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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 (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).

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Boating and Law Enforcement Division
Contact Person:	Lisa Crawford
Address:	PO Box 40747, Nashville, TN
Zip:	37204
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Email:	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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
1660-02-04	Rules and Regulations Governing Reporting of Boating Accidents
Rule Number	Rule Title
1660-02-04-.01	Accident Report
1660-02-04-.02	Death

Amendment

1660-02-04-.01 Accident Report is amended by deleting the rule in its entirety and replacing it with the following:

- (1) The operator of a vessel shall immediately notify the **Tennessee** Wildlife Resources Agency and, ~~within the time period prescribed in Rule 1660-02-04-.01(2), shall provide the information listed in Rule 1660-02-04-.01(2) to an officer of the Tennessee Wildlife Resources Agency upon request~~ **submit the casualty or accident report** when, as a result of an occurrence that involved the vessel or its equipment –
 - (a) A person dies;

- (b) A person is injured and receives, **or should have received**, medical treatment beyond first aid; ~~damage to the vessel or combination of vessels and other property damage totals more than \$500; or~~
- (c) Damage to the vessel or combination of vessels and other property damage totals more than ~~\$500~~ **\$2000** or **complete loss of vessel**; or
- ~~(e)~~(d) A person disappears from the vessel under circumstances that indicate death or injury.

~~(2) A report required by this section must be made—~~

- ~~(a) Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence;~~
- ~~(b) Within 48 hours of the occurrence if a person is injured and receives medical treatment beyond first aid; and~~
- ~~(c) Within 10 days of the occurrence if an earlier report is not required by this paragraph.~~

~~(3) When the operator of a vessel cannot submit the casualty or accident report required by paragraph (1) of this section, the owner shall submit the casualty or accident report~~

~~(4)~~(2) Each report required by paragraphs (1), (2) and (3) above must be in writing, dated upon completion, and signed by the person who prepared it. **must contain, if available, at least The following information about the casualty or accident shall be provided as required by paragraph (1) of this rule to be included in the report filed by the Agency.**

- (a) The numbers and names of each vessel involved.
- (b) The names and address of each owner of each vessel involved.
- (c) The name of the nearest city or town, the county, the state, and the body of water.
- (d) The time and date the casualty or accident occurred.
- (e) The location on the water.
- (f) The visibility, weather, and water conditions.
- (g) The estimated air and water temperatures.
- (h) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.
- (i) The name and address of each operator of each vessel involved.
- (j) The number of persons on board or towed on skis by each vessel.
- (k) The name, address, and date of birth of each person injured or killed.
- (l) The cause of each death.
- (m) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel;
- (n) The name and address of each owner of property involved.
- (o) The availability and use of personal flotation devices.
- (p) The type and amount of each fire extinguisher used.

- (q) The nature and extent of each injury
- (r) A description of all property damage and vessel damage with an estimate of the cost of all repairs.
- (s) A description of each equipment failure that caused or contributed to the cause of the casualty.
- (t) A description of the vessel casualty or accident.
- (u) The type of vessel operation (~~cruising, drafting, hunting, skiing, racing, or other~~), and the type of accident (~~capsizing, sinking, fire, or explosion or other~~).
- (v) The opinion of the person making the report as to the cause of the casualty.
- (w) The make, model, type (~~open, cabin, house, or other~~), beam width at widest point, length, ~~depth from transom to keel~~, horsepower, propulsion (~~outboard, inboard, inboard outdrive, sail, or other~~), **engine drive type**, fuel (~~gas, diesel, or other~~), ~~construction~~ **hull material**, (~~wood, steel, aluminum, plastic, fiberglass, or other~~), and ~~year built~~ (model year), of the reporting operator's vessel.
- (x) The name, address, and telephone number of each witness.
- (y) The manufacturer's hull identification number, if any, of the reporting operator's vessel.
- ~~(z) The name, address, and telephone number of the person submitting the report.~~

Authority: T.C.A. §§70-1-206, 69-9-209. Administrative History: Original rule certified May 8, 1974. Amendment filed May 27, 1983; effective June 27, 1983. Amendment filed August 3, 2006; effective October 17, 2006. Amendment filed _____; effective _____.

Repeal

1660-02-04-.02 Death is repealed in its entirety.

- ~~(1) When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, by the quickest means available, notify the Boating Division of this state of—~~
 - ~~(a) The date, time and exact location of the occurrence;~~
 - ~~(b) The name of each person who dies or disappears;~~
 - ~~(c) The number and name of the vessel; and~~
 - ~~(d) The names and addresses of the owner and operator.~~
- ~~(2) When the operator of a vessel cannot give the notice required by paragraph (1) of this section, each person on board the vessel shall notify the Boating Division of this state or determine that the notice has been given.~~

Authority: T.C.A. §70-1-206. Administrative History: Original rule certified May 8, 1974.

* 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					
<u>Jim Bledsoe</u>					
<u>Harold Cannon</u>					
Jeff Cook					
<u>Bill Cox</u>					
Kurt Holbert					
<u>Connie King</u>					
Jeff McMillan					
<u>Jim Ripley</u>					
Bill Swan					
<u>Trey Teague</u>					
<u>David Watson</u>					
<u>Jamie Woodson</u>					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish and Game 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: _____

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: 3-10-2019

All rulemaking hearing rules provided for herein (Tennessee Wildlife Resources Agency Rule 1660-02-04) 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

SS-7039 (December 2015)

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RDA 1693

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: 1660-02-04

New	_____
Amendment	___X___
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;

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 follows Federal guidelines for vessel accident reporting.

(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 the notification and reporting requirements for boating accidents.

- (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;

33 CFR 173 Subpart C and 33 CFR 174 Subpart C relative to accident reporting have a preemptive effect on state vessel accident reporting regulations. T.C.A. Section 69-9-210 establish 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.