

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 01-12-17  
Rule ID(s): 6397  
File Date: 1/13/17  
Effective Date: 4/13/17

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

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

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1660-02-09	Rules and Regulations Governing Noise Level Standards
Rule Number	Rule Title
1660-02-09-.01	Noise Level Standards

Amendment

1660-02-09-.01 Noise Level Standards is amended by removing "70-2222" in section (1) (e) and replacing it with "T.C.A. §69-9-301 et. seq."

- (1) No person shall operate any vessel in or upon the waters of Tennessee in such a manner so that the total noise produced by the watercraft exceeds 86 dBA at a distance of 50 feet or more, whether or not said vessel is in motion.
- (a) Measurements shall be made with a Type I or Type II sound level meter which meets the requirements of the American National Standards Institute SI.4-1971.

- (b) Measurements shall be taken at a minimum distance of 50 feet, and in so far as practical, be taken at an angle approximately perpendicular to the vessel in question.
- (c) A test course, if used in testing, shall consist of an approximately straight course 50 yards in length through which the vessel in question shall operate at full throttle; measurements shall be made at a minimum distance of 50 feet and at an angle approximately perpendicular to the vessel near the center of the course.
- (d) Any duly commissioned officer of the Wildlife Resources Agency with a reason to suspect that a vessel is exceeding the noise limitation may require the vessel operator to transverse a noise emission test course as set forth herein.
- (e) Any person who fails to comply with the directive to transverse the test course shall be subject to prosecution under T.C.A. §69-9-301 et seq. and/or at the discretion of the officer, the vessel shall be ordered to immediately return to its mooring and cease operations.

Authority: T.C.A. §§ 69-9-302 and 70-1-206. Administrative History: Original rule filed June 11, 1981; effective July 27, 1981. Amendment filed \_\_\_\_\_; effective \_\_\_\_\_.

\* 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	Signature (if required)
Chad Baker				✓	
Jim Bledsoe	✓				
Harold Cannon	✓				
Jeff Cook	✓				
Bill Cox				✓	
Kurt Holbert	✓				
Connie King	✓				
Jeff McMillan	✓				
Jim Ripley	✓				
Bill Swan	✓				
Trey Teague				✓	
David Watson	✓				
Jamie Woodson				✓	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish and Wildlife Commission on 10/28/2016 (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: 08/29/2016

Rulemaking Hearing(s) Conducted on: (add more dates). 10/28/2016



Date: 11-8-16

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 11-8-16  
Notary Public Signature: Ana Crawford  
My commission expires on: 03-10-2019

All rulemaking hearing rules provided for herein (Tennessee Wildlife Resources Agency Rule 1660-02-09) 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.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter  
1/4/2017  
Date

**Department of State Use Only**

Filed with the Department of State on: 1/13/17  
Effective on: 4/13/17  
Tre Hargett  
Tre Hargett  
Secretary of State

RECEIVED  
2017 JAN 13 AM 11:49  
SECRETARY OF STATE  
PUBLICATIONS

## 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: 1660-02-09-01

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

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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;

There are no businesses, small or otherwise, that would bear the cost of or directly benefit from the proposed rule.

(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;

All recordkeeping and administrative costs are estimated to be minimal and would be borne by the Agency through existing staff.

(3) A statement of the probable effect on impacted small businesses and consumers;

The rule as proposed would have no effect on businesses or consumers.

(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 rule puts a minimal burden on small business.

(5) A comparison of the proposed rule with any federal or state counterparts; and

The rule is fairly similar to those that have been passed in other states.

(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.

Businesses, small or otherwise, will not be impacted as there are no requirements placed on business.

### **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 Agency does not believe that the rule will have any impact on local governments.

Please describe the increase in expenditures or decrease in revenues:

The rule will neither increase expenditures, nor decrease revenues.

**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 rule prescribes requirements for vessel noise level standards

- (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;

T.C.A Section 69-9-302 establishes guidelines for the rule.

- (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;

Persons who operate recreational vessels principally in Tennessee.

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

No opinion of the attorney general or any judicial ruling that directly relates to the rule has been identified.

- (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 fiscal impact to state and local governments is minimal.

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

W. Glenn Moates, LT Colonel, Boating & 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;

Chris Richardson, TWRA Special Assistant to the Director/Policy and Legislation, will explain the rule at the scheduled meeting of the Government Operations Committee.

- (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

Chris Richardson, TWRA, P.O. Box 40747, Ellington Agricultural Center, Nashville, TN 37204; 615-308-0477; Chris.Richardson@tn.gov

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

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Authority: T.C.A. §§ 69-9-302 and 70-1-206. Administrative History: Original rule filed June 11, 1981; effective July 27, 1981. Amendment filed \_\_\_\_\_; effective \_\_\_\_\_.

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Jim Ripley					
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I further certify the following:

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Rulemaking Hearing(s) Conducted on: (add more dates) 10/28/2016

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: 03-10-2019

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\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

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RULE: 1660-02-09-.01

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

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