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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 Wildlife Resources Agency
Division:	Boating and Law Enforcement
Contact Person:	Chris Richardson
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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 S. Tarpy
Address:	440 Hogan Road, Nashville, TN 37204
Phone:	615-781-6605
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Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Ducks Unlimited		
Address 2:	1 Waterfowl Way		
City:	Memphis, TN		
Zip:	38120		
Hearing Date :	01/18/19		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

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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. 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
1660-04	Non-Motorized Vessels
Chapter Number	Chapter Title
1660-04-01	Rules and Regulations Governing Commercial Non-Motorized Vessel Outfitters

Rule Number	Rule Title
1660-04-01-.01	Purpose
1660-04-01-.02	Definitions
1660-04-01-.03	Operating Requirements
1660-04-01-.04	Application to the Tennessee Wildlife Resources Agency
1660-04-01-.05	Vessel Requirements for Commercial Outfitters
1660-04-01-.06	Safety Requirements and Procedures
1660-04-01-.07	Transportation
1660-04-01-.08	Nonrenewal of Permit
Chapter Number	Chapter Title
1660-04-02	Rules and Regulations Governing Permit and Access Fees
Rule Number	Rule Title
1660-04-02-.01	Definitions
1660-04-02-.02	General Permit Fee
1660-04-02-.03	Vessel Inventory Fee
1660-04-02-.04	Public Access Launch Fee

New Rule

**RULES
OF
TENNESSEE WILDLIFE RESOURCES AGENCY
NON-MOTORIZED VESSELS**

**CHAPTER 1660-04-01
RULES AND REGULATIONS GOVERNING COMMERCIAL NON-MOTORIZED VESSEL OUTFITTERS**

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1660-04-01-.01	Purpose	1660-04-01-.07	Transportation
1660-04-01-.02	Definitions	1660-04-01-.08	Nonrenewal of Permit
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1660-04-01-.04	Application to the Tennessee Wildlife Resources Agency		
1660-04-01-.05	Vessel Requirements for Commercial Outfitters		
1660-04-01-.06	Safety Requirements and Procedures		

1660-04-01-.01 PURPOSE

- (1) To provide the Tennessee Wildlife Resources Agency an effective system of regulation for commercial outfitters that lease or rent non-motorized vessels to individuals for recreational use on the waters of Tennessee
- (2) To preserve the recreational value of Tennessee rivers and lakes by promoting the protection of these natural resources.
- (3) To preserve the integrity of public access to Tennessee rivers and lakes for the benefit of recreational boaters and anglers.
- (4) To promote the maximum safety of the public.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-01-.02 DEFINITIONS

- (1) "Agency" and "TWRA" mean the Tennessee Wildlife Resources Agency.
- (2) "Non-motorized vessel" (hereinafter referred to as "NMV") means canoes, kayaks, stand up paddle boards, tubes, and any other vessels powered only by their occupants and propelled by manual methods, including, but not limited to paddles and oars.
- (3) "Waters of Tennessee" means any waters within the territorial limits of this state, except privately owned ponds or lakes not used for commercial purposes.
- (4) "Commercial NMV outfitter" means any entity (e.g., business, joint venture, individual, etc.) that leases or rents NMV for non-commercial use by the public on the waters of Tennessee, except it does not mean:
 - (a) A commercial outfitter operating pursuant to and in possession of a permit issued by the United States Forest Service on waters in and adjacent to the Cherokee National Forest; or
 - (b) A commercial outfitter operating at a lake or pond wholly contained within the boundaries of any property owned or operated by the Tennessee Department of Environment and Conservation or the Agency.

- (5) "Life jacket" means a personal flotation device approved by the Commandant of the Coast Guard under 46 CFR part 160.
- (6) "Public access area" means a government-owned area open to the public that grants the public access to the waters of Tennessee such as a boat ramp or canoe/kayak steps.
- (7) "Accident" means any occurrence in which the operator of a commercial NMV requires medical attention beyond basic first aid.
- (8) "Water rescue" means any occurrence in which, absent intervention, an occupant or operator of a commercial NMV could suffer serious bodily injury or death.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-01-.03 OPERATING REQUIREMENTS

- (1) A commercial NMV outfitter must possess a valid operating permit issued by the TWRA.
- (2) A commercial NMV outfitter must maintain the following records:
 - (a) Number of NMV leased or rented each day;
 - (b) Number of accidents and/or casualties involving the use of a commercial outfitter's NMV; and
 - (c) Number of water rescues each day involving a commercial NMV outfitter's vessel.
- (3) Records maintained by commercial NMV outfitters pertaining to these rules are subject to inspection by TWRA personnel. Commercial NMV outfitters shall provide the TWRA with any such requested information.
- (4) A commercial NMV outfitter shall not lease or rent to an individual less than 16 years of age unless the individual is supervised by someone at least 18 years of age.
- (5) A commercial NMV outfitter shall not cause any environmental damage to the river and/or river corridor and shall accomplish prompt clean-up and policing of litter generated by employees or guests.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-01-.04 APPLICATION TO THE TENNESSEE WILDLIFE RESOURCES AGENCY

- (1) Beginning October 1, 2019, a commercial NMV outfitter shall apply to the TWRA for an operating permit through the appropriate application form provided by the TWRA.
- (2) An operating permit is effective from January 1 through December 31 of each year.
- (3) All operating permit renewals shall be filed with the TWRA between October 1 and December 15.
- (4) Each application shall include, among other information, the following information for each applicant:
 - (a) The number of vessels owned by the commercial NMV outfitter that are available for lease or rent;
 - (b) The waterways of the state on which the applicant operates, if known;
 - (c) Any public access areas utilized by the applicant;

- (d) Months of operation;
 - (e) Tennessee Secretary of State control number, if applicable;
 - (f) A copy of the applicant's business license;
 - (g) A copy of the applicant's Department of Revenue Certificate of Registration;
 - (h) Proof of insurance; and
 - (i) Designated representative for the applicant.
- (5) Operating permits may be transferred upon written notification to the TWRA of the date of transfer, the name of the new business owner, and the new designated representative. Transfer notifications must be submitted before the date of transfer.
 - (6) Each applicant must pay the permit fee established in Tenn. Comp. R. & Regs. 1660-04-02-.01.
 - (7) For each NMV owned by the applicant, the applicant shall purchase a commercial NMV decal from the TWRA subject to the decal fee established in Tenn. Comp. R. & Regs. 1660-04-02-.02.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-01-.05 VESSEL REQUIREMENTS FOR COMMERCIAL OUTFITTERS

- (1) Each NMV, except a stand up paddle board, operated by a commercial outfitter must clearly and conspicuously display the outfitter's name on both exterior sides of the NMV. If the outfitter has a uniquely identifying logo, then the outfitter's logo may be displayed instead of the outfitter's name. The name and/or logo must be visible above the water line when the NMV is in the water.
- (2) Each stand up paddle board operated by a commercial outfitter must display the outfitter's name and/or uniquely identifying logo on the top or side of the paddle board, but the name and/or logo is not required to be visible above the water line when the paddle board is in the water.
- (3) Each craft must be maintained in a reasonable operating condition for its intended use. Each outfitter shall inspect its craft after each trip for damage or wear which materially affect the structural integrity of the craft. If such damage is found, repairs must be made to the craft before it can be used for commercial NMV purposes.
- (4) All NMV used in commercial NMV operations shall be subject to inspection by TWRA personnel.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-01-.06 SAFETY REQUIREMENTS AND PROCEDURES

- (1) Commercial NMV outfitters must provide life jackets to occupants of NMVs in accordance with United States Coast Guard regulations.
- (2) If a canoe, kayak, or stand up paddle board is leased or rented, then the NMV must be equipped with the appropriate paddles and/or oars for the particular NMV and its occupants.
- (3) If a canoe, kayak or stand up paddle board is leased or rented, then the NMV must be equipped with a life jacket of the appropriate size for the person on the NMV.
- (4) If a person on board the NMV is 12 years old or younger, then that person must wear a life jacket at all times while on the NMV.

- (5) Commercial NMV outfitters must maintain life jackets and paddles/oars in a good and serviceable condition for their intended use. Each commercial NMV outfitter shall inspect its life jackets, paddles, and oars after each trip for damage which materially affects the structural integrity of the life jacket, paddle, or oar. If such damage is found on a paddle or oar, repairs must be made before it can be used for commercial NMV purposes. If damage is found on a life jacket, the life jacket must be serviced or disposed of in accordance with Tenn. Comp. R. & Regs. 1660-02-03-.03.
- (6) All life jackets, paddles, and oars used in commercial NMV operations shall be subject to inspection by TWRA personnel.
- (7) Each commercial NMV outfitter is encouraged to equip each NMV leased or rented with a litter bag. Litter bags will be provided to commercial NMV outfitters by the TWRA upon request.
- (8) Commercial NMV outfitters shall conduct a safety seminar for all passengers and strive to include at least the following topics:
 - (a) Description of the waterway including, but not limited to, and any generation issues, shoals, shallows, riffles, or known obstructions;
 - (b) Equipment;
 - (c) Paddling safety;
 - (d) Swimming in moving water;
 - (e) Relevant safe boating laws;
 - (f) River etiquette; and
 - (g) Trespass concerns.
- (9) All safety instruction must be conducted with materials or methods approved by the TWRA.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-01-.07 TRANSPORTATION

- (1) All parking by commercial NMV outfitters and their customers at public access areas controlled by the TWRA shall be restricted to areas approved by the TWRA. This provision shall not apply to customers of commercial NMV outfitters utilizing private NMVs.
- (2) Commercial NMV outfitters shall comply with the Department of Safety Rules and Regulations regarding the transportation of passengers.
- (3) Commercial NMV outfitters shall comply with the Department of Safety Rules and Regulations regarding commercial vehicles.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-01-.08 NONRENEWAL OF PERMIT

- (1) A commercial NMV outfitter's operating permit may not be renewed for:
 - (a) Failure to pay the requisite fees;
 - (b) Failure to provide the necessary application information;
 - (c) Failure to maintain the requisite information and documentation; or

- (d) Failure to produce and/or allow for the inspection of any information requested by the TWRA.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

**RULES
OF
TENNESSEE WILDLIFE RESOURCES AGENCY
NON-MOTORIZED VESSELS**

**CHAPTER 1660-04-02
RULES AND REGULATIONS GOVERNING PERMIT AND ACCESS FEES**

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1660-04-02-.01	Definitions
1660-04-02-.02	General Permit Fee
1660-04-02-.03	Vessel Inventory Fee
1660-04-02-.04	Public Access Launch Fee

1660-04-02-.01 DEFINITIONS

- (1) "Agency" and "TWRA" mean the Tennessee Wildlife Resources Agency.
- (2) "Non-motorized vessel" (hereinafter referred to as "NMV") means canoes, kayaks, stand up paddle boards, tubes, and any other vessels powered only by their occupants and propelled by manual methods, including, but not limited to paddles and oars.
- (3) "Waters of Tennessee" means any waters within the territorial limits of this state, except privately owned ponds or lakes not used for commercial purposes.
- (4) "Commercial NMV outfitter" means any entity (e.g., business, joint venture, individual, etc.) that leases or rents NMV for non-commercial use by the public on the waters of Tennessee, except it does not mean:
 - (a) A commercial outfitter operating pursuant to and in possession of a permit issued by the United States Forest Service on waters in and adjacent to the Cherokee National Forest; or
 - (b) A commercial outfitter operating at a lake or pond wholly contained within the boundaries of any property owned or operated by the Tennessee Department of Environment and Conservation or the Agency.
- (5) "Launch" means the act of putting a non-motorized vessel into the waters of Tennessee or taking a non-motorized vessel out of the waters of Tennessee.
- (6) "Public access area" means a government-owned area open to the public that grants the public access to the waters of Tennessee such as a boat ramp or canoe/kayak steps.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-02-.02 GENERAL PERMIT FEE

- (1) Each commercial NMV outfitter shall pay a general permit fee of \$244.
- (2) The general permit fee shall be paid to the Agency upon filing an application for an operating permit.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-02.03 VESSEL INVENTORY FEE

- (1) Every commercial NMV outfitter must pay an inventory fee for each NMV owned by the outfitter that is available for lease or rent. The inventory fee shall be assessed as follows:
 - (a) Commercial NMVs, except tubes, shall be assessed a \$100 fee per 50 NMVs in inventory; and
 - (b) Tubes shall be assessed a \$100 fee per 100 tubes in inventory.

Authority: T.C.A. §§ 69-9-227 and 70-1-206.

1660-04-02-.04 PUBLIC ACCESS LAUNCH FEE

- (1) A commercial NMV outfitter must pay a public access launch fee for each NMV launched at a public access area. NMVs launched multiple times in one calendar day are subject to the public access launch fee for each launch.
- (2) The public access launch fee is \$1.00 per launch.
- (3) Any fee paid by a commercial NMV outfitter to a governmental entity for the use of and/or access to the waters of Tennessee shall be credited dollar-for-dollar against any public access launch fees levied by the TWRA against the commercial NMV outfitter.
- (4) The public access launch fees owed by a commercial NMV outfitter shall be remitted to the TWRA annually no later than December 15.

Authority: T.C.A. §§ 69-9-227; 70-2-225; and 70-1-206.

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: November 16, 2018

Signature: Ed Carter

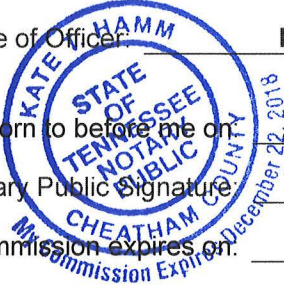
Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on

Notary Public Signature

My commission expires on



11-16-18

Kate T. Hamm

12-22-18

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Filed with the Department of State on:

11/21/18

Tre Hargett

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Secretary of State

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