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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).*

<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
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**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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
1660-02-07	Rules and Regulations Governing Operations of Vessels
Rule Number	Rule Title
1660-02-07-.11	Special Areas

Amendment

1660-02-07-.11 Special Areas is amended by removing "Type I, Type II, Type III, or Type V" and replacing with "wearable" and "in accordance with the approval label" in paragraph (2) so that, as amended, the rule shall read:

1660-02-07-.11 SPECIAL AREAS.

- (1) All motorboats being operated within 300 feet of a commercial dock or marina shall be operated at a "slow, no-wake speed" unless otherwise marked and approved under 1660-2-6-.01, or a specific rule and regulation.
  - (a) The measurement shall be made from the last structure associated with the dock or marina except as noted above.

- (b) For this rule, a commercial marina is defined as any permanent facility accessible by boat which:
1. offers goods or services to the general public in exchange for currency or other consideration
  2. has a valid business license, if required, and a Tennessee Tax Identification number
  3. is permitted by the U.S. Corps of Engineers, and the Tennessee Valley Authority if applicable, as a commercial boat dock or marina.
- (2) No person shall operate or use any vessel, within the area designated and appropriately marked as a hazardous area, below any dam and/or lock unless each person aboard is wearing a U. S. Coast Guard approved **wearable** flotation device, ~~Type I, Type II, Type III or Type V.~~ **in accordance with the approval label.**
- (a) This regulation is not intended to affect regulations promulgated by other governmental agencies, federal or state, related to activities that may or may not be conducted within said hazardous area.
- (3) Vessels being operated within 300 yards of the Tennessee Wildlife Resources Agency access ramp on Indian Creek will be operated at a “Slow—No Wake” speed.
- (4) Vessels being operated on Deer Creek located at River Mile 125 on Kentucky Lake shall operate at a “Slow—No Wake” speed within the embayment area.
- (5) Water skiing is prohibited on Great Falls Reservoir in the Rock River Embayment from its mouth upstream to Blanks Bridge.
- (6) Vessels being operated on Crooked Creek located at River Mile 121.5 on Kentucky Lake shall operate at a “Slow—No Wake” speed from the mouth of the Tennessee River to the Crooked Creek embayment.
- (7) Vessels being operated within the buoyed area in Eagle Creek located at river mile 1 on the big Sandy River, from a point east of Big Eagle picnic area, west to the west boundary of Buchanan’s boat dock, shall operate at a “slow—No Wake” speed.

*Authority: T.C.A. §§70-1-206 and 69-9-209. Administrative History: Original rule certified May 8, 1974. Amendment filed November 20, 1975; effective December 20, 1975. Amendment filed November 4, 1976; effective December 4, 1976. Amendment filed June 8, 1977; effective July 8, 1977. Amendment filed February 6, 1978; effective March 8, 1978. Amendment filed April 20, 1988; effective June 4, 1988. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed January 28, 2002; effective April 13, 2002. Amendment filed April 26, 2004; effective July 10, 2004. 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					
<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 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: \_\_\_\_\_

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

All rulemaking hearing rules provided for herein (Tennessee Wildlife Resources Agency Rule 1660-02-07) 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

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: 1660-02-07-.11

New	_____
Amendment	___X___
Repeal	_____

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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 no burden on small business.

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

The rule follows Federal guidelines for life jacket labeling.

(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 wearing of a life jacket while boating in special areas. This rule changes the designation of the type of life jacket to be worn.

- (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 175 provides guidelines for life jacket labeling.

- (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.