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File Date: \_\_\_\_\_

# 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.*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Office of the Commissioner
<b>Contact Person:</b>	Wayne Gregory
<b>Address:</b>	11 <sup>th</sup> Floor, L & C Tower 401 Church Street Nashville, Tennessee 37243
<b>Phone:</b>	(615) 253-5420
<b>Email:</b>	<a href="mailto:Wayne.Gregory@tn.gov">Wayne.Gregory@tn.gov</a>

*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:*

<b>ADA Contact:</b>	ADA Coordinator
<b>Address:</b>	12 <sup>th</sup> Floor L&C Tower 401 Church Street Nashville, Tennessee 37243
<b>Phone:</b>	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
<b>Email:</b>	<a href="mailto:Beverly.Evans@tn.gov">Beverly.Evans@tn.gov</a>

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Ruth Neff Conference Room – Side B 17 <sup>th</sup> Floor, L & C Tower		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	01/05/12		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

The Department prepared an initial set of draft rules for public review and comment. These initial draft rules may also be accessed for review using <http://www.tn.gov/environment/ppo/>

Draft copies are also available for review at the following address:

Tennessee Department of Environment and Conservation  
Office of General Counsel  
11<sup>th</sup> Floor, L&C Tower  
401 Church Street  
Nashville, Tennessee 37243  
(615) 253-5420

Office hours are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Tennessee Department of Environment and Conservation, Office of General Counsel; Attention: Mr. Wayne Gregory 11<sup>th</sup> Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243; telephone 615-253-5420 or fax 615-532-0740. However, such written comments must be received by 4:30 PM CST, January 12, 2012, in order to assure consideration. For further information, please contact Mr. Wayne Gregory at the above address or telephone number or by e-mail at [Wayne.Gregory@tn.gov](mailto:Wayne.Gregory@tn.gov).

**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
0400-01-01	Fees and Charges for Certain Departmental Services
Rule Number	Rule Title
0400-01-01-.01	Access to Public Records

Chapter Number	Chapter Title
0400-05-01	Fees for Copies of Departmental Public Records
Rule Number	Rule Title
0400-05-01-.01	Fees for Copies of Departmental Public Records

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://www.tn.gov/sos/rules/1360/1360.htm>)

Repeal

0400-05-01

Fees for Copies of Departmental Public Records

Chapter 0400-05-01 Fees for Copies of Departmental Public Records is repealed.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 et seq.

Amendment

Chapter 0400-01-01

Fees and Charges for Certain Departmental Services

The Table of Contents of Chapter 0400-01-01 Fees and Charges for Certain Departmental Services is amended by replacing "Reserved" with "Access to Department of Environment and Conservation Public Records" as the title of Rule 0400-01-01-.01.

0400-01-01-.01 Reserved is amended by deleting "Reserved" and replacing it with the following so that, as amended the rule shall read:

0400-01-01-.01 Access to Department of Environment and Conservation Public Records

(1) Production Costs

Upon request for records under Tennessee's Public Records Act, T.C.A. § 10-7-501, et seq., the Department shall charge the requesting party a reasonable charge for production costs, including labor, duplication and delivery, based on the most current Schedule of Reasonable Charges issued by the Office of Open Records Counsel, available at <http://www.tn.gov/comptroller/openrecords>.

(2) Payment of Production Costs

The Department shall provide the requesting party an estimate of the production costs, including labor, duplication and delivery, before the initial production of the requested documents. The Department shall require the requesting party to provide full payment of the production costs before copies of the requested records are delivered or otherwise made available.

(3) Waiver of Production Costs.

- (a) The Department shall waive production cost if the total production cost, including labor, duplication and delivery, is less than ten dollars (\$10).
- (b) When the requesting party is a federal, state, or local government agency, the Department shall provide the requested copies of public records without charge. A request made by a federal, state, or local government agency on behalf of a citizen under the Tennessee Public Records Act shall be treated as a request by a citizen and charged accordingly.

(4) Reduction of Fees.

The Commissioner may reduce any part of the fees calculated under these rules upon a determination that such reduction is in the best interest of the public.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 et seq.

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: October 31, 2011

Signature: \_\_\_\_\_

Name of Officer: E. Joseph Sanders

Title of Officer: General Counsel

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

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Filed with the Department of State on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State