderness	Hick Hill	Pea Ridge
Browntown	Hickory Flat	Percy Priest (Units I & II)
Buffalo Springs	Hiwassee Refuge	Perryville
C. M. Gooch	Holly Fork	Prentice Cooper
Camden (Units I & II)	Hop-In Refuge	President's Island
Catoosa	Jackson Swamp	Rankin
Cedar Hill Swamp	Jarrell Switch Refuge	Shelton Ferry
Charlotte Ann Finnell Neal	John Tully	Tellico Lake
Cheatham	Kingston Refuge	The Boils
Cheatham Lake	Kyles Ford	Three Rivers
Cherokee	Laurel Hill	Tie Camp WMA
Chickamauga (Candies Creek, Johnson Bottoms, Rogers Creek, Yellow Creek Units)	Lick Creek	Tigrett
Chuck Swan	Lick Creek Bottoms	Watts Bar (Long Island Unit)
Cold Creek	Maness Swamp Refuge	West Sandy
Cordell Hull	Maple Springs	White Lake Refuge
Cordell Hull Refuge	Meeman-Shelby Forest	White Oak
Cove Creek	Mingo Swamp	Williamsport
Cummings Cove	Moss Island	Wolf River
Cypress Pond	MTSU	Woods Reservoir Refuge
	Natchez Trace	Yanahli
	Nathan B. Forrest State Historical Area	Yuchi Refuge at Smith Bend

- (d) A WMA Small Game or WMA Small Game and Waterfowl permit is required to trap on all areas that require a small game hunting permit.

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

Amendment

Rule 1660-01-08-.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 and 70-5-101

Chapter 1660-01-14
Rules and Regulations for Refuges, Wildlife Management Areas, and Public Hunting Areas

Amendment

Rule 1660-01-14-.13(5), Hunting and Miscellaneous Uses Of Wildlife Management Areas And Other Tennessee Wildlife Resources Agency Controlled Lands, is amended by deleting paragraph (5) in its entirety and replacing it with a new paragraph (5) to read as follows:

(5) Miscellaneous

(d) In addition to the above, the following apply to the use of trail bikes, mini-bikes, and other off-highway-vehicles:

1. Off Highway Vehicles (OHVs) are restricted to use on roads open to other motorized traffic, except where prohibited by state or federal statute, and designated trails only. Roads shall be posted if closed.
2. OHVs may be prohibited from certain high use and at certain times when there is a threat to public safety or wildlife as indicated by signs.
3. Driving off roads and designated trails into woods, fields, and utility rights of way is prohibited unless otherwise provided.
4. OHVs may be operated during daylight hours and at other times when participating in authorized activities.
5. OHVs must be equipped with properly functioning mufflers and spark arresters.
6. Ohvs may not be operated in a reckless or otherwise unsafe manner. No harassment or disturbance of people or wildlife is permitted.
7. All incidents resulting in the injury to persons or damage to property must be reported by the person or persons involved as soon as possible to the district forester, area manager, or park superintendent. This report does not relieve persons from the responsibility of making any other accident reports which may be required under state law.
8. Off Highway Vehicle is any vehicle capable of traveling off highways within the state. The term includes all-terrain vehicles, motorcycles, dune buggies and other four-wheeled vehicles used for off-road activities.

Statutory Authority: T.C.A. §70-1-206

Rule 1660-01-14-.15, Fees for Use of Royal Blue and Sundquist Wildlife Management Areas, is amended by changing the title of the rule to "Fees for Use of North Cumberland Wildlife Management Area" and then deleting the rule in its entirety and by replacing it with the following language:

(1) Fees for horseback riding, bicycling, and off highway vehicle use shall be as follows (youths under age thirteen (13) exempted):

(a) Residents

1. Annual Fee - \$60.00 or possession of an annual or permanent Hunting and Fishing License and any permit (required to hunt on the North Cumberland Wildlife Management Area) or any Sportsman License.
 2. Daily Fee - \$12.00
- (b) Non-Residents
1. Annual Fee - \$190.00 or possession of a Non-Resident Annual "All Game: hunting license and any permit required to hunt on the North Cumberland Wildlife Management Area.
 2. Daily Fee - \$30.00
- (2) At least one occupant of a vehicle must possess the proper permit(s). No permit shall be required on roads/trails as designated.
- (3) Off Highway Vehicle is any vehicle capable of traveling off highways within the state. The term includes all-terrain vehicles, motorcycles, dune buggies and other four-wheeled vehicles used for off-road activities.

Statutory Authority: T.C.A. §70-1-206

Amendment

Rule 1660-01-14 is amended by adding a new rule, 1660-01-14-.17, that will read as follows:

1660-01-14-.17 Managed Recreation Areas on Foothills Wildlife Management Area

- (1) All recreation areas are open to the general public, at all times, free of charge for use subject to the following rules:
 - (a) Picnicking is permitted.
 - (b) Camping is prohibited at all times.
 - (c) Unattended vehicles shall not be left in a manner as to deprive or interfere with other persons access to parking areas and/or facilities. Area is not to be used as a "park and ride" lot.
 - (d) No person, or persons, shall deface or remove trees or other plants, dirt, gravel, or sod or any structure placed on the area by the Tennessee Wildlife Resources Agency or with the approval of the Tennessee Wildlife Resources Agency.
 - (e) No garbage, rubbish, litter or any refuse, 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 of recreation area is prohibited. Organized events will be held by permit only.
 - (g) The use of firearms is prohibited.

- (h) Disorderly conduct and/or use of intoxicants and/or other behavior modifying substances are prohibited.
- (i) Handicapped parking zones, as posted are reserved for handicapped users.
- (j) Parking regulations will be enforced as posted. Officers of the Tennessee Wildlife Resources Agency may, at their discretion, have offending vehicles towed (at owners' expense) or issue citations.
- (k) Picnic tables are available on a "first come" basis and cannot be reserved.
- (l) The use of fireworks is prohibited.
- (m) All dogs must be leashed.
- (n) No open fires. Cooking on grills is permitted.

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

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

Rule 1660 -02-07-.05 Percy Priest Reservoir

Rule 1660-2-1-.05(1), Percy Priest Reservoir, is amended by adding a new subparagraph (w) to read as follows:

- (w) A cove on the left descending bank adjoining the YMCA property at Stones River Mile approximately 5.3.

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

Chapter 1660-02-13
 Rules and Regulations Governing Abandoned Vessels

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1660-02-13-.01 Definitions

- (1) Abandoned vessel is a vessel intended as a means of transportation upon or under the water, whether or not it is still capable as a means of transportation including watercraft in an 'obvious state of disrepair' such as being burned throughout and/or inoperable under its own power which:

- (a) has remained unattended on public water(s) of the State of Tennessee, or land adjacent to these public water(s) (for more than 30 days) without the expressed consent of the owner(s) or person(s) in control of the property; or
 - (b) is adrift or submerged for more than thirty (30) days in or upon the public waters of the State of Tennessee; or
 - (c) a vessel deemed, through due process, to have no ownership;
 - (d) is left unattended on any public property without notice to the managing entity of such public property for more than fifteen (15) days;
 - (e) has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for more than thirty (30) consecutive days;
 - (f) has remained on private property, other than outlined in 1(e) without the consent of the owner or person in control of the property for more than fifteen (15) days.
- (2) A “dry dock storage facility” is an entity, not on the public waters of Tennessee, where vessels, parts and pieces of vessels and components are available for sale or trade and stored either inside a building or outside for more than 30 days.
 - (3) A “wet slip,” “boat dock” or “storage facility” is a commercial business located on the public waters of Tennessee, where vessels, parts, and pieces of vessels and components are stored either on a dock or within a boat slip.

1660-02-13-.02 Application for Abandoned Vessel(s)

- (1) A person or governmental entity wishing to possess an abandoned vessel, shall follow the procedures and guidelines set forth by the Tennessee Wildlife Resources Agency, and all records of recovered abandoned vessels shall be held by the TWRA.
- (2) A state, federal or local law enforcement entity may remove an abandoned vessel from the public waters of the State of Tennessee that constitutes a hazard or obstruction to navigation.
- (3) A person or governmental entity shall notify the TWRA within 48 hours after removing/recovering an abandoned vessel from the public waters of the State of Tennessee. Upon notification, the agency will provide a Request to Register Abandoned Boat form (WR-0932) and a Request for Boat Registration Information form (WR-#____). The form shall include: where the vessel was located prior to recovery, condition of vessel, name of person or entity, date and time vessel was removed/recovered, where vessel is currently stored/located, any and all identification numbers found and address, phone number, and name of person responsible for the removed/recovered vessel.
- (4) Marinas should refer to the Tennessee Code Annotated for laws specific to vessels abandoned while moored or stored at these facilities. (T.C.A. §66-19-212)

1660-02-13-.03 Notice to Owner(s) and/or Secured Party(ies):

- (1) If the vessel has a registration number assigned by any State, or if there are means of identifying the owner(s) and/or lienholder(s), the claimant, must notify the owner(s) and/or lienholder(s) at their last known address by certified mail/return receipt requested.

- (2) The United States Coast Guard shall be provided with a copy of the notice when commercial vessels are involved.
- (3) The Uniform Commercial Code Division of the Office of the Secretary of State shall be provided with a copy of the notice if a lienholder is identified.
- (4) The notice must contain the following information:
 - (a) A description of the vessel including any identifying numbers;
 - (b) Location of the vessel;
 - (c) A statement informing the owner(s) and/or the leinholder that the vessel must be claimed within 30 days of receipt of notice, if notice is given by certified mail. If notice is given by publication, the owner(s) and/or the leinholder must claim the vessel within 30 days after the last day the notice runs in the newspaper;
 - (d) A statement informing the owner(s) and/or the leinholder(s) that a failure to claim the vessel within the prescribed time will constitute a waiver of all potential rights or interests which may exist in the vessel;
 - (e) A statement informing the owner(s) and/or the leinholder(s) that the vessel will be disposed of if no claim is made and the vessel removed within the prescribed time.
 - (f) In the event the claimant is a governmental agency, such agency shall have the discretion of placing the vessel into service in lieu of auction.

(5) Notice by Publication

If the Tennessee Wildlife Resources Agency is unable to determine the last registered owner(s) or the identity of any secured party(ies) of the abandoned vessel, or if notice by certified mail is unsuccessful following one (1) attempt, the TWRA or claimant shall place a notice, to appear for two (2) consecutive publications, in a newspaper of general circulation published in the county city where the vessel is located. The notice by publication shall contain the information required under section 3 and shall be published within 15 days following the second failed attempt at certified mail.

(6) Failure to recover vessel

- (a) If the owner is properly notified prior to recovery and owner does not remove/recover vessel within 5 days the owner may be responsible for all charges incurred in removing/recovering the vessel and may be charged criminally.
- (b) The removal time for the vessel may be immediate if the vessel impedes the use of a public facility, or presents a safety, navigational, or environmental hazard.

1660-02-13-.04 Application for Certificate of Number

- (1) If the owner(s) or secured party(ies) fails to claim the vessel within 30 days after the certified mail or after the notice by publication is given, the claimant may apply to the Tennessee Wildlife Resources Agency for certificate of number.
 - (a) The claimant must provide the following:

1. A completed and notarized affidavit for Request to Register Abandoned Boat (WR-0932); and
2. Receipts for certified mail to identified owner(s) and lien holder(s) and original copies of the notice of publication as required in 4(A) above; and
3. Photograph of vessel.
4. A Certificate of Deletion issued by the U.S. Coast Guard if the vessel bears an official number issued by the Coast Guard or there is other evidence that the vessel was documented by the Coast Guard. Applicant must contact the National Vessel Documentation Center.

(2) Issuance of Registration:

- (a) Upon receipt of the documents noted above, the Tennessee Wildlife Resources Agency shall issue a Letter of Authorization form (WR-#____) to the applicant that allows the County Clerk to validate the claimant's State of Tennessee Application for Boat Certificate of Number.
- (b) Applicant must submit validated State of Tennessee Application for Boat Certificate of Number along with the proper fees to Tennessee Wildlife Resources Agency's Registration Division.
- (c) All costs incurred in obtaining a certificate of number shall be borne by the applicant.

1660-02-13-.05 Storage Facilities

- (1) Any vessel(s) subject to this rule shall be available for inspection by a commissioned officer of the TWRA during normal business hours. This vessel inspection shall include but not be limited to:
 - (a) Documentation records;
 - (b) All identification numbers;
 - (c) All records, receipts, or transfers of ownership;
 - (d) Any other paper work which may show vessel origination; and
 - (e) Physical inspection of vessels, or parts thereof, located at these facilities.

Authority: T.C.A. §§69-9-209, 69-9-207 and 70-1-206.

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of January, 2008. (01-06-08; DBID 803 through 806)