

John Hankinson, Director
Environmental Protection Agency
Region IV
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104

Dear Mr. Hankinson:

The undersigned organizations request that the Environmental Protection Agency enforce federal regulations governing public participation and require the Tennessee Department of Environment and Conservation (TDEC) to revisit its policy to charge 50 cents/page to copy public documents. TDEC's central and field offices charge the public 50 cents to copy an individual page of any public document available through TDEC and its divisions including the Division of Water Pollution Control, Division of Solid Waste, and Division of Groundwater. See the enclosed Department of Environment and Conservation File Request. We believe that charging 50 cents per page to the general public is extremely cost-prohibitive and acts as a barrier to access of important public documents.

In addition, this copy cost which it at least partially based in Tennessee regulations is contrary to federal law. Federal regulations governing the implementation of the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act are "intended to foster public awareness and open processes of government decision making." 40 CFR 25.1 et seq. TDEC receives EPA financial assistance for implementation of these programs and is therefore subject to federal regulations intended to foster such public participation. 40 CFR 25.2(g). The purposes of these federal regulations are clear:

- (1) To assure that the public has the opportunity to understand official programs and proposed actions, and that the government fully considers the public's concerns;
- (2) To assure that the government does not make any significant decision on any activity covered by this part without consulting interested and affected segments of the public;
- (3) To assure that government action is as responsive as possible to public concerns;
- (4) To encourage public involvement in implementing environmental laws;
- (5) To keep the public informed about significant issues and proposed project or program changes as they arise;
- < (6) To foster a spirit of openness and mutual trust among EPA, States, substate agencies and the public; and

(7) To use all feasible means to create opportunities for public participation, and to stimulate and support participation. 40 CFR 25.3(1)-(7)

Unfortunately, TDEC's copy cost policy is contrary to every one of the above goals outlined by federal regulations. It appears that Tennessee's copy policy is grounded in both Tennessee administrative law and TDEC policy. Ten. Comp. R. & Regs. Chapter 1200-4-1-.07 et. seq.

Federal regulations require TDEC to "provide copies of documents of interest to the public free of charge" whenever possible. 40 CFR 25.4(b)(3). According to the regulations, if agencies must charge for copies, the charge must not "exceed prevailing commercial copying costs."

Because TDEC's policy substantially exceeds commercial copying costs and because it is inconsistent with the goals and purposes of federal regulations governing public participation, the EPA is under a duty to take immediate action.

We appreciate your interest and quick response to this important matter and wish to hear from you shortly. You may direct your communications through Barry Sulkin at Tennessee Public Employees for Environmental Responsibility at (615) 313-7066 or to us directly. Thank you very much.

Sincerely,

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enclosure: [TN PEER letter](#)

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Tennessee General Assembly
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