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 transplantation 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.


"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.
"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.


0400-06-02-.02 RESERVED.


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.


0400-06-02-.04 LIST OF ENDANGERED SPECIES.

The endangered plant list of Tennessee includes the following:

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

October, 2016 (Revised)
Carex buxbaumii Wahlenb.  
Carex canescens L. ssp. disjuncta Fern.  
Carex fumosimontana Estes  
Carex interior L. H. Bailey  
Carex lonchocarpa Willd. ex Spreng.  
Carex manhartii Bryson  
Carex muskingumensis Schweinitz  
Carex pellita Willd.  
Carex tetanica Schkuhr  
Cephaloziella messalongi (Spruce) K. Muell.  
Cerastium velutinum Raf.  
Clematis fremontii S. Wats.  
Clematis vinacea Floden  
Clematis morefieldii Kral  
Clethra alnifolia L.  
Coeloglossum viride (L.) Hartman var. virensens (Muhl. ex Willd.) Luer  
Collinsia verna Nutt.  
Comptonia peregrina (L.) Coulter  
Coreopsis latifolia Michx.  
Crataegus arbustorum Beadle  
Cypripedium kentuckiense Reed  
Cypripedium reginae Walt.  
Dalea foliosa (A. Gray) Barneby  
Dalea purpurea Vent.  
Delphinium exaltatum Ait.  
Desmodium ochroleucum M.A. Curtis ex Canby  
Dichanthelium acuminatum ssp. spretum (Schult.) Freckmann & Lelong  
Dichanthelium ensifolium ssp. curtifolium (Nash) Freckmann & Lelong  
Echinacea pallida (Nutt.) Nutt.  
Eleocharis elliptica Kunth  
Eleocharis equisetoides (Ell.) Torr.  
Eleocharis intermedia J.A. Schultes  
Eleocharis wolfii A. Gray  
Eriocaulon decangulare L.  
Eriogonum harperi Goodman  
Eriogonum virginicum L.  
Erysimum capitatum (Dougl.) Greene  
Eupatorium leucopis (DC.) Torr. and A. Gray  
Eurybia saxicastelli (J. J. N. Campbell & Medley) G. L. Nesom  
Euthamia gymnospermooides Green  
Fimbristylis perpusilla Harper  
Gentiana puberulenta J.S. Pringle  
Geum alleppicum Jacq.  
Geum geniculatum Michx.  
Geum radiatum Michx.  
Glyceria laxa (Scribn.) Scribn.  
Gratiola floridana Nutt.  
Hedyotis purpurea (L.) Torr. & A.Gray var. montana (Small) Fosberg  
Helenium brevifolium (Nutt.) Wood  
Helianthemum propinquum E.P. Bicknell
Helianthus verticillatus Small  
whorled sunflower

Homaliadelphus sharpii (Williams) Sharp  
Sharps homaliadelphus moss

Hydrocotyle americana L.  
American water-pennywort

Hypericum adpressum Barton  
creeping St. John's-wort

Hypericum ellipticum Hook.  
pale St. John's-wort

Hypericum graveolens Bickl.  
mountain St. John's-wort

Iris brevicaulis Raf.  
Lamance iris

Isoetes appalachiana D.F. Brunton & D.M. Britton  
Appalachian quillwort

Isoetes melanopoda Gay and Durieu  
blackfoot quillwort

Isoetes tennesseensis N.T. Luebke & J.M. Budke  
Hiwassee quillwort

Lachnanthes caroliana (Lam.)  
small whorled pogonia

Lechea pulchella Raf.  
Leggett's pinweed

Lejeunea sharpii (Schust.) Schust.  
Sharp's lejeunia

Leptodontium viticulosoides var. sulphureum  
(Müller Hal.) R. H. Zander

Leptohymenium sharpii (Crum & Anders.) Buck & Crum  
Mount Le Conte moss

Leptoscyphus cunefolius (Hook.) Mitt.  
a liverwort

Lilium grayi S. Wats.  
Gray's lily

Lilium philadelphicum L.  
wood lily

Listera australis Lindl.  
southern twayblade

Lithospermum parviflorum Weakley, Witsell & D. Estes  
sothair marbleseed

Lithospermum subsetosum (Mack. & Bush) Weakley, Witsell, & D. Estes  
smooth false gromwell

Lonicera prolifera (Kirchner) Rehder  
grape honeysuckle

Lysimachia fraseri Duby  
Fraser's loosestrife

Lysimachia quadriflora Sims  
fourflower yellow loosestrife

Lysimachia terrestris (L.) BSP.  
swamp loosestrife

Maianthemum stellatum (L.) Link  
starflower false solomom's-seal

Marshallia grandiflora Beadle and Boynton  
large-flowered Barbara's-buttons

Marshallia obovata (Walt.) Beadle & F.E. Boynton  
a liverwort

Marsupella funckii (Web. & Mohr) Dumort.  
broadleaf Barbara's buttons

Melanthium latifolium Desr.  
Virginia bunchflower

Melinthonium virginicum L.  
Ozark bunchflower

Melinthonium woodii (J.W. Robbins ex Wood) Bodkin  
Cumberland sandwort

Minuartia cumberlandensis (Wofford & Kral) McNeill  
Godfrey's stitchwort

Minuartia godfreyi (Shinners) McNeill  
mountain sandwort

Muhlenbergia cuspidata (Torr.) Rydb.  
plains muhly

Muhlenbergia torreyana (Shult.) Hitchcock  
Torrey's dropseed

Myriophyllum pinnatum (Walt.) B.S.P.  
cutleaf Watermilfoil

Nabalis asper (Michx.) Torr. & A. Gray  
rough rattlesnake root

Nestriónia umbellula Raf.  
conjurer's nut

Packera crawfordii (Britt.) A.M. Mahoney & R.R. Lowal  
Crawford's ragwort

Patis racemoss (Sm.) Romasch., P.M. Peterson & R. J. Soreng  
mountain ricegrass

Paxistima canbyi A. Gray  
Canby's mountain-lover

Paysonia perforata (Rollins) O'Kane & Al-Shehbaz  
Spring Creek bladderpod

Paysonia stonensis (Rollins) O'Kane & Al-Shehbaz  
Stones River bladderpod

Penstemon kralii D. Estes  
Kral's beardtongue

Perideridia americana (Nutt. ex DC.) Reichenb.  
thicket parsley

Phegopteris connectilis (Michx.) Watt  
long beech fern

Physaria globosa (Desv.) O'Kane  
globe bladderpod

Pityopsis ruthii (Small) Small  
Ruth's golden-aster

Plantago cordata Lam.  
heart-leaved plantain

Platanthera grandiflora (Bigelow) Lindl.  
large purple fringed orchid
Platanthera integrifolia (Nutt.) A. Gray ex Beck   yellow fringeless orchid
Platanthera integrilabia (Correll) Luer   white fringeless orchid
Platanthera nivea (Nutt.) Luer   snowy orchid
Poa palustris L.   owl bluegrass
Pogonia ophioglossoides (L.) Ker-Gawl.   rose pogonia
dwarf milkwort
Polygala nana (Michx.) DC.   small southern jointweed
Nuttall's milkwort
Polygala nuttallii Torr. and A. Gray   shadow-witch
Polygonella americana (Fisch. and Mey)   hot porella
Ponthieva racemosa (Walt.) Mohr   sand cherry
Polygala nuttallii Torr. and A. Gray   Beadle's mountain mint
Pyrola americana Sweet   eastern white water crowfoot
American wintergreen
Rhamnus alnifolia L'Hér.   alderleaf buckthorn
canada burnet
Rhynchospora capillacea Torr.   few-flowered beak-rush
Rhynchospora debilis Gale   savannah beak-rush
Rhynchospora rariflora (Michx.) Ell.   few-flowered beak-rush
Rudbeckia triloba var. beadlei (Small) Fernald browneyed susan
Rugelia nudicaulis Shuttlw. ex Chapman Rugel's ragwort
Prunus pumila L.   rose gentian
Pycnanthemum beadlei (Small) Fern.   sessile-fruited arrowhead
Pycnanthemum torrei Benth.   Canada burnet
Pycnanthemum verticillatum (Michx.) Pers.   swamp saxifrage
Pycnanthemum verticillatum (Michx.) Pers.   hairy scullcap
Sanguisorba canadensis L.   Nevius' stonecrop
Saxifraga caroliniana A. Gray   ovate catchfly
Saxifraga pensylvanica L.   Cumberland rosinweed
Scutellaria arguta Buckl.   Gattinger's goldenrod
Sedum nevii A. Gray   broadleaf goldenrod
Silene ovata Pursh   Porter's goldenrod
Silphium brachiatum Gattinger   rock goldenrod
Solidago gattingeri Chapm.   Blue Ridge goldenrod
Solidago lancifolia Torr. and A. Gray   branching bur-reed
Solidago porteri Small   a liverwort
Solidago ptarmicoides (Nees) Bovin   narrow-leaved meadow-sweet
Solidago rupestris Raf.   Virginia spiraea
Solidago spithamaea M.A. Curtis   Great Plains ladies'-tresses
Sparganium androcladum (Engelm.) Morong yellow nodding ladies'-tresses
Sphenolobopsis pearsonii (Spruce) Shust. & Kitag. sweetscents ladies'-tresses
Spiraea alba DuRoi   Pinry-woods dropseed
Spiraea virginiana Britt.   trailing stitchwort
Spiranthes magnicamporum Sheviak   longleaf stitchwort
Spiranthes ochroleuca (Rydberg) Rydb.   Cumberland featherbells
Spiranthes orbiculata (Nutt.) Lindl.   Sullivan's coolwort
Stellaria al别的 Grimm   bushy aster
Stellaria longifolia Muhlenberg   willow aster
Stenanthium diffusum Wofford   barrens silky aster
Sullivantia sullivantii (Torr. & Gray) Britt. skunk-cabbage
Symphyotrichum ericoides American yew
Symphyotrichum ericoides (L.) G.L. Nesom var. ericoides cutleaf meadow parsnip
Symphyotrichum praealtum (Poir) G. L. Nesom
Symphyotrichum pratense (Rafinesque) Nesom
Symphoricarpus foetidus (L.) Nutt.
Taxus canadensis Marsh.
Thaspium pinnatifidum (Buckley) A. Gray
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.
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.


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.

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.


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


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.


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.
(Rule 0400-06-02-.11, continued)

(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.


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.


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.