

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 02-06-15
 Rule ID(s): 6872
 File Date: 2/9/15
 Effective Date: 5/10/15

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
1660-01-25	Rules and Regulations of Governing Special Elk Take Permits
Rule Number	Rule Title
1660-01-25-.01	Special Elk Take Permit

Chapter 1660-01-25
 Rules and Regulations Governing Special Elk Take Permits

Amendments

1660-01-25-.01, Special Elk Take Permit, is amended by deleting subparagraph (2)(b) in its entirety and inserting a new subparagraph (2)(b) to read as follows:

- (b) The agency shall use a competitive process in compliance with the standards and guidelines established by the State of Tennessee for professional service procurements.

1660-01-25-.01, Special Elk Take Permit, is further amended by deleting subparagraph (2)(d) in its entirety and inserting a new subparagraph (2)(d) to read as follows:

- (d) The Executive Director of the agency shall appoint a committee of the agency to examine the proposals or bids and make recommendations to the Executive Director in accordance with state guidelines following the close of the application period. The Executive Director may reject any application that does not conform to the requirements of this section. In selecting an organization, the Executive Director shall consider the qualifications of the organization as a fund raiser; the proposed fund raising plan; the fee charged by the organization for promotional and administrative costs relative to the funds obtained from auctioning the permit; and the organizations' previous involvement with elk conservation.

Statutory Authority: T.C.A. §§70-1-206, 70-2-219

Administrative History: New rule filed May 22, 2008; effective August 5, 2008. Amendment filed July 10, 2009; effective October 8, 2009.

* 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
Jeff McMillin	✓			
Chad Baker				✓
Jim Bledsoe	✓			
Harold Cannon	✓			
Bill Cox	✓			
Jeffrey H. Griggs	✓			
Connie King	✓			
Tom Rice				✓
Jim Ripley	✓			
James Stroud				✓
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 & Wildlife Commission on 01/16/2015 (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: 11/21/2014

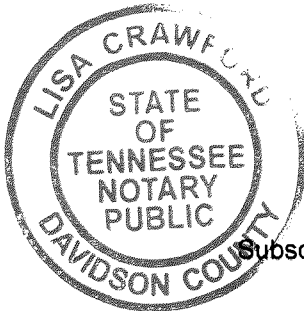
Rulemaking Hearing(s) Conducted on: (add more dates). 01/16/2015

Date: 1-23-15

Signature: *Ed Carter*

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 1-23-15

Notary Public Signature: *Lisa 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.

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

February 3, 2015
Date

Department of State Use Only

Filed with the Department of State on: 2/9/15

Effective on: 5/10/15

Tre Hargett
Tre Hargett
Secretary of State

2015 FEB -9 AM 11:35
DEPARTMENT OF STATE

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: 1660-01-25-.01

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 establishes a new competitive process for non-profit wildlife conservation organizations contending for the Special Elk Take Permit.

(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 rule amendment removes the RFP (Request for Proposals) process for non-profit wildlife conservation organizations competing for the special elk-take permit and replaces it with a simpler competitive process.

- (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 § 70-2-219(e) grants authority to the executive director of the Tennessee Wildlife Resources Agency to issue a special elk-take permit to a non-profit wildlife conservation organization.

- (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;

Non-profit wildlife conservation organizations urge adoption of this amendment since it will simplify the application process for the special elk-take permit. The Tennessee Wildlife Resources Agency (TWRA) will be impacted by the change due to the fact the application process will have to be changed. However, the TWRA is also in favor of simplifying the application process.

- (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 directly related 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;

Daryl Ratajczak, Chief of Wildlife and Forestry, possesses substantial knowledge and understanding of this rule. (Daryl.Ratajczak@tn.gov) (615) 781-6609 P.O. Box 40747 Nashville, TN 37204

- (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, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 837-6016, Chris.Richardson@tn.gov

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

It is hoped that by removing the RFP process from the rule and substituting a simpler competitive process, it will

encourage and enable more non-profit wildlife conservation organizations to bid on the opportunity to auction or raffle the special elk take permit, thus bringing more competition to the process and ultimately more money for the elk program.

Red Line Copy

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

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
1660-01-25	Rules and Regulations of Governing Special Elk Take Permits
Rule Number	Rule Title
1660-01-25-.01	Special Elk Take Permit

Chapter 1660-01-25
Rules and Regulations Governing Special Elk Take Permits

Amendments

1660-01-25-.01, Special Elk Take Permit, is amended by deleting subparagraph (2)(b) in its entirety and inserting a new subparagraph (2)(b) to read as follows:

- (b) ~~The agency shall issue a Request for Proposal (RFP), which shall comply with the standards and guidelines established by the State of Tennessee.~~
- (b) The agency shall use a competitive process in compliance with the standards and guidelines established by the State of Tennessee for professional service procurements.

1660-01-25-.01, Special Elk Take Permit, is further amended by deleting subparagraph (2)(d) in its entirety and inserting a new subparagraph (2)(d) to read as follows:

- (d) ~~The Executive Director of the agency shall appoint a committee of the agency to examine the RFPs and make recommendations to the Executive Director in accordance with state guidelines following the close of the application period. The Executive Director may reject any application that does not conform to the requirements of this section. In selecting an organization, the Executive Director shall consider the qualifications of the organization as a fund raiser; the proposed fund raising plan; the fee charged by the organization for promotional and~~

~~administrative costs relative to the funds obtained from auctioning the permit; and the organizations' previous involvement with elk conservation.~~

- (d) The Executive Director of the agency shall appoint a committee of the agency to examine the proposals or bids and make recommendations to the Executive Director in accordance with state guidelines following the close of the application period. The Executive Director may reject any application that does not conform to the requirements of this section. In selecting an organization, the Executive Director shall consider the qualifications of the organization as a fund raiser; the proposed fund raising plan; the fee charged by the organization for promotional and administrative costs relative to the funds obtained from auctioning the permit; and the organizations' previous involvement with elk conservation.

Statutory Authority: T.C.A. §§70-1-206, 70-2-219

Administrative History: New rule filed May 22, 2008; effective August 5, 2008. Amendment filed July 10, 2009; effective October 8, 2009.

* 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
Jeff McMillin				
Chad Baker				
Jim Bledsoe				
Harold Cannon				
Bill Cox				
Jeffrey H. Griggs				
Connie King				
Tom Rice				
Jim Ripley				
James Stroud				
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 & Wildlife Commission on _____ (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: _____ (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). _____ (mm/dd/yy)

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 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.

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

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: 1660-01-25-.01

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 establishes a new competitive process for non-profit wildlife conservation organizations contending for the Special Elk Take Permit.

(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 rule amendment removes the RFP (Request for Proposals) process for non-profit wildlife conservation organizations competing for the special elk-take permit and replaces it with a simpler competitive process.

- (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 § 70-2-219(e) grants authority to the executive director of the Tennessee Wildlife Resources Agency to issue a special elk-take permit to a non-profit wildlife conservation organization.

- (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;

Non-profit wildlife conservation organizations urge adoption of this amendment since it will simplify the application process for the special elk-take permit. The Tennessee Wildlife Resources Agency (TWRA) will be impacted by the change due to the fact the application process will have to be changed. However, the TWRA is also in favor of simplifying the application process.

- (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 directly related 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;

Daryl Ratajczak, Chief of Wildlife and Forestry, possesses substantial knowledge and understanding of this rule. (Daryl.Ratajczak@tn.gov) (615) 781-6609 P.O. Box 40747 Nashville, TN 37204

- (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, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 837-6016, Chris.Richardson@tn.gov

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

It is hoped that by removing the RFP process from the rule and substituting a simpler competitive process, it will

encourage and enable more non-profit wildlife conservation organizations to bid on the opportunity to auction or raffle the special elk take permit, thus bringing more competition to the process and ultimately more money for the elk program.