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Sequence Number: 03-34-17
 Notice ID(s): 2686-2687
 File Date: 3/31/17

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Fisheries
Contact Person:	Lisa Crawford
Address:	TWRA, PO Box 40747, Nashville, TN 37204-0747
Phone:	615-781-6606
Email:	Lisa.Crawford@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Rick Pharris
Address:	TWRA, PO Box 40747, Nashville, TN 37204-0747
Phone:	615-781-6594
Email:	Rick.Pharris@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Bryan College		
Address 2:	721 Bryan Drive, Rhea County Room		
City:	Dayton		
Zip:	37321		
Hearing Date :	05/24/2017		
Hearing Time:	9:00 a.m.	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT

Additional Hearing Information:

<https://www.bryan.edu/visit> (423)775-2041

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1660-01-30	Commercial Fishing and Wholesale Fish Dealers
Rule Number	Rule Title
1660-01-30-.01	Licenses and Permits
1660-01-30-.02	Report Requirements
1660-01-30-.03	Resident Roe Fish Permit/Supplement Application and Drawing

Chapter Number	Chapter Title
1660-01-31	Commercial Musseling
Rule Number	Rule Title
1660-01-31-.01	Possession and Sales of Undersized Shells
1660-01-31-.02	Mussel Fee
1660-01-31-.03	Importation and Exportation

1660-01-30 Rules and Regulations Governing Commercial Fishing and Wholesale Fish Dealers is added as a new chapter, with the following new rules.

1660-01-30-.01, Licenses and Permits, is added as a new rule to read as follows:

1660-01-30-.01 Licenses and Permits

- (1) A commercial fishing license is required by anyone engaging in commercial fishing. A commercial fisher with a valid Commercial Fishing License must be on board the vessel while commercial fishing for fish or turtles. Commercial fishers must have a valid commercial helpers permit for each person on board the vessel that is aiding or assisting in the act of commercial fishing.
- (2) A commercial fisher with a valid Commercial Fishing License and a valid Commercial Roe Fish Permit, Supplemental must be on board the vessel while any part of a paddlefish or bowfin is harvested from the waters of the state. A maximum of sixty three (63) Resident Commercial Roe Fish Permits was established as those sold on or before November 1, 2014 during the 2014-2015 license year. The maximum number of Nonresident Commercial Roe Fish Permits sold shall be five (5). An individual who purchased a Resident Commercial Roe Fish Permit between March 1, 2006, and March 31, 2006, shall have priority to renew that permit by March 15 of each license year until he/she fails to renew such permit. An individual who purchased a Resident Commercial Roe Fish Permit between March 1, 2014 and November 1, 2014 shall have priority to renew that permit by March 15 of each license year until he/she fails to renew such permit. Priority status does not apply to nonresident permits. Beginning March 15, 2015, the number of Resident Commercial Roe Fish Permits will be reduced on a year by year basis to a maximum of forty (40) when/if the current maximum number is not purchased by March 15 of each license year. A wholesale fish dealer must have a valid Wholesale Fish Dealer's License and a valid Wholesale Roe Fish Permit, Supplemental to buy, hold, or sell any part of a paddlefish or bowfin.
- (3) A commercial fisher with a valid Commercial Fishing License and a Commercial Turtle Permit, Supplemental must be on board the vessel while any part of a turtle is harvested from the waters of the state. The maximum number of Resident Commercial Turtle Permits sold shall be thirty five (35) and the maximum number of Nonresident Commercial Turtle Permits sold shall be five (5). An individual who purchased a Commercial Turtle Permit between March 1, 2012, and October 15, 2012, shall have priority to renew that permit by March 15 of each year thereafter until he/she fails to renew such permit. Priority status does not apply to nonresident permits. A wholesale fish dealer must have a valid Wholesale Fish Dealer's License to buy, hold, or sell any part of a turtle.
- (4) Commercially harvested paddlefish or parts thereof taken from the waters of the state and sold in state must be marketed to a licensed wholesale fish dealer who has a valid Wholesale Roe Fish Permit, Supplemental.

Authority: TCA §§70-1-206 and 70-2-301. **Administrative History:** Original rule filed _____; effective _____.

1660-01-30-.02, Report Requirements, is added as a new rule to read as follows:

1660-01-30-.02 Report Requirements

- (1) Commercial fishers and wholesale fish dealers must have a valid phone number and street address on file with TWRA at all times. Commercial fishers and wholesale fish dealers are required to submit daily and/or monthly reports as requested to the TWRA, except for commercial

fishers with a commercial bow license that are only required to submit an annual report as instructed.

- (2) Commercial fishers are required to provide TWRA with requested information and samples for all fish or turtles (or parts thereof) which they harvest from Tennessee waters or import into Tennessee.
- (3) Requested information shall be reported on report forms provided by TWRA. These forms must be completed within 24 hours of harvest or importation and/or a completed Daily Commercial Roe Fish Harvest Report must be submitted to the wholesale fish dealer at time of transaction.
- (4) Paddlefish and bowfin harvest are only documented on the Daily Commercial Roe Fish Harvest Report.
- (5) All other commercial fish harvested are only documented on the Monthly Commercial Fishing Report and turtles harvested are only documented on the Monthly Commercial Turtle Reports.
- (6) Commercial fishers must notify TWRA on the appropriate form if they did not harvest fish or turtles (or parts thereof) during a month.
- (7) Wholesale fish dealers are required to provide TWRA with requested information and samples for all fish or turtles (or parts thereof) which they receive from commercial fishers, wholesale fish dealers, or nonresident equivalents. Wholesale transactions are reported on the Monthly Wholesale Fish Dealer Report.
- (8) Wholesale fish dealers must indicate the quantity of fish or turtles (or parts thereof) that they receive from a commercial fisher on reports issued by the commercial fisher and/or reports issued by TWRA.
- (9) The wholesale fish dealer must record the raw drained egg weight (0.01 pounds) for each individual fish received with eggs indicated. The raw drained egg weight is the weight of the eggs after rinsing and draining that is used to calculate the percentage of salt added that would yield the salted processed weight.
- (10) Wholesale fish dealers must sign and date these reports within 24 hours of receiving the product.
- (11) Wholesale fish dealers must satisfy the commercial fishing reporting requirements as instructed by TWRA for nonresidents who supply them with fish or turtles (or parts thereof) harvested out-of-state.
- (12) Wholesale fish dealers must notify TWRA on the appropriate form if they did not receive fish or turtles (or parts thereof) during a month.
- (13) Commercial fishers and wholesale fish dealers must retain a copy of all reports and forms for a period of two years, and make them available for inspection by TWRA.
- (14) Commercial fishers and wholesale fish dealers must contact the Fisheries Division within 5 days upon purchasing a license and request the required forms.
- (15) Commercial fishers importing or exporting commercial fish or turtles (or parts thereof) into or out of Tennessee must have bills of lading denoting the quantity of product, name and address of supplier, name of water body from which product was harvested, and date of import/export.
- (16) A copy of the bill of lading must be in the possession of the person importing or exporting the product. Commercial fishers must retain a copy of each bill of lading for a period of two years, and make it available for inspection by TWRA.

Authority: TCA §§70-1-206 and 70-2-301. **Administrative History:** Original rule filed _____; effective _____.

as follows:

1660-01-30-.03 Resident Roe Fish Permit/Supplement Application and Drawing

- (1) Resident Roe Fish Permit/Supplement(s) (Type 108) will only be available if the number of permits sold by TWRA through March 15 of a given license year is less than forty (40). The number of permits available in this drawing process will equal the difference between forty (40) and the number sold through March 15.
- (2) Applicants must be residents of the State of Tennessee, possess a valid commercial fishing license (Types 100 or 101) at the time of the drawing, and have had a valid commercial license (Type 100 or 101) for 6 months of the previous license year.
- (3) The Resident Roe Fish Permit/Supplement drawing will announced by TWRA. On drawing day, participating applicants must appear in person at TWRA's Nashville office and complete an application supplied by TWRA between 9 a.m. and 11 a.m. (central time). One application is permitted per person. If more than one application is submitted by a person, then all applications from that individual will be excluded from the drawing.
- (4) Applicants who are randomly selected by TWRA must purchase the Resident Roe Fish Permit/Supplement (Type 108) within one hour. Selected applicants will be removed from the applicant pool for the duration of the drawing. Those failing to meet the purchasing requirements will forfeit the right to purchase the permit/supplement. A subsequent random drawing for the unpurchased roe fish permit/supplement will then occur from the remaining application pool.
- (5) Those individuals that possess a Resident Roe Fish Permit/Supplement (Type 108) shall have priority to renew that permit by March 15 of each license year until he/she fails to renew the permit.

Authority: TCA §§70-1-206 and 70-2-301. **Administrative History:** Original rule filed _____; effective _____.

1660-01-31, Rules and Regulations Governing Commercial Musseling, is added as a new rule chapter with the following new rules:

1660-01-31-.01, Possession and Sales of Undersized Shells, is added as a new rule to read as follows:

1660-01-31-.01 Possession and Sales of Undersized Shells

- (1) No person, firm, or corporation shall take, buy, sell, barter, or possess mussels (alive or dead) that are not of the species and sizes listed in the current Statewide Proclamation on the Commercial Taking, Possessing, and Selling of Mussels, or are not legalized by other proclamations, rules, or regulations. No person, firm, or corporation shall be in possession of non-processed freshwater mussels unless they have in their possession the required commercial musseling license, wholesale mussel dealer license, or pearl culturing license.

Authority: TCA §§70-1-206. **Administrative History:** Original rule filed _____; effective _____.

1660-01-31-.02, Mussel Fee, is added as a new rule to read as follows:

1660-01-31-.02 Mussel Fee

- (1) A fee in the amount prescribed by law must be paid to the Tennessee Wildlife Resources Agency on mussels taken from Tennessee waters.
 - (a) The procedure for governing the collection of these fees on mussels that are sold to a resident wholesale mussel dealer is as follows:
 1. The payment to TWRA shall be calculated from receipts filled out by the wholesale

mussel dealer for each transaction. A Mussel Shell Summary Sheet reporting the receipt number, pounds of shells purchased for each transaction, calculated fee payable to TWRA, and the signature of the company official completing the report shall be completed and sent to TWRA by the 15th of the month following the monthly transaction period.

2. Wholesale mussel dealers are required to furnish the musseler with receipts for all mussels acquired on forms provided by TWRA. A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial mussel license number, pounds of shells bought by type, size category and harvest location as stated by seller, date of the transaction, signature of buyer or recipient, and signature of the seller.
3. A copy of each receipt shall be kept by the wholesaler for a period of 2 years, and be made available for inspection by TWRA during regular business hours. A copy of each receipt shall be given to the musseler. Musselers must keep their copy of the receipt for a period of 2 years, and make it available for inspection by TWRA.
4. A copy of each receipt issued during a month shall be furnished to TWRA at the Nashville Office by the 15th of the following month.

(b) The procedure governing the collection of these fees on mussels that are not sold to an in-state wholesale mussel dealer is set out as follows:

1. A mussel export form provided by TWRA must be completed by the mussel harvester giving pertinent information including the mussel harvester's name, commercial musseling license number, date of export, pounds of shells by size category, fee due, and money order number, cashier check number, or personal check number used as payment to TWRA.
2. A copy of the mussel export form shall be retained by the mussel harvester and must be on the shipper's person when crossing the state line. A money order, cashier's check, or personal check is the only acceptable means for making a fee payment to TWRA. The receipt or copy of the same from the cashier's check, money order, or personal check used to pay TWRA the fee must be retained by the harvester. The receipt or a copy thereof of the money order, cashier's check, or personal check must also be maintained by the person taking the mussels across the state line.
3. The original of the mussel export form and a cashier's check, money order, or personal check made out to TWRA for the fee amount must be mailed via U.S. Postal Service to the TWRA, P.O. Box 40747, Nashville, TN 37204, before the mussels are transported or shipped across the state line.
4. Failure to fill out any part of the mussel export form or falsification of information shall be a violation.
5. The mussel harvester must retain copies of the mussel export form and copies of payment document (either money order receipt, copy of cashier's check or personal check, or the canceled personal check) for a period of two years and be made available for inspection by TWRA personnel.

(c) The procedure governing the collection of these fees on mussels that are purchased or otherwise obtained by a resident pearl culture business is as follows:

1. The payment to TWRA shall be calculated from receipts filled out by the pearl culture business for each transaction. A Mussel Shell Summary Sheet reporting the receipt number, pounds of shells purchased for each transaction, calculated fee payable to TWRA, and the signature of the company official completing the report shall be completed and sent to TWRA by the 15th of the month following the monthly transaction period.

2. A pearl culture business is required to furnish the musseler with receipts for all mussels acquired on forms provided by TWRA.
 - (i) A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial musseling license number, pounds of shells bought by type, size category and harvest location as stated by the seller, date of the transaction, signature of the buyer or recipient, and signature of the seller when the mussels obtained are not 3.0 inch to 4.0 inch "washboard" mussels.
 - (ii) A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial musseling license number, number of 3.0 inch to 4.0 inch "washboard" mussels, pounds of mussels purchased, pearl culture company name, date of the transaction, and signature of the company official purchasing the mussels.
3. A copy of each receipt shall be kept by the pearl culture business for a period of 2 years, and be made available for inspection by TWRA during regular business hours. A copy of each receipt shall be given to the musseler. Musselers must keep their copy of the receipt for a period of 2 years, and make it available for inspection by TWRA.
4. A copy of each receipt issued during a month shall be furnished to TWRA at the Nashville Office by the 15th of the following month.

Authority: TCA §§70-1-206. **Administrative History:** Original rule filed _____; effective _____.

1660-01-31-.03, Importation and Exportation, is added as a new rule to read as follows:

1660-01-31-.03 Importation and Exportation

- (1) All shipments of mussels imported into Tennessee by a person, firm, or corporation shall be accompanied by a bill of lading. The bill of lading shall provide the following:
 - (a) The signature of the person or purchasing agent of the firm or corporation importing the mussels;
 - (b) The signature of the person or purchasing agent of the firm or corporation that sold or otherwise provided the mussels to be imported;
 - (c) The date of shipment;
 - (d) The weight of mussels by size category;
 - (e) The origin of shipment including the name of the body of water where they were harvested; and
 - (f) The destination of shipment.
- (2) A copy of the bill of lading shall remain with the importing person, firm, corporation, or wholesale mussel dealer for a period of two years, and shall be made available to TWRA upon request.
- (3) To export mussels from Tennessee, a completed bill of lading on forms provided by TWRA is required.

Authority: TCA §§70-1-206. **Administrative History:** Original rule filed _____; effective _____.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: 3-30-2017

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 3-30-2017

Notary Public Signature: Lisa Crawford

My commission expires on: 3-10-2019

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Filed with the Department of State on: 3/31/17

Tre Hargett

Tre Hargett
Secretary of State

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