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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Tennessee Wildlife Resources Agency
<b>Division:</b>	Administration
<b>Contact Person:</b>	Lisa Crawford
<b>Address:</b>	TWRA, PO Box 40747, Nashville, TN 37204-0747
<b>Phone:</b>	615-781-6606
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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:*

<b>ADA Contact:</b>	Carolyn Wilson
<b>Address:</b>	TWRA, PO Box 40747, Nashville, TN 37204-0747
<b>Phone:</b>	615-781-6594
<b>Email:</b>	Carolyn.Wilson@state.tn.us

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

Address 1:	TWRA, Region 2 Ray Bell Office Building
Address 2:	Ellington Agricultural Center, 5105 Edmondson Pike
City:	Nashville
Zip:	37211
Hearing Date :	02-19-2009
Hearing Time:	9:00 a.m., local time

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (for additional chapters, copy and paste table)

Chapter Number	Chapter Title
1660-03-01	Rules and Regulations Governing Access to Public Records
Rule Number	Rule Title
1660-03-01-.01	Charges for Access to Public Records
1660-03-01-.02	Requests for Access to Records

1660-03-01-.03	Requests for Reproduction of Records
1660-03-01-.04	Waiver of Fees
1660-03-01-.05	Reduction of Fees
1660-03-01-.06	Payment for Records

Rules Of The  
Tennessee Wildlife Resources Agency

Chapter 1660-03-01  
Rules and Regulations Governing  
Access to Public Records

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1660-03-01-.01 Charges For Access to Public Records

Upon a request for records under Tennessee's Public Records Act, Tenn. Code Ann. § 10-7-501 et seq., the Agency shall assess charges for the copying and labor based on the most current version of the Schedule of Reasonable Charges, issued by the Office of Open Records Counsel, available at <http://www.comptroller.state.tn.us/openrecords/index.htm>.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179. Administrative History: Original rule filed \_\_\_\_\_; effective \_\_\_\_\_.

1660-03-01-.02 Requests for Access to Records

- (1) A request for access to public records shall be made during the regular business hours of the agency from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.
- (2) Requests may be made in writing to the office of the Executive Director and shall identify with reasonable specificity the record, set or system of records which is requested. Records requests will be processed on a first-come, first-served basis; provided, that the Executive Director, or his designee, may at any time alter this provision when circumstances warrant.
- (3) Prior Review and Assessment for Confidential, Privileged or Protected Material/Non-Routine Requests.
  - (a) Review, Assessment and Redaction for Access to Records Requests.
    1. Before providing access to the requested record, agency staff shall review the requested record or records as quickly as reasonably possible, consistent with the availability of appropriate staff and with regard to the scope of the records request, and make an assessment of the status of the records and the scope of the requested access.
    2. Upon review, agency staff may redact any such data or information prior to release of the record, or portion of the record, that it has reason to believe has or may have confidential, privileged or otherwise protected material in the record that is subject to the Tennessee Public Records Act.
  - (b) If the agency determines that none of the provisions of subparagraph (c) below apply and access can otherwise be provided immediately, it shall do so.

- (c) If it appears from the agency's review and assessment that access to the record, or the system of records, cannot be provided immediately because:
1. Additional time is required to locate and retrieve the records because the records are not stored on the site or cannot be located;
  2. The record or records require redaction of confidential, privileged or otherwise protected material;
  3. The record is subject to current use as part of an on-going investigation and cannot be provided without interrupting or jeopardizing the investigation;
  4. A computer or computer system that contains the record is unable to be accessed, is undergoing maintenance or re-programming for any agency program purposes, and/or cannot be accessed without substantially interfering with the delivery of services to the public or without damage to the integrity, operability or functioning of any computer or computer system;
  5. Production of the record or records will require development of a program or application to provide access to, or a readable format for access to, electronic or magnetic sources of the record or records; or
  6. For any other reason, then the agency shall inform the requesting person of the assessment and the reasonable approximate time required in complying with the request and a summary of the basis for the assessment regarding access to the records.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179. Administrative History: Original rule filed \_\_\_\_\_; effective \_\_\_\_\_.

#### 1660-03-01-.03 Requests for Reproduction of Records

- (1) A request for copies of public records shall be made during the regular business hours of the agency from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.
- (2) Requests may be made in writing to the office of the Executive Director and shall identify with reasonable specificity the record, set or system of records which is requested. Records requests will be processed on a first-come, first-serve basis; provided, that the Executive Director, or his designee, may at any time alter this provision when circumstances warrant.
- (3) Prior Review and Assessment for Confidential, Privileged or Protected Material/Non-Routine Copy Requests.
  - (a) Review, Assessment and Redaction of Records for Copy Request.
    1. Before reproducing copies of the requested record, agency staff shall review the requested record or records as quickly as reasonably possible consistent with the availability of appropriate staff and with regard to the scope of the records request and shall make an assessment of the status and scope of the copy request and the difficulty and costs for copies of, or for preparing, any records to determine if the request will require that "routine" or "non-routine" copies, as defined in Section 1240-9-1-.02, or a combination thereof, be provided.
    2. Upon review, agency staff may redact any such data or information prior to release of the record, or portion of the record, that it has reason to believe has or that may have confidential, privileged or otherwise protected material in the record that is subject to the Tennessee Public Records Act.

- (b) If the agency determines that none of the provisions of subparagraph (c) apply and copies can otherwise be provided immediately, it shall do so. If the reproduction of copies of the records is requested and the request involves the reproduction of "routine" copies, it shall inform the requesting person and shall make such records available to the requesting person as soon as reasonably possible.
- (c) If it appears from the agency's assessment that reproduction of the record, or the system of records, cannot be provided immediately because:
  - 1. Additional time is required to locate and retrieve the records because the records are not stored on the site or cannot be located;
  - 2. The record or records require redaction of confidential, privileged or otherwise protected material;
  - 3. The record is subject to current use as part of an on-going investigation and cannot be provided without interrupting or jeopardizing the investigation;
  - 4. A computer or computer system that contains the record is unable to be accessed, is undergoing maintenance or re-programming for any agency program purposes, and/or cannot be reproduced without substantially interfering with the delivery of services to the public or without damage to the integrity, operability or functioning of any computer or computer system;
  - 5. Reproduction of the record or records will require development of a program or application to provide copies, in a readable format from, electronic or magnetic sources of the record or records, or that the person or entity has requested copies of the record in a specific format, and that such program, application or format does not currently exist; or
  - 6. For any other reason, then the agency shall inform the requesting person of the assessment and the reasonable approximate time required and costs involved in complying with the request and a summary of the basis for the assessment regarding the reproduction of copies of the records.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179. Administrative History: Original rule filed \_\_\_\_\_; effective \_\_\_\_\_.

#### 1660-03-01-.04 Waiver of Fees

Should any charge assessed under Rule Chapter 1660-3-1 total ten (\$10.00) dollars or less, the Agency may waive the charge and provide the requested documents without payment. Pursuant to T.C.A. Section 70-1-304, the Executive Director will publish, without charge, the hunting, fishing and trapping laws, for general distribution and information.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179. Administrative History: Original rule filed \_\_\_\_\_; effective \_\_\_\_\_.

#### 1660-03-01-.05 Reduction of Fees

The Executive Director, or his or her designee, may waive or reduce any part of the fees calculated under these rules upon a written determination that such waiver or reduction would be in the best interests of the public.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179. Administrative History: Original rule filed \_\_\_\_\_; effective \_\_\_\_\_.

1660-03-01-.06 Payment for Records

- (1) Prior to copies being made, or prior to developing a specific format for the reproduction of records, payment in full must be made to the agency, unless the payment is waived or delayed.
- (2) Payment shall be made for payment of the costs of reproducing records only by cash, cashier's check, money order, or credit card.
- (3) The cashier's check or money order shall be made payable to the Tennessee Wildlife Resources Agency and must be delivered to the agency sales office at:

TWRA Agency Sales  
Ray Bell Region II Office Building  
5105 Edmondson Pike  
PO Box 41489  
Nashville, TN 37204

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq., 2008 Public Chapter 1179. Administrative History:  
Original rule filed \_\_\_\_\_; effective \_\_\_\_\_