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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 Fish and Wildlife Commission
Division:	
Contact Person:	Torrey S. Grimes, General Counsel Tennessee Wildlife Resources Agency
Address:	5107 Edmondson Pike Nashville, Tennessee 37211
Phone:	615.781.6657
Email:	Torrey.Grimes@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:	Randi Tarpy, Chief of Human Resources Tennessee Wildlife Resources Agency
Address:	5107 Edmondson Pike Nashville, Tennessee 37211
Phone:	615-781-6605
Email:	Randi.S.Tarpy@tn.gov

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

Address 1:	Region II Office, Tennessee Wildlife Resources Agency		
Address 2:	5105 Edmondson Pike		
City:	Nashville, Tennessee		
Zip:	37211		
Hearing Date:	06/23/2023		
Hearing Time:	9:00 AM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

In addition to the in-person public comment noted above, the Agency will accept public comment via electronic means from the date of filing of this Notice of Rulemaking Hearing until 6/22/2023 at 4:30 PM.

Any electronic public comment must be emailed to twra.rulescomments@tn.gov with the heading "Proposed Rule Comment – Rule 1660-01-36 –Forestry Products".

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
1660-01-36	RULES AND REGULATIONS GOVERNING THE SALE OF FORESTRY PRODUCTS
Rule Number	Rule Title
1660-01-36-.01	PURPOSE
1660-01-36-.02	DEFINITIONS
1660-01-36-.03	SALE PROCEDURES

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

**RULES
OF
TENNESSEE WILDLIFE RESOURCES AGENCY
WILDLIFE RESOURCES**

**CHAPTER 1660-01-36
RULES AND REGULATIONS GOVERNING THE SALE OF FORESTRY PRODUCTS**

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1660-01-36-.01 Purpose.

- (1) The Agency may conduct sales of forestry products derived from agency owned property in accordance with the Agency's statutory mission and in furtherance of its habitat and wildlife management responsibilities.
- (2) The Agency will conduct the sale of forestry products consistent with the process established by the Tennessee Department of Agriculture's Division of Forestry, and the Tennessee Department of General Services.
- (3) The Agency will further comply with Tenn. Comp. R. & Regs. 0690-02-01-.18 when conducting sales of forestry products derived from agency owned property.

Authority: Tenn. Code Ann. §70-1-306(i), 70-1-206, and 70-1-302.

1660-01-36-.02 Definitions.

- (1) "Forestry products" means any product derived from trees of the forest including processed or unprocessed logs, timber, and wood.
- (2) "Commercially feasible sales" means the proposed area of forestry products has an accessible quantity of material that an appropriate and experienced contractor would likely be interested in bidding for the rights to harvest and purchase it.
- (3) "Non commercially feasible sales" means the proposed area of Forestry Products does not have an accessible quantity of material that an appropriate and experienced contractor would likely be interested in bidding for the rights to harvest and purchase it.
- (4) "Invitation to bid" means a procurement method where a contract is awarded to one or more bidders.
- (5) "Sealed bids" means a respondent's proposal, which is delivered to the State in a sealed envelope in response to the Invitation to bid.

Authority: Tenn. Code Ann. §70-1-306(i), 70-1-206, and 70-1-302.

1660-01-36-.03 Sale Procedures.

- (1) The Agency's procedures for the sale of forestry products are outlined as follows:

- (a) Commercially feasible sales that are conducted to meet established objectives of habitat and wildlife management will be conducted as follows:
1. Such sales shall be under sealed bids, publicly advertised, opened, and recorded.
 2. Notice of each sale shall be entered in at least one (1) newspaper of general circulation in the county or counties in which the sale is to be made. Invitations to bid shall specify the terms and conditions of the sale and the date the bids will be publicly opened and recorded, which shall be not less than twenty (20) days after the date of mailing, excluding Saturdays, Sundays, and holidays.
 3. The bid of the highest responsible bidder who accepts the terms and conditions contained in the invitations to bid shall be selected.
 4. The successful bidder shall be required to sign a timber sale contract at which time he will pay the full purchase price and post a performance bond equaling seven (7) percent of the sale price of the timber.
 5. Payment of both of the above amounts shall be by certified or cashier's checks, payable to the Tennessee Wildlife Resources Agency.
 6. Official records of the sale will be maintained in the Tennessee Wildlife Resources Agency Main Office in Nashville. Copies of the documents described in (a)1 through (a)5 above shall be forwarded to State Personal Property Utilization Division for review.
- (b) The following procedures shall be followed when commercially feasible sales are conducted as a result of natural or man-made catastrophes, such as ice storms, wind storms, wildfire, or insect and disease attacks occur:
1. The Agency will notify prospective buyers when catastrophes occur that require emergency sales. Also, a notice of the sale will be entered in at least one (1) newspaper of general circulation in the county or counties in which the catastrophe occurred.
 2. The Agency will establish a set price of fair market value for each forestry product in the sale which all contractors will be required to pay. The price of each product will be periodically reviewed and will be revised if deemed necessary. Adequate documentation shall be provided concerning the establishment of prices and shall be dated and signed by the official or officials establishing the prices. This documentation shall be made a part of the official records of the sale. The fair market value shall be determined by considering the following criteria:
 - i. The character, condition, and location of the forestry products,
 - ii. The condition and climate of the potential market,
 - iii. Known prevailing market prices,
 - iv. The use of published industry value guides
 - v. The use of estimates by persons knowledgeable of the type forestry products to be sold,
 - vi. The immediacy of removal needs to avoid spoilage or conserve habitat.
 3. All contractors will be required to sign a timber sale contract specifying the amount, time limit, the amount of performance bond, and other details of the sale.
 4. Payments shall be made by certified or cashier's checks payable to the Tennessee Wildlife Resources Agency

5. Official records shall be maintained in the Tennessee Wildlife Resources Agency Main Office in Nashville. Copies of the documents described in (b)1 through (b)4 above shall be forwarded to State Personal Property Utilization Division for review
- (c) The following procedures will be followed when sales are conducted which are not commercially feasible because they do not contain sufficient volume, or the timber is too scattered.
1. All timber involved in this type of sale will be harvested by the Agency personnel and sold at the highest price obtainable.
 2. If possible, the Agency shall obtain three written bids. If not possible, documentation shall be provided setting out reasons why bids could not be obtained. This documentation shall be made a part of the official records of the sale.
 3. All sales shall be approved in writing by the Executive Director and made a part of the official records of the sale.
 4. The successful bidder will not be required to sign a timber sale contract or post a performance bond.
 5. All checks shall be made payable to the Tennessee Wildlife Resources Agency
 6. Official records shall be maintained in the Tennessee Wildlife Resources Agency Main Office in Nashville. Copies of the documents described in (c)2 through (c)5 above shall be forwarded to State Personal Property Utilization Division for review.

Authority: Tenn. Code Ann. §70-1-306(i), 70-1-206, and 70-1-302.

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: 4/28/2023

Signature: 

Name of Officer: Torrey S. Grimes

Title of Officer: General Counsel, Tennessee Wildlife Resources Agency

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Tre Hargett
Secretary of State

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