



ACA | Canoe - Kayak - SUP - Raft - Rescue
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Wednesday, December 5th, 2018

Tennessee Wildlife Resources Agency
44 Hogan Rd.
Nashville, TN 37220

Dear Mr. Richardson,

The recent rule proposals by the Tennessee Wildlife Resources Agency (TWRA), regarding commercial outfitters for non-motorized paddlecraft on Tennessee waters, is creating deep concern among the commercial outfitting and livery industries in Tennessee, most of which are members of the ACA. In September, we wrote to members in Tennessee to make them aware that the rulemaking process was underway, and in addition, contacted you directly to request the formation of an advisory board including representatives from the commercial outfitting industry. We greatly appreciate the transparency of the TWRA, and the subsequent formation of an advisory board that met twice starting in late October. It is vital to our members that we are included in any rulemaking process involving paddlesports.

First and foremost, the ACA wants to ensure that our membership in Tennessee is included in any process, on any governmental level, related to rulemaking regarding paddlesports. It is vital that the paddling community has a seat at the table when it comes to the formation and implementation of rules related to paddling. On a recent visit to Capitol Hill, I visited Senator Lamar Alexander's office in Washington D.C. to express our concern about rulemaking on the state level that might ultimately impede the public's ability to access Tennessee state waters, and that may potentially make it more difficult for small liveries and outfitters in Tennessee to operate their business and thrive economically.

In response to the proposed TWRA rules, the ACA would like to see the permanent establishment of a paddlesports advisory council through the TWRA, including representatives from commercial outfitters and private boaters in Tennessee. In addition, we would like to see this advisory board convene at least one more time, prior to the establishment of any official legislation including the proposed rules.

Upon examination of the rules, and upon listening to and reading the comments of the paddling community in Tennessee, the ACA has two main points of contention with the rules as written. First, while the ACA supports the opinion of the majority of the outfitters in Tennessee, that some proposed fees might be reasonable, such as annual outfitter registration fees, and fleet fees, for the time being, the ACA is opposed to the implementation of per boat launch fees. The current proposed fee structure, one dollar per launch, and one dollar per takeout, on any public access, which includes local parks and Army Corps of Engineers accesses in addition to the



Tennessee Department of Environment and Conservation (TDEC), and TWRA (state-owned) access points, may create unnecessary economic hardship, especially for smaller liveries and outfitters. The ACA suggests that the TWRA, along with the proposed paddlesports advisory council, consider evaluating alternative fee structures related to individual boat launches by commercial outfitters. Outfitters have already proposed alternative fee structures, including a parks commercial vehicle pass, and Army Corps of Engineer Access permits. We understand that both alternatives were rejected, but alternative fee structures already exist in the state of Tennessee on sections of commercially rafted whitewater rivers. We feel that these existing fee structures, those proposed by the outfitters, and others, might serve as a basis for comparison and moving towards fee structures that are agreeable for everyone.

We are also concerned that the proposed rules would be an amendment to the Powerboat Law in Tennessee. The penalties for non-compliance with the rules, would result in Class-C misdemeanors for outfitter and livery business owners, and the unintentional creation of a criminal record for the owner. In addition, the rules require providing a safety talk for customers of outfitters and liveries, the language of which comes directly from the Ocoee Agreement. The ACA supports the requirement of safety talks, but recommends the safety talks match the resource. Finally, the ACA wants to ensure that any rules include language that exempts outfitters and liveries from launch fees in cases where charitable rentals are provided for no fee in support of clean ups, safety classes, veteran events and any others.

The ACA understands the TWRA is eager to enact new rules in order to enhance safety, reduce overcrowding, generate revenue, and help better manage river resources in Tennessee. The ACA does not want to serve as a roadblock to sensible rulemaking, but feels strongly that the pace of rulemaking is far too fast to provide enough time to come up with fee structures that ensure the commercial paddling industry in Tennessee is able to continue to thrive economically, and that Tennesseans maintain unobstructed access to river and lake resources in the state. The ACA is especially wary because these are potentially precedent setting rules in the state of Tennessee, that may additionally serve to set precedent in other states.

We appreciate your transparency and efforts to make this an inclusive process. We are hopeful that you consider our comments and slow the process down, so everyone has more time to consider the best path forward.

Sincerely,

Brett Mayer
Public Policy Chief



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