

**RULES
OF
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF NATURAL AREAS**

**CHAPTER 0400-06-02
RARE PLANT PROTECTION AND CONSERVATION REGULATIONS**

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0400-06-02-.01 RARE PLANT PROTECTION AND CONSERVATION-GENERAL.

(1) General

(a) Purpose, Scope, and Applicability

The purpose of these regulations is to provide for the implementation of The Rare Plant Protection and Conservation Act which requires persons to obtain written permission from a landowner or manager before knowingly removing or destroying state-listed endangered plant species and requires nursery farmers to be licensed in order to sell state-listed endangered species.

(b) Use of Number and Gender

As used in these Rules:

1. Words in the masculine gender also include the feminine and neuter genders; and
2. Words in the singular include the plural; and
3. Words in the plural include the singular.

(c) Rule Structure

These Rules are organized, numbered, and referenced according to the following outline form:

(1) paragraph

(a) subparagraph

1. part

(i) subpart

(l) item

(Rule 0400-06-02-.01, continued)

I. subitem

A. section

(A) subsection

(2) Definitions

"Act" means "The Rare Plant Protection and Conservation Act of 1985," T.C.A. Section 70-8-301 et seq.

"Acquire," "Acquired", or "Acquisition" means to obtain, to have obtained, or the act of obtaining, by donation, or by exchange of money or other valuable consideration (specifically including barter or exchange), or to take as defined in these regulations.

"Commissioner" means the Commissioner of the Department of Environment and Conservation.

"Conserve" or "Conservation" means to use, or the use of, all methods and procedures for the purpose of increasing the number of individuals of each resident species of plant up to levels adequate to assure their survival in their ecosystems; such methods and procedures also include all activities associated with scientific resource conservation such as research census, law enforcement, habitat protection, acquisition and maintenance, propagation, and transplanted into unoccupied parts of historic range.

"Department" means the Department of Environment and Conservation.

"Endangered species" means any species or subspecies of plant whose continued existence as a viable component of the state's flora is determined by the Commissioner to be in jeopardy, including but not limited to all species of plants determined to be "endangered species" pursuant to the Endangered Species Act.

"Endangered Species Act" means the federal Endangered Species Act of 1973, Public Law 93-205 (87 Stat. 884), 16 USC 1531 et seq., as subsequently amended.

"Habitat" means the place where a plant species grows, thus implying a particular set of environmental conditions conducive to its survival.

"Landowner" means the person having legal deed to a parcel of land, or a lessee, or any other person entitled to possession, or a manager in the case of publicly owned land.

"Nursery Farmer" means any person engaged in the practice of growing or propagating stock for sale.

"Nursery stock" means all trees, shrubs, or other perennial plants, or parts of such trees, shrubs, or other perennial plants grown or kept for, or capable of, propagation, distribution, or sale on a commercial basis.

"Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, agent, department, or instrumentality of the federal government, any state or political subdivision thereof, or any foreign government.

"Plant" means any member of the plant kingdom, including seeds, roots, cuttings, and other parts of the plant.

(Rule 0400-06-02-.01, continued)

"Population" means individuals of a given plant species that are capable of interbreeding with one another via natural mechanisms, or are growing in close proximity, yet self-pollinating or reproducing strictly by vegetative means.

"Rare species" means any species of plant defined as endangered, threatened, or of special concern in Tennessee or pursuant to the Endangered Species Act.

"Sell" or "Sold" means to dispose of, transfer or convey, or to attempt to dispose of, transfer or convey by exchange of money or other valuable consideration, specifically including barter or exchange.

"Special Concern Species" means any species or subspecies of plant which is uncommon in Tennessee, or has unique or highly specific habitat requirements or scientific value and therefore requires careful monitoring of its status.

"Take" or "Taking" means to knowingly uproot, dig, remove, damage, destroy, possess, collect, or otherwise disturb for any purpose.

"Threatened Species" means any species or subspecies of plant which appears likely, within the foreseeable future, to become endangered throughout all or a significant portion of its range in Tennessee, including but not limited to all species of plants determined to be a "threatened species" pursuant to the Endangered Species Act.

Authority: T.C.A. §§ 4-5-201 et seq., 70-8-301, 70-8-305 and Chapter 242, Public Acts of 1985.

Administrative History: Original rule filed May 13, 1986; effective June 12, 1986. Repeal and new rule filed May 30, 2008; effective August 13, 2008.

0400-06-02-.02 (RESERVED)

Authority: T.C.A. §§ 4-5-201 et seq., 70-8-301, 70-8-305 and Chapter 242, Public Acts of 1985.

Administrative History: Original rule filed May 13, 1986; effective June 12, 1986. Amendment filed July 14, 1999; effective September 27, 1999. Repeal and new rule filed May 30, 2008; effective August 13, 2008.

0400-06-02-.03 PROMULGATION OF LISTS.

- (1) Criteria for listing a rare plant as endangered, threatened, or of special concern, shall be primarily, but not limited to, the following:
 - (a) Distribution of the species in Tennessee and throughout its range;
 - (b) Number of populations in Tennessee and throughout the species' range;
 - (c) Size of populations relative to estimates of minimal viable populations for the species;
 - (d) Habitat specificity;
 - (e) Known or perceived threats to the species and its habitats;
 - (f) Number of protected populations;
 - (g) Difficulty of adequately protecting or managing habitats for the species' survival; and
 - (h) Biological factors relating to such things as the species' ability to reproduce, respond to disturbance, or its dependence on other species that also may be in jeopardy.

(Rule 0400-06-02-.03, continued)

- (2) Any interested person may nominate a plant species for listing as endangered, threatened, or special concern status or recommend changes in status or removal of species from the current rare plant list promulgated under the Act.
- (3) A Scientific Advisory Committee of twelve (12) botanists knowledgeable about the state's flora shall serve at the Commissioner's request to periodically review the rare plant list and consider nominations for changes to it. This group shall meet at least once every three (3) years. Reimbursement for travel and per diem expenses shall be offered by the Department at current state rates.
- (4) A public hearing shall be held prior to the addition or deletion of a species to or from the endangered or threatened species lists.
- (5) The Department shall submit its proposed list of endangered species or any amendments to it to the Commissioner of the Department of Agriculture for his concurrence.
- (6) Copies of the current list of endangered species or the list of threatened or special concern species shall be made available, upon request, by the Department of Environment and Conservation, Resource Management Division, 401 Church Street, Nashville, Tennessee 37243-0447.

Authority: T.C.A. §§ 4-5-201 et seq., 70-8-301 et seq., 70-8-305 and Chapter 242, Public Acts of 1985.
Administrative History: Original rule filed May 13, 1986; effective June 12, 1986. Amendment filed July 14, 1999; effective September 27, 1999. Repeal and new rule filed May 30, 2008; effective August 13, 2008. Amendment filed September 26, 2011; effective December 25, 2011.

0040-6-2-.04 LIST OF ENDANGERED SPECIES.

The endangered plant list of Tennessee includes the following:

Latin Name	Common Name
<i>Aconitum reclinatum</i> A. Gray	trailing white monkshood
<i>Agalinis auriculata</i> (Michx.) Blake	ear-leaved false-foxglove
<i>Agalinis heterophylla</i> (Nutt.) Small ex Britton	prairie false foxglove
<i>Agalinis oligophylla</i> Pennell	ridge-stem false foxglove
<i>Agalinis plukenetii</i> (Ell.) Raf	purple gerardia
<i>Allium stellatum</i> Fraser	glade onion
<i>Anemone caroliniana</i> Walt.	Carolina anemone
<i>Apios priceana</i> Robbins	Price's potato-bean
<i>Arenaria lanuginosa</i> (Michx.) Rohrback	wooly sandwort
<i>Aristida ramosissima</i> Engelm. ex Gray	branched three-awn grass
<i>Asplenium scolopendrium</i> L. var. <i>americanum</i> (Fern.) Kartesz & Gandhi	Hart's-tongue fern
<i>Astragalus bibullatus</i> Barneby and Bridges	Pyne's ground-plum
<i>Betula papyrifera</i> Marsh var. <i>cordifolia</i> (Regel) Fern.	heart-leaved paper birch
<i>Boechera patens</i> (Sull.) Al-Shehbaz	spreading rockcress
<i>Boechera perstellata</i> (E. L. Braun) Al-Shehbaz	Braun's rockcress
<i>Brachydontium trichodes</i> (Web.) Milde	peak moss
<i>Botrychium simplex</i> E. Hitchc.	least moonwort
<i>Bulbostylis ciliatifolia</i> (Ell.) Fern. var. <i>coarctata</i> (Ell.) Kral	capillary hairsedge
<i>Calamagrostis cainii</i> Hitchcock	Cain's reedgrass
<i>Calamagrostis porteri</i> A. Gray	Porter's reedgrass
<i>Caltha palustris</i> L.	marsh marigold
<i>Carex barrattii</i> Schweinitz and Torr.	Barratt's sedge
<i>Carex buxbaumii</i> Wahlenb.	Buxbaum's sedge

(Rule 0400-06-02-.04, continued)

<i>Carex canescens</i> L. ssp. <i>disjuncta</i> Fern.	hoary sedge
<i>Carex fumosimontana</i> Estes	Smoky Mountain sedge
<i>Carex lonchocarpa</i> Willd. ex Spreng.	southern long sedge
<i>Carex manhartii</i> Bryson	Manhart's sedge
<i>Carex muskingumensis</i> Schweinitz	Muskingum sedge
<i>Carex pellita</i> Willd.	woolly sedge
<i>Carex tetanica</i> Schkuhr	rigid sedge
<i>Cephaloziella messalongi</i> (Spruce) K. Muell.	a liverwort
<i>Cerastium velutinum</i> Raf.	velvety cerastium
<i>Clematis fremontii</i> S. Wats.	Fremont's Leather Flower
<i>Clematis glaucophylla</i> Small	white-leaved leatherflower
<i>Clematis morefieldii</i> Kral	Huntsville vasevine
<i>Clethra alnifolia</i> L.	coastal pepperbush
<i>Coeloglossum viride</i> (L.) Hartman var. <i>virescens</i> (Muhl. ex Willd.) Luer	long-bracted green orchis
<i>Collinsia verna</i> Nutt.	blue-eyed Mary
<i>Comptonia peregrina</i> (L.) Coulter	sweet-fern
<i>Coreopsis latifolia</i> Michx.	broad-leaved tickseed
<i>Coreopsis delphiniifolia</i> Lam.	larkspur-leaved coreopsis
<i>Corydalis sempervirens</i> (L.) Pers.	pale corydalis
<i>Crataegus harbisonii</i> Beadle	Harbison's hawthorn
<i>Cypripedium kentuckiense</i> Reed	southern lady's-slipper
<i>Cypripedium reginae</i> Walt.	showy lady's-slipper
<i>Dalea foliosa</i> (A. Gray) Barneby	leafy prairie-clover
<i>Dalea purpurea</i> Vent.	purple prairie-clover
<i>Delphinium exaltatum</i> Ait.	tall larkspur
<i>Desmodium ochroleucum</i> M.A. Curtis ex Canby	creamflower tick-trefoil
<i>Diamorpha smallii</i> Britt.	Small's stonecrop
<i>Dichantherium acuminatum</i> ssp. <i>spretum</i> (Schult.) Freckmann & Lelong	Eaton's witchgrass
<i>Dichantherium ensifolium</i> ssp. <i>curtifolium</i> (Nash) Freckmann & Lelong	short-leaved panic grass
<i>Echinacea pallida</i> (Nutt.) Nutt.	pale purple coneflower
<i>Eleocharis elliptica</i> Kunth	elliptic spike rush
<i>Eleocharis equisetoides</i> (Ell.) Torr.	horse-tail spike-rush
<i>Eleocharis intermedia</i> J.A. Schultes	matted spike rush
<i>Eleocharis wolfii</i> A. Gray	Wolf's spike rush
<i>Eriocaulon decangulare</i> L.	ten-angle pipewort
<i>Eriogonum longifolium</i> Nutt. var. <i>harperi</i> (Goodm.) Reveal	Harper's umbrella-plant
<i>Eriophorum virginicum</i> L.	tawny cotton grass
<i>Erysimum capitatum</i> (Dougl.) Greene	western wallflower
<i>Eupatorium leucolepis</i> (DC.) Torr. and A. Gray	white-bracted thoroughwort
<i>Eurybia saxicastelli</i> (J. J. N. Campbell & Medley) G. L. Nesom	Rockcastle aster
<i>Euthamia gymnospermoides</i> Green	Great Plains goldentop
<i>Fimbristylis perpusilla</i> Harper	Harper's fimbristylis
<i>Frullania appalachiana</i> R. M. Schust.	a liverwort
<i>Gentiana puberulenta</i> J.S. Pringle	prairie gentian
<i>Geum aleppicum</i> Jacq.	yellow avens
<i>Geum geniculatum</i> Michx.	bent avens
<i>Geum radiatum</i> Michx.	spreading avens
<i>Glyceria laxa</i> (Scribn.) Scribn.	limp manna grass
<i>Gratiola floridana</i> Nutt.	Florida hedge-hyssop
<i>Hedyotis purpurea</i> (L.) Torr. & A.Gray var. <i>montana</i> (Small) Fosberg	Roan Mountain bluet

(Rule 0400-06-02-.04, continued)

<i>Helenium brevifolium</i> (Nutt.) Wood	shortleaf sneezeweed
<i>Helianthemum propinquum</i> E.P. Bicknell	low frostweed
<i>Helianthus verticillatus</i> Small	whorled sunflower
<i>Homaliadelphus sharpii</i> (Williams) Sharp	Sharp's homaliadelphus moss
<i>Hydrocotyle americana</i> L.	American water-pennywort
<i>Hypericum adpressum</i> Barton	creeping St. John's-wort
<i>Hypericum ellipticum</i> Hook.	pale St. John's-wort
<i>Hypericum graveolens</i> Bickl.	mountain St. John's-wort
<i>Iris brevicaulis</i> Raf.	Lamance iris
<i>Isoetes appalachiana</i> D.F. Brunton & D.M. Britton	Appalachian quillwort
<i>Isoetes melanopoda</i> Gay and Durieu	blackfoot quillwort
<i>Isoetes tennesseeensis</i> N.T. Luebke & J.M. Budke	Hiwassee quillwort
<i>Isotria medeoloides</i> (Pursh) Raf.	small whorled pogonia
<i>Lachnanthes carolina</i> (Lam.)	Carolina redroot
<i>Lechea pulchella</i> Raf.	Leggett's pinweed
<i>Lejeunea sharpii</i> (Schust.) Schust.	Sharp's lejeunia
<i>Leptodontium viticulosoides</i> var. <i>sulphureum</i> (Müller Hal.) R. H. Zander	Grandfather Mountain leptodontium
<i>Leptohymerium sharpii</i> (Crum & Anders.) Buck & Crum	Mount Le Conte moss
<i>Leptoscyphus cuneifolius</i> (Hook.) Mitt.	a liverwort
<i>Lilium grayi</i> S. Wats.	Gray's lily
<i>Lilium philadelphicum</i> L.	wood lily
<i>Listera australis</i> Lindl.	southern twayblade
<i>Lonicera prolifera</i> (Kirchner) Rehder	grape honeysuckle
<i>Lysimachia fraseri</i> Duby	Fraser's loosestrife
<i>Lysimachia quadriflora</i> Sims	fourflower yellow loosestrife
<i>Lysimachia terrestris</i> (L.) BSP.	swamp loosestrife
<i>Maianthemum stellatum</i> (L.) Link	starflower false solomom's-seal
<i>Marshallia grandiflora</i> Beadle and Boynton	large-flowered Barbara's-buttons
<i>Marshallia obovata</i> (Walt.) Beadle & F.E. Boynton	spoonshape Barbara's buttons
<i>Marsipella funckii</i> (Web. & Mohr) Dumort.	a liverwort
<i>Melanthium latifolium</i> Desr.	broadleaf bunchflower
<i>Melanthium virginicum</i> L.	Virginia bunchflower
<i>Melanthium woodii</i> (J.W. Robbins ex Wood) Bodkin	Ozark bunchflower
<i>Minuartia cumberlandensis</i> (Wofford & Kral) McNeill	Cumberland sandwort
<i>Minuartia godfreyi</i> (Shinners) McNeill	Godfrey's stitchwort
<i>Minuartia groenlandica</i> (Retzius) Ostenfeld	mountain sandwort
<i>Muhlenbergia cuspidata</i> (Torr.) Rydb.	plains muhly
<i>Muhlenbergia torreyana</i> (Shult.) Hitchcock	Torrey's dropseed
<i>Myriophyllum pinnatum</i> (Walt.) B.S.P.	cutleaf Watermilfoil
<i>Nestronia umbellula</i> Raf.	conjurer's nut
<i>Onosmodium hispidissimum</i> Mack.	shaggy false gromwell
<i>Onosmodium molle</i> Michx. ssp. <i>subsetosum</i> (Mack & Bush) Cochrane	smooth false gromwell
<i>Patis racemosa</i> (Sm.) Romasch., P.M. Peterson & R. J. Soreng	mountain ricegrass
<i>Paxistima canbyi</i> A. Gray	Canby's mountain-lover
<i>Paysonia perforata</i> (Rollins) O'Kane & Al-Shehbaz	Spring Creek bladderpod
<i>Paysonia stonensis</i> (Rollins) O'Kane & Al-Shehbaz	Stones River bladderpod
<i>Perideridia americana</i> (Nutt. ex DC.) Reichenb.	thicket parsley
<i>Phegopteris connectilis</i> (Michx.) Watt	long beech fern
<i>Physaria globosa</i> (Desv.) O'Kane	globe bladderpod
<i>Pityopsis ruthii</i> (Small) Small	Ruth's golden-aster
<i>Plantago cordata</i> Lam.	heart-leaved plantain
<i>Platanthera grandiflora</i> (Bigelow) Lindl.	large purple fringed orchid
<i>Platanthera integra</i> (Nutt.) A. Gray ex Beck	yellow fringeless orchid

(Rule 0400-06-02-.04, continued)

<i>Platanthera integrilabia</i> (Correll) Luer	white fringeless orchid
<i>Platanthera nivea</i> (Nutt.) Luer	snowy orchid
<i>Poa palustris</i> L.	owl bluegrass
<i>Pogonia ophioglossoides</i> (L.)Ker-Gawl.	rose pogonia
<i>Polygala nana</i> (Michx.) DC.	dwarf milkwort
<i>Polygala nuttallii</i> Torr. and A. Gray	Nuttall's milkwort
<i>Polygonella americana</i> (Fisch. and Mey)	small southern jointweed
<i>Ponthieva racemosa</i> (Walt.) Mohr	shadow-witch
<i>Porella gracillima</i>	hot porella
<i>Prenanthes aspera</i> Michx.	rough rattlesnake-root
<i>Prunus pumila</i> L.	sand cherry
<i>Pycnanthemum beadlei</i> (Small) Fern.	Beadle's mountain mint
<i>Pycnanthemum verticillatum</i> (Michx.) Pers.	whorled mountain-mint
<i>Pyrola americana</i> Sweet	American wintergreen
<i>Ranunculus aquatilis</i> var. <i>diffusus</i> Withering	eastern white water crowfoot
<i>Rhamnus alnifolia</i> L'Hér.	alderleaf buckthorn
<i>Rhynchospora capillacea</i> Torr.	horned beak-rush
<i>Rhynchospora debilis</i> Gale	savannah beak-rush
<i>Rhynchospora rariflora</i> (Michx.) Eil.	few-flowered beak-rush
<i>Rudbeckia triloba</i> L. var. <i>pinnatifida</i> Torrey & A. Gray	browneyed susan
<i>Rugelia nudicaulis</i> Shuttlw. ex Chapman	Rugel's ragwort
<i>Sabatia capitata</i> (Raf.) Blake	rose gentian
<i>Sagittaria rigida</i> Pursh	sessile-fruited arrowhead
<i>Sanguisorba canadensis</i> L.	canada burnet
<i>Saxifraga caroliniana</i> A. Gray	Carolina saxifrage
<i>Saxifraga pennsylvanica</i> L.	swamp saxifrage
<i>Scutellaria arguta</i> Buckl.	hairy scullcap
<i>Sedum nevii</i> A. Gray	Nevius' stonecrop
<i>Silene ovata</i> Pursh	ovate catchfly
<i>Silphium brachiatum</i> Gattinger	Cumberland rosinweed
<i>Solidago gattingeri</i> Cham.	Gattinger's goldenrod
<i>Solidago lancifolia</i> Torr. and A. Gray	broadleaf goldenrod
<i>Solidago porteri</i> Small	Porter's goldenrod
<i>Solidago ptarmicoides</i> (Nees) Bovin	prairie goldenrod
<i>Solidago rupestris</i> Raf.	rock goldenrod
<i>Solidago spithamea</i> M.A. Curtis	Blue Ridge goldenrod
<i>Sparganium androcladum</i> (Engelm.) Morong	branching bur-reed
<i>Sphenolobopsis pearsoni</i> (Spruce) Shust. & Kitag.	a liverwort
<i>Spiraea alba</i> DuRoi	narrow-leaved meadow-sweet
<i>Spiraea virginiana</i> Britt.	Virginia spiraea
<i>Spiranthes magnicamporum</i> Sheviak	Great Plains ladies'-tresses
<i>Spiranthes ochroleuca</i> (Rydb.) Rydb.	yellow nodding ladies'-tresses
<i>Spiranthes odorata</i> (Nutt.) Lindl.	sweetscent ladies'-tresses
<i>Sporobolus junceus</i> (P.Beauv.) Kunth	Piney-woods dropseed
<i>Stellaria alsine</i> Grimm	trailing stitchwort
<i>Stellaria longifolia</i> Muhl.	longleaf stitchwort
<i>Stenanthium diffusum</i> Wofford	Cumberland featherbells
<i>Sullivantia sullivantii</i> (Torr. & Gray) Britt.	Sullivan's coolwort
<i>Symphotrichum ericoides</i>	bushy aster
(L.) G.L. Nesom var. <i>ericoides</i>	
<i>Symphotrichum praealtum</i> (Poiret) G. L. Nesom	willow aster
<i>Symphotrichum pratense</i> (Rafinesque) Nesom	barrens silky aster
<i>Symplocarpus foetidus</i> (L.) Nutt.	skunk-cabbage
<i>Taxus canadensis</i> Marsh.	American yew
<i>Thaspium pinnatifidum</i> (Buckley) A. Gray	cutleaf meadow parsnip
<i>Tortula ammonsiana</i> Crum & Anders.	Ammon's tortula

(Rule 0400-06-02-.04, continued)

<i>Tortula fragilis</i> Tayl.	fragile tortula
<i>Triantha glutinosa</i> (Walter) Small	sticky false asphodel
<i>Triantha racemosa</i> (Walter) Small	coastal false-asphodel
<i>Tridens flavus</i>	purpletop tridens
(L.) Hitchc. var. <i>chapmanii</i> (Small) Shinnery	
<i>Trichophorum cespitosum</i> (L.) Hartman	tufted club-rush
<i>Trifolium calcaricum</i> J.L. Collins & Wieboldt	running glade clover
<i>Trifolium reflexum</i> L.	buffalo clover
<i>Trillium decumbens</i> Harbison	trailing trillium
<i>Trillium lancifolium</i> Raf.	narrow-leaved trillium
<i>Trillium pusillum</i> Michx.	least trillium
<i>Trillium rugelii</i> Rendle	southern nodding trillium
<i>Utricularia cornuta</i> Michx.	horned bladderwort
<i>Vaccinium elliotii</i> Chapm.	mayberry
<i>Veronica catenata</i> Pennell	sessile water-speedwell
<i>Veronica scutellata</i> L.	marsh-speedwell
<i>Viburnum bracteatum</i> Rehd.	limerock arrow-wood
<i>Viburnum molle</i> Michx.	softleaf arrow-wood
<i>Vitis rupestris</i> Scheele	rock grape
<i>Xyris ambigua</i> Beyr. ex. Kunth.	coastal-plain yellow-eyed-grass
<i>Xyris fimbriata</i> Ell.	fringed yellow-eyed-grass
<i>Xyris tennesseensis</i> R. Kral	Tennessee yellow-eyed-grass
<i>Zigadenus glaucus</i> Nutt.	white camas

Authority: T.C.A. §4-5-201 et seq. and 70-8-301, et. seq. **Administrative History:** Original rule filed May 13, 1986; effective June 12, 1986. Amendment filed April 27, 1992; effective June 11, 1992. Amendment filed July 14, 1999; effective September 27, 1999. Amendment filed October 23, 2000; effective January 6, 2001. Amendment filed October 5, 2004; effective December 19, 2004. Repeal and new rule filed May 30, 2008; effective August 13, 2008. Repeal and new rule filed September 26, 2011; effective December 25, 2011. Repeal and new rule filed October 17, 2013; effective January 15, 2014.

0400-06-02-.05 PERMISSION FOR NURSERY FARMERS TO TAKE ENDANGERED PLANTS.

- (1) Nursery farmers engaged in the taking of any endangered species from land other than their own shall obtain written permission to do so from the landowner. The Department has permission forms available upon request for use by the landowner, but any written permission by the landowner is adequate if it contains the following:
 - (a) Landowner's name, address, telephone number, signature, and any restrictions the landowner wishes to impose as conditions of permission.
 - (b) The date on which permission to take endangered species is granted.
 - (c) The name of the individual to whom permission to take endangered species is granted.
- (2) An original and one copy of each permission statement or form shall be made. The original shall remain in the possession of the person to whom permission to take endangered species is granted. The copy shall be sent to the Department along with the annual reports, or earlier if desired.
- (3) Written permission from a landowner shall be valid for one (1) year from the date permission is granted unless otherwise indicated on the permission statement or form.

Authority: T.C.A. §§4-5-201 et seq, 70-8-301; 70-8-305 and Chapter 242, Public Acts of 1985. **Administrative History:** Original rule filed June 17, 1986; effective July 17, 1986. Amendment filed July 14, 1999; effective September 27, 1999.

0400-06-02-.06 REGISTRATION AND LICENSING OF NURSERY FARMERS.

- (1) All nursery farmers who desire to sell or export Tennessee listed endangered plant species must first register with the Department and obtain a license as issued by the Department.
- (2) Blank forms for license application shall be provided by the Department upon request and shall contain the following information:
 - (a) Applicant's business name, address, and telephone number.
 - (b) Applicant's business name, home address, and telephone number.
 - (c) Applicant's signature with date signed.
- (3) Upon receipt by the Department of a completed application form, the Department will issue a license. No fee will be charged for the license.
- (4) The license shall be valid from January 1st to the following December 31st and shall be renewed annually by the Department unless the nursery farmer is found in violation of T. C.A. §70-8-301 *et seq.* or these regulations.

Authority: T.C.A. §§4-5-201 *et seq.*, 70-8-301; 70-8-305 and Chapter 242, Public Acts of 1985.
Administrative History: Original rule filed June 17, 1986; effective July 17, 1986. Amendment filed July 14, 1999; effective September 27, 1999.

0400-06-02-.07 REPORTING BY NURSERY FARMERS.

- (1) Any nursery farmer selling or exporting Tennessee listed endangered plants shall file with the Department an annual report on forms provided by the Department. The report forms, available upon request, shall include, but shall not be limited to, the following information:
 - (a) The name and number of individuals of Tennessee listed endangered plant species purchased or otherwise acquired, indicating which plants were wild and which were propagated.
 - (b) The county and location from which the plants were originally taken (if the source is another nursery farmer, include that name and address).
 - (c) The name of the Tennessee listed endangered species sold or otherwise disposed of, indicating which plants were wild and which were propagated, and stating the number of wild plants sold.
 - (d) The name and address of the person or business to whom one hundred (100) or more of any endangered species were sold.
- (2) Annual reports shall be due no later than January 31 of the following year and shall cover the period set out on the form provided by the Department.

Authority: T.C.A. §§4-5-201 *et seq.*, 70-8-301; 70-8-305 and Chapter 242, Public Acts of 1985.
Administrative History: Original rule filed June 17, 1986; effective July 17, 1986. Amendment filed July 14, 1999; effective September 27, 1999.

0400-06-02-.08 RECORDKEEPING BY NURSERY FARMERS.

- (1) Nursery farmers shall retain a copy of each annual report for a period of at least three (3) years, following its submission to the Department.
- (2) Upon reasonable notice to the nursery farmer, all records required under this section, and original statements of written permission to take endangered species required under section 0400-06-02-.05 shall be made available to the Department at the nursery farmer's place of business and during the nursery farmer's normal working hours.

Authority: T.C.A. §§4-5-201 et seq, 70-8-301; 70-8-305 and Chapter 242, Public Acts of 1985.
Administrative History: Original rule filed June 17, 1986; effective July 17, 1986. Amendment filed July 14, 1999; effective September 27, 1999.

0400-06-02-.09 INSPECTION. Nurseries may be subject to announced or unannounced inspections of current stock of wild and/or propagated endangered species.

Authority: Chapter 242, Public Acts of 1985. **Administrative History:** Original rule filed June 17, 1986; effective July 17, 1986.

0400-06-02-.10 CERTIFICATION OF NATIVE RARE PLANT STOCK. A nursery engaged in the propagation of native rare plants may receive official certification as a native rare plant propagator. At the invitation of the nursery, a Department official, or officials, will inspect native plant stock to confirm those species under propagation. Upon being satisfied as to which native rare species are involved, the Department will issue a certificate naming those native rare species which the nursery is propagating.

Authority: Chapter 242, Public Acts of 1985. **Administrative History:** Original rule filed June 17, 1986; effective July 17, 1986.

0400-06-02-.11 TAKING RARE SPECIES FROM DEPARTMENT LANDS FOR SCIENTIFIC, EDUCATIONAL, OR PROPAGATIVE PURPOSES.

- (1) Anyone wishing to take rare plant species from Department lands for scientific, educational, or propagative purposes shall first obtain a scientific collecting permit from the Department. Application forms for permits will be provided by the Department.
- (2) A scientific collecting permit shall be valid for one (1) year from the date of issuance unless otherwise indicated on the permit.
- (3) All persons permitted to take rare plants for scientific, educational, or propagative purposes shall submit to the Department brief reports on the status and results of their collecting. A progress report shall be filed every six (6) months of the permit period and a final report must be submitted at the end of the permit period. Only a final report is necessary if the permit period does not exceed eight (8) months. The final reports shall include but shall not be limited to the following information:
 - (a) Name and number of individuals, cuttings, or any other plant parts of each rare species collected unless exception is granted by the Department.
 - (b) Locality of collection for each specimen of a rare species (specific locations, indicated on maps, may be required).
 - (c) Estimated relative abundance of each rare species collected.

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- (d) Description of any environmental alterations resulting during or after the completion of collecting.
- (4) The holder of a scientific collecting permit shall notify the Department if, during the permit period, he wishes to change the specific conditions of the permit.

Authority: Chapter 242, Public Acts of 1985. **Administrative History:** Original rule filed June 17, 1986; effective July 17, 1986.

0400-06-02-.12 REPORTING FORM AND CONTENT. The Department is authorized to prescribe the content for written permission to take endangered species, and the form and content of the application for license, the endangered species dealer license, acquisition and purchase records, annual reports, application for scientific collecting, scientific collecting permit, and the scientific collecting and progress and final reports required by the regulations. The form and/or content of the above form(s) are subject to change from time to time as deemed necessary by the Department.

Authority: Chapter 242, Public Acts of 1985. **Administrative History:** Original rule filed June 17, 1986; effective July 17, 1986.

0400-06-02-.13 VIOLATIONS.

- (1) As provided by T.C.A. Section 70-8-310, any person violating the provisions of these regulations shall be guilty of a misdemeanor.
- (2) The Commissioner may suspend, revoke, and/or deny the issuance of a license or permit to a nursery farmer, or person who takes for scientific, educational, or propagative purposes, who violates the act or these regulations. The nursery farmer, or person who takes for scientific, educational, or propagative purposes, shall have the right to contest and appeal any suspension, revocations, and/or denial of license or permit, under the provisions of the Uniform Administrative Procedures Act, compiled in Chapter 5 of Title 4 of the Tennessee Code Annotated.

Authority: T.C.A. §§4-5-201 et seq, 70-8-301; 70-8-305 and Chapter 242, Public Acts of 1985. **Administrative History:** Original rule filed June 17, 1986; effective July 17, 1986. Amendment filed July 14, 1999; effective September 27, 1999.