

**RULES  
OF  
TENNESSEE DEPARTMENT OF CONSERVATION**

**CHAPTER 0400-02-10  
REQUIREMENTS FOR CONDUCTING RAFTING SERVICES  
OCOEE RIVER**

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**0400-02-10-.01 PURPOSE.**

- (1) To provide information to the authorized Commercial Operator whereby he shall have full knowledge of Department of Environment and Conservation, Division of State Parks requirements, intentions, rules and regulations.
- (2) To provide the Department with an effective means to manage commercial use that may infringe on the outdoor recreation opportunities of others.
- (3) To preserve the scenic and recreational values of the river and the integrity of publicly-owned land (State, TVA, and U.S. Forest Service) contiguous to the river, and natural resources within the area.
- (4) To preserve the integrity of the park facilities that boaters may come in contact with.
- (5) To provide for the maximum safety of the public.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

**0400-02-10-.02 RAFT, INFLATABLE BOATS, KAYAKS AND CANOE REQUIREMENTS FOR COMMERCIAL OPERATORS.**

Rafts, Inflatable Boats, Kayaks and Canoes (hereinafter known as "craft" unless otherwise specifically designated)

- (1) Each raft must contain at least three (3) separate inflatable compartments.
- (2) Each inflatable craft must be constructed of a tough rubberized fabric, or its equal, capable of repeated daily abrasion and abuse on a class III/IV river. Single thickness non-reinforced vinyl or other poorly or cheaply constructed rafts, canoes and kayaks are prohibited for use in commercial operations.

(Rule 0400-02-10-.02, continued)

- (3) Each raft must be of "4-man" size or larger. Each raft must be at least 11' in length and 5' wide.
- (4) All kayaks, canoes or funyaks must have flotation such that the craft has positive buoyancy in still water when filled with water and occupied by the number of persons for which the craft is designed in white water usage.
- (5) All commercial watercraft must meet or exceed the safety recommendations of the American White Water Affiliations, "Safety Code" of 1977, as revised from time to time.
- (6) Each craft must be maintained in a reasonable operating condition for its intended use. Each craft shall be inspected after each trip for damage such as punctures, tears and excessive abrasions and 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 boating purposes on the river.
- (7) No tubes or tube-like crafts shall be allowed.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

#### **0400-02-10-.03 PERSONAL SAFETY EQUIPMENT AND DEVICES.**

- (1) Commercial Operators shall require each customer to properly wear a Type V U.S. Coast Guard approved personal flotation device (PFD) of appropriate size, while on or in the river.
- (2) Each personal flotation device must be inspected prior to each issuance. Personal flotation devices must be removed from service immediately and repaired or disposed of if:
  - (a) the PFD becomes water logged;
  - (b) the PFD is damaged such that it can no longer be worn or attached to the user as originally intended by the manufacturer; and/or
  - (c) the device is of such age or worn condition that the fabric, flotation material, webbing, fastening devices, etc., can no longer be reasonably expected to withstand the ordinary forces expected to be encountered in the normal course of customer usage on the river.
- (3) Commercial Operators shall require all passengers and guides, in inflatable rafts, kayaks or canoes, to wear an appropriate helmet in addition to an approved personal flotation device, while on or in the river.
- (4) All equipment including rafts, PFD's, paddles, shall be subject to inspection by any authorized representative of the Division at any reasonable time, including but not limited to times when the equipment is in use on or about the river and equipment deemed to be in an unsafe condition by the above representative must be immediately repaired or removed from service.
- (5) One (1) or more buoyant heaving line, 3/8" diameter and at least fifty (50) feet in length shall be carried on each trip.

(Rule 0400-02-10-.03, continued)

- (6) The Commercial Operator shall provide one (1) waterproof First Aid Kit for each trip of eight (8) craft or less, two (2) First Aid Kits for each trip of more than eight (8) craft. Each kit shall contain at least the following items:
- (a) Semi-rigid or rigid splints for immobilization of fractures
  - (b) Emergency space blanket, shock blanket or equivalent
  - (c) Triangular bandages
  - (d) Ace bandages
  - (e) Quick cold packs
  - (f) Gauze compresses at least 2 x 2 or larger
  - (g) Roller gauze 2"- up
  - (h) Box of Band-aids 3/4"- up
  - (i) Butterfly band-aid
  - (j) Safety Pins
  - (k) Sting Swaps
  - (l) Adhesive Tape
  - (m) Antiseptic solution for cleaning, or moist sterile towelettes
  - (n) Scissors
  - (o) Tweezers
  - (p) Tongue Depressors (Finger splints)
  - (q) Knife
  - (r) Sun Screen
  - (s) Sanitary Napkins (for compress)
  - (t) Eye Patches
  - (u) Tie strips for splints
  - (v) Pad for splints
  - (w) Gloves
  - (x) Biohazard Bag
  - (y) CPR Mask
- (7) Passengers on trips shall be at least twelve (12) years of age.

(Rule 0400-02-10-.03, continued)

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed May 12, 1988; effective August 29, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

#### **0400-02-10-.04 TRANSPORTATION.**

- (1) The Commercial Operator shall restrict all parking of vehicles to areas approved by the Division and shall comply with all rules of the road.
- (2) The Commercial Operator shall comply with the Department of Safety Rules and Regulations regarding the transportation of passengers.
- (3) The Commercial Operator shall comply with the Department of Safety Rules and Regulations regarding commercial vehicles.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

#### **0400-02-10-.05 GUIDES AND GUIDE TRAINEES.**

- (1) All guides and guide trainees shall be at least 18 years of age.
- (2) A minimum of one guide per trip shall have completed the American Red Cross Advanced First Aid Course, or an approved equivalent course, be qualified in C.P.R., and hold currently validated certificates.
- (3) All guides shall have completed an American Red Cross or American Heart Association C.P.R. course, a basic multi-media first aid course and possess current valid certificates, or the equivalent as approved by the Division.
- (4) Those guides which act as trip leaders (Commercial Operator's principle representative for a given trip) must have at least one season's experience as a guide on the Ocoee or a river similar in difficulty to the Ocoee.
- (5) Copies of certifications required in paragraphs (2) and (3) of this rule, a photocopy of each guide's driver's license and a guide trainee list, shall be provided to the Park Manager upon request and filed in the Commercial Operator's place of business and continually updated throughout the season.
- (6) There shall be one guide or guide trainee per craft. No more than 25% of the crafts on a commercial trip shall have guide trainees controlling the craft for the entire trip.
- (7) All guides shall be instructed by the Commercial Operator in safety and emergency techniques such as handling throwlines and other means of river rescue and equipment management techniques.
- (8) Commercial Operator(s) shall cause all guides and guide trainees, to become knowledgeable with State Park and U.S. Forest Service Rules and Regulations; a copy of such rules and regulations shall be given to each guide or guide trainee.
- (9) It shall be the responsibility of each Commercial Operator to instruct all guides or guide trainees as to the availability of emergency aid and/or assistance such as nearest ambulance, fire department, State Police, state park personnel, doctors and hospital(s).

(Rule 0400-02-10-.05, continued)

- (10) Every guide trainee must have all employee paperwork on file, including current CPR certification or dates of enrolled CPR classes.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

**0400-02-10-.06 SAFETY PROCEDURES.**

- (1) The Commercial Operator shall enforce all safety measures outlined in these requirements dealing with condition and quality of equipment, training and conduct of guides and occupants.
- (2) The Commercial Operator shall conduct a white water safety seminar for all passengers to include at least the following topics:
  - (a) Description of the river and rapids;
  - (b) Equipment;
  - (c) Paddling safety
  - (d) Swimming in white water;
  - (e) Danger of strainers.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

**0400-02-10-.07 OBEYANCE OF LAWS, RULES AND REGULATIONS, LICENSE REQUIREMENTS AND CONDITIONS.**

- (1) The Commercial Operator shall abide by all federal, state and/or local laws, rules and regulations including those pertaining to commercial boating and those of the Tennessee Department of Conservation, the U.S. Forest Service and the Tennessee Valley Authority.
- (2) The Commercial Operators, in the exercise of privileges granted under license agreement with TVA shall require that its (his/her) employees, agents, sublessees, contractors, subcontractors and their employees abide by and comply with all of TVA's conditions and requirements.
- (3) The Commercial Operator shall pay full balance of all fees owed by the annual pre-season public meeting on the First Tuesday of March.
- (4) The Commercial Operator shall provide the State the information required, including but not limited to, "cap" numbers and accident reports.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

**0400-02-10-.08 TERMINATION.**

- (1) Upon violation of any regulation herein by the Commercial Operator, its guide(s), guide trainee(s), its employee(s) and/or agents, the Division may cause the Commercial Operator to cease and terminate any and all river operation(s) by one of the following procedures:
  - (a) If the violation is of such a degree that it may cause loss of life and/or damage to person or property, including damage to the river and/or the land contiguous to the river, the Division may, at its sole discretion, upon written notice to the Commercial Operator demand and require that the Commercial Operator terminate and cease any and all river operations until the Commercial Operator has satisfactorily demonstrated to the Division that such violation has been corrected.
  - (b) If the violation does not cause an immediate danger to life or property:
    1. The Division shall give to the Commercial Operator, written notice specifying the particulars of the alleged unsatisfactory performance.
    2. Not less than fifteen (15) days after receipt by the Commercial Operator of such notice, the Division shall grant to the Commercial Operator an opportunity to be heard upon the charges.
    3. Following such opportunity to be heard, the Division shall, at its sole discretion, determine whether there has been a violation.
    4. If the Division decides that there has been a violation of the regulations, it shall give to the Commercial Operator written notice of such decision, specifying the particulars thereof.
    5. All hearings conducted under this rule shall be in accordance with the Uniform Administrative Procedures Act, T.C.A. §4-5-301, et seq.
    6. If the Commercial Operator fails or refuses to remedy such violation within such reasonable period of time as may be fixed by the Division, the Division shall request that TVA terminate the Commercial Operator's permit upon such date or upon contingency as it may deem proper to protect the public interest.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

**0400-02-10-.09 COOPERATION WITH PARKS.**

- (1) The Commercial Operator 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 as integral parts of his daily float trips.
- (2) The Commercial Operator shall not allow any glass containers, aluminum drink cans or styrofoam containers of any kind on the river.
- (3) The Commercial Operator shall, in cooperation with the park manager, instruct his guides so that they may properly inform passengers of the Ocoee River State Park facilities, U.S. Forest Service property, local history and natural features along their route of travel on the Ocoee River.

- (4) The Commercial Operator shall hold the Department harmless and indemnify Department from any and all liability for personal injuries, property damage or for loss of life, or property suffered or sustained by the Commercial Operator, its members, its agents and employees, its licensees, invitees and guests resulting from, or in any way connected with, the use of water(s)/land(s) of the Ocoee River State Recreation Area.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

#### **0400-02-10-.10 NOTIFICATION OF ACCIDENTS OR CASUALTIES.**

- (1) The Commercial Operator shall report to the Park Manager (P.O. Box 5, Delano, TN 37325), by use of accident form, any and all accidents or casualties resulting in loss of life, personal injury requiring a physician's attention or property damage in excess of \$200.00. Notification must be hand delivered or faxed within forty-eight (48) hours of said incident. The Division in turn will notify TVA.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

#### **0400-02-10-.11 SCHEDULING AND CARRYING CAPACITY.**

- (1) The Commercial Operators may prepare a proposed schedule assigning the times each Commercial Operator shall schedule daily trips for the forthcoming season. The proposed schedule shall be based on the Recreational Water Release Days and Times as determined by TVA. It shall include the schedule for all Commercial Operators licensed by TVA for the forthcoming year. A proposed schedule must be presented to the Department, and shall be open for discussion, at the annual preseason public meeting on the first Tuesday of March each year. The proposed schedule shall be utilized until a final schedule is issued by the Department. The Department shall review the proposed schedule and may approve it as presented, review the proposed schedule or reject the proposal and assign schedule times, as necessary, to optimize recreational opportunities, protect the whitewater resource and insure public safety. If a proposed schedule is not submitted, the Department shall schedule the daily trips. The Department shall announce (issue) a final schedule by April 15, of each year. The department may also, in its discretion, limit commercial use of the Ocoee on an emergency basis.
- (2) The daily commercial carrying capacity for the middle Ocoee River Recreational Area (the area of the river between the Rogers Branch Put-In and the Caney Creek Take-Out) shall be 4,000 commercial customers for those day(s) for which the commercial usage during the last season exceeded 4,000 customers. Days which were capped for the last season will be capped for the next season unless the commercial usage on the "cap" day during the last season fell below 3,800 customers. The commercial "cap" is established in order to optimize recreational opportunities for all classes of users (private paddlers as well as commercial customers), to protect the recreational whitewater resource, and to insure public safety. The Department shall announce the "cap" days for the upcoming season at the annual post-season public meeting on the second Tuesday of October of each year.
- (3) The Commercial Operators, utilizing a methodology acceptable to the Department, may allocate the commercial use for the "cap" days for the upcoming season. The allocation shall be based on a maximum of 4,000 commercial customers. The proposed allocation shall be presented by the Commercial Operators to the Department, and open for discussion, at the annual pre-season public meeting on the first Tuesday of March. The Department shall review the proposed allocation and may approve it as presented, revise it or reject the proposal and allocate the commercial carrying capacity among the commercial operators, as

(Rule 0400-02-10-.11, continued)

necessary, to optimize recreational opportunities, protect the whitewater resource and insure public safety. If an allocation is not submitted, the Department shall allocate the commercial customers. The Department shall utilize the "historical use" method in allocating the commercial capacity among the commercial operators. The "historical use" method shall be based on each commercial operator's daily customers totals from at least two prior seasons. The historical use allocation methodology shall be determined as follows: Each commercial operator's largest daily customer total from at least two prior seasons is summed. If the sum exceeds 4,000, each commercial operator's next largest daily customer total is averaged with that operator's largest daily customer total. The average for each commercial operator are summed. If this sum exceed 4,000, each commercial operator's next largest daily customer total is averaged in until the sum of the averages for all commercial operators falls below 4,000. Each commercial operator's average becomes that commercial operator's allocation of commercial customers on "cap" day(s). Each commercial operator is allowed 15% of its allocation as overage to allow for no-shows and cancellations. For purposes of this allocation calculation, operations owned by the same person, association, corporation or political subdivision of the state under separate licenses shall be consolidated and considered to be a single commercial operator. The final commercial "cap" day(s) allocation shall be announced by the Department on or before April 15 of each year.

- (4) The Commercial Operator must use the CAP Exchange form on "cap" days if their company is going over their allotted "cap". The form must be faxed into the Park Office prior to the trip(s) causing the Operator to exceed the allotted "cap".
- (5) Each Commercial Operator shall not use more than twelve (12) rafts or carry more than one hundred (100) customers per time slot without prior approval from the Park Manager or Park Ranger in charge of the recreational use of the Middle Ocoee River Recreational Area. Commercial Operators shall adhere to the final daily trip schedule, or on "cap" days the final commercial use "cap" day allocation, at all times.
- (6) Each raft shall not have more than seven (7) customers or guide trainees, in addition to one (1) guide.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed May 13, 1994, effective July 27, 1994. Amendment filed June 14, 2010; effective September 12, 2010.

#### **0400-02-10-.12 PENALTIES.**

- (1) Any violation of these rules and regulations shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

#### **0400-02-10-.13 ORGANIZED GROUPS AND PRIVATE BOATERS.**

- (1) While on the river, all noncommercial boaters whether organized groups or private individual boaters shall wear a personal flotation device of appropriate size which meets the following:
  - (a) The Coastguard approved bouyancy jacket must be made of nonabsorbent flotation materials equally distributed front and back, in jacket or vest worn about the upper torso. It must have bouyancy sufficient to float a 6 kg legalized lead weight and should be designed to keep a conscious person face up in the water. It must be Coastguard approved.



(Rule 0400-02-10-.11, continued)

- (2) All noncommercial boaters whether organized groups or private individual boaters shall not carry any glass containers, aluminum drink cans or styrofoam containers of any kind on the river.
- (3) All noncommercial organized groups, paddle clubs or universities shall have with them at all times club rosters and identifications. These groups shall provide this information upon request.
- (4) No tubes or tube like crafts shall be allowed.
- (5) Violation of paragraphs (1) through (4) of this rule, shall be a misdemeanor and punishable under the general laws relating to misdemeanors.

**Authority:** T.C.A. §§4-3-504, 4-5-301 et seq., 11-1-108 and 11-1-109. **Administrative History:** Original rule filed February 25, 1988; effective April 10, 1988. Amendment filed June 14, 2010; effective September 12, 2010.

**0400-02-10-.14 PETS IN THE OCOEE RIVER RECREATION AREA.**

- (1) Animals left un-attended in vehicles, tied to the bumpers of vehicles or tied to stationary objects are subject to Tennessee Animal Cruelty Laws T.C.A. §§ 39-14-202 and 39-14-212.

**Authority:** T.C.A. §§ 4-3-504 and 11-1-108. **Administrative History:** Original rule filed June 14, 2010; effective September 12, 2010.