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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Environment and Conservation
Division:	Division of Natural Areas
Contact Person:	Todd Crabtree
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0400-06-02	Rare Plant Protection and Conservation Regulations
Rule Number	Rule Title
0400-06-02-.04	List of Endangered Species

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to

<https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0400-06-02
Rare Plant Protection and Conservation Regulations

Amendment

Rule 0400-06-02-.04 List of Endangered Species is amended by deleting it in its entirety and replacing it with the following new Rule 0400-06-02-.04 List of Endangered Species to read as follows:

0400-06-02-.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 decemloba</i> (Greene) Pennel	ten lobe 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>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>Blephilia subnuda</i> Simmers & Kral	Cumberland pagoda-plant
<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
<i>Carex canescens</i> L. ssp. <i>disjuncta</i> Fern.	hoary sedge
<i>Carex fumosimontana</i> Estes	Smoky Mountain sedge
<i>Carex interior</i> L. H. Bailey	inland 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 vinacea</i> Floden	wine colored 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>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 harperi</i> Goodman	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>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
<i>Helenium brevifolium</i> (Nutt.) Wood	shortleaf sneezeweed
<i>Helianthemum canadense</i> (L.) Michx.	Canada frostweed
<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 tennesseensis</i> N.T. Luebke & J.M. Budke	Hiwassee quillwort
<i>Isotria medeoloides</i> (Pursh) Raf.	small whorled pogonia
<i>Lachnanthes caroliana</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>Leptohyemium 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>Lithospermum parviflorum</i> Weakley, Witsell & D. Estes	softhair marbleseed
<i>Lithospermum subsetosum</i> (Mack. & Bush) Weakley, Witsell, & D. Estes	smooth false gromwell
<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>Marsupella funckii</i> (Web. & Mohr) Dumort.	a liverwort
<i>Melanthium latifolium</i> Desr.	broadleaf bunchflower
<i>Melanthium virginicum</i> L.	Virginia 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>Nabalis asper</i> (Michx.) Torr. & A. Gray	rough rattlesnake root
<i>Nestronia umbellula</i> Raf.	conjurer's nut
<i>Packera crawfordii</i> (Britt.) A.M. Mahoney & R.R. Lowal	Crawford's ragwort
<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>Penstemon kralii</i> D. Estes	Kral's beardtongue
<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
<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>Prunus pumila</i> L.	sand cherry
<i>Pycnanthemum beadlei</i> (Small) Fern.	Beadle's mountain mint
<i>Pycnanthemum torrei</i> Benth.	Torrey'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.) Ell.	few-flowered beak-rush
<i>Rudbeckia triloba</i> var. <i>beadlei</i> (Small) Fernald	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>Schoenoplectus subterminalis</i> (Torr.) Soják	swaying bulrush
<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> Chapm.	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>Stachys appalachiana</i> D.B. Poind. & J.B. Nelson	Appalachian hedge-nettle
<i>Stellaria alsine</i> Grimm	trailing stitchwort
<i>Stenanthium diffusum</i> Wofford	Cumberland featherbells
<i>Sullivantia sullivantii</i> (Torr. & Gray) Britt.	Sullivan's coolwort
<i>Symphyotrichum ericoides</i> (L.) G.L. Nesom var. <i>ericoides</i>	bushy aster
<i>Symphyotrichum 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 ammoniana</i> Crum & Anders.	Ammon's tortula
<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> (L.) Hitchc. var. <i>chapmanii</i> (Small) Shinnery	purpletop tridens
<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>Trillium tennesseense</i> E.E. Schill. & Floden	Tennessee 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 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.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 12/18/2019 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/09/19

Rulemaking Hearing(s) Conducted on: (add more dates). 11/15/19

Date: 12/18/2019

Signature: [Handwritten Signature]

Name of Officer: David W. Salyers, P.E.

Title of Officer: Commissioner



Subscribed and sworn to before me on: 12-18-19

Notary Public Signature: Kimberly Bernal Ridings

My commission expires on: 9-6-22

Pursuant to T.C.A. §§ 70-8-305 and 70-8-313, I have reviewed and concur with the additions and deletions to the list of endangered species.

[Handwritten Signature]

Dr. Charlie Hatcher, Commissioner
Department of Agriculture

Agency/Board/Commission: Commissioner of the Department of Environment and Conservation

Rule Chapter Number(s): 0400-06-02

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]

Herbert H. Slatery III
Attorney General and Reporter

4/3/2020

Date

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Filed with the Department of State on: 6/9/2020

Effective on: 9/7/2020



Tre Hargett
Secretary of State

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PUBLICATIONS

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Comment: In the Departments response to comments would you list the geography, topography, and typical habitat, etc. for the plants that were added or removed from the list.

Our goal for your responses would be to assist in informing ordinary citizens, so they can be aware of where these plants are found in the state, so they may be sensitive to where they might encounter these plants. Obviously, we want people to remain sensitive to the plant types that are being removed; otherwise they will end back up on the list.

Response: The requested information is provided for the plants that were added to the list:

Latin Name: *Blephilia subnuda* Common name: Cumberland pagoda-plant
Location: Franklin County, Tennessee
Habitat/Topography: Limestone outcrop woodlands of the Cumberland Plateau

Latin name: *Helianthemum canadense* Common name: Canada frostweed
Location: Monroe, Blount, and Sevier Counties, Tennessee
Habitat/Topography: Dry ridges in the mountains
Fact: This species was removed from the list in 2016 because the populations had not been seen in many years but the site in Blount county was rediscovered in 2018.

Latin name: *Schoenoplectus subterminalis* Common name: swaying bulrush
Location: Cumberland County, Tennessee
Habitat/Topography: In the Caney Fork River

Latin name: *Stachys appalachiana* Common name: Appalachian hedge-nettle
Location: Johnson County, Tennessee
Habitat/Topography: Bogs of Shady valley

The requested information is provided for the plants that were removed from the list:

Latin name: *Allium stellatum* Common name: glade onion
Habitat/Topography: cedar glades of middle Tennessee
Fact: The removal of this species is due to a realization that the few locations in Rutherford and Wilson counties where we have been using this name are actually the same as an undescribed entity which is frequently found on middle Tennessee cedar glades. The two are very similar and early workers didn't realize that what they were seeing was something new. *Allium stellatum* is not known to occur in Tennessee.

Latin name: *Melanthium woodii* Common name: Ozark bunchflower
Location: Wayne, Hickman, Clay, Franklin, Grundy, Campbell and Morgan Counties, Tennessee
Habitat/Topography: Dry woods on slopes that face south and west.
Fact: In recent years much work has been conducted in these habitats and many more plants have been found.

Latin name: *Stellaria longifolia* Common name: longleaf stitchwort
Location: Stewart, Johnson, Carter and Blount counties.
Habitat/Topography: Bogs and meadows

Latin name: *Symphotrichum prealtum* Common name: willow aster
Location: Davidson, Johnson, Shelby, Carroll and Fayette counties, Tennessee
Habitat/Topography: Wet areas near rivers, bogs

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

There are no changes to the costs or benefits to small businesses in the proposed rule changes.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no changes to reporting or recordkeeping in the proposed rule changes.

- (3) A statement of the probable effect on impacted small businesses and consumers.

No effect on businesses or consumers is expected.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

Any measures less burdensome would not achieve the purpose of the rule.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The Endangered Species Act of 1973 (16 USC. 1531-1544) and the federal regulations promulgated thereunder provide special protection for species of plants that have been found to be endangered nationally. The Rare Plant Protection Act of 1985 (Tenn. Code Ann. § 70-8-301, et seq.) and the rules promulgated thereunder provide protection for plants found in Tennessee that are protected under the federal law and also protects additional species that have been found in Tennessee and are endangered but that may or may not be protected under federal law.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There are no additional requirements in the rule changes.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department does not anticipate that these amended rules will have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rulemaking includes modifications to Chapter 0400-06-02, Rare Plant Protection and Conservation Regulations, that remove some plants from the list, add some plants to the list and correct scientific names for some plants on the list.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Rare Plant Protection Act of 1985 (T.C.A. § 70-8-301 et seq.) sets forth guidelines for establishing a rare plant list and maintaining a program to monitor the trade in endangered plant species.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Rare plant dealers would be the only entities that could potentially be affected. However, the Division of Natural Areas has no knowledge that any of the newly listed plants have been traded to date. Public notice was provided, but no comments were received from dealers or other stakeholders.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Department is not aware of any.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The Department does not expect any increase or decrease in revenues or expenditures because there are no fees associated with this rule.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Todd Crabtree
Division of Natural Areas
William R. Snodgrass Tennessee Tower
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- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Horace Tipton
Office of General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-5339
Horace.Tipton@tn.gov

- (l) Any additional information relevant to the rule proposed for continuation that the committee requests.

Economic Impact Statement [Tenn. Code Ann. § 4-33-104(b)]

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.
- Updating the Tennessee Endangered Plant list is the proposed action and that involves removing plant species from or adding plant species to the list through a rule change. The purpose of the action is to update the status of endangered plants on the list based on the most up to date data and observations. The Rare Plant Protection Act of 1985 (T.C.A. § 70-8-301 et seq.) sets forth guidelines for establishing a rare plant list and maintaining it.
- (2) A determination that the action is the least-cost method for achieving the stated purpose.
- A rule change is the only method available for the action.
- (3) A comparison of the cost-benefit relation of the action to nonaction.
- No revenue expenditures are associated with this action.
- (4) A determination that the action represents the most efficient allocation of public and private resources.
- A rule change is the only method available for the action.
- (5) A determination of the effect of the action on competition.
- No effect on competition is expected.
- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.
- No effect on the cost of living is expected.
- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.
- No effect on employment is expected.
- (8) The source of revenue to be used for the action.
- This rulemaking was funded using existing revenue.
- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.
- No economic impact is expected from this action.

**Department of State
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Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Environment and Conservation
Division:	Division of Natural Areas
Contact Person:	Todd Crabtree
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2nd Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-1378
Email:	Todd.Crabtree@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0400-06-02	Rare Plant Protection and Conservation Regulations
Rule Number	Rule Title
0400-06-02-.04	List of Endangered Species

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0400-06-02
Rare Plant Protection and Conservation Regulations

Amendment

Rule 0400-06-02-.04 List of Endangered Species is amended by deleting it in its entirety and replacing it with the following new Rule 0400-06-02-.04 List of Endangered Species to read as follows:

0400-06-02-.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 decemloba</i> (Greene) Pennel	ten lobe 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.) Rohrbach	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>Blephilia subnuda</i> Simmers & Kral	Cumberland pagoda-plant
<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
<i>Carex canescens</i> L. ssp. <i>disjuncta</i> Fern.	hoary sedge
<i>Carex fumosimontana</i> Estes	Smoky Mountain sedge
<i>Carex interior</i> L. H. Bailey	inland 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 vinacea</i> Floden	wine colored leatherflower
<i>Clematis morefieldii</i> Kral	Huntsville vasevine
<i>Clethra alnifolia</i> L.	coastal pepperbush
<i>Coeloglossum viride</i> (L.) Hartman	long-bracted green orchis

var. <i>virescens</i> (Muhl. ex Willd.) Luer	
<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>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 harperi</i> Goodman	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>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
<i>Helenium brevifolium</i> (Nutt.) Wood	shortleaf sneezeweed
<i>Helianthemum canadense</i> (L.) Michx.	<u>Canada frostweed</u>
<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 tennesseensis</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>Leptohymenium 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>Lithospermum parviflorum</i> Weakley, Witsell & D. Estes	softhair marbleseed
<i>Lithospermum subsetosum</i> (Mack. & Bush) Weakley, Witsell, & D. Estes	smooth false gromwell
<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>Nabalus asper</i> (Michx.) Torr. & A. Gray	rough rattlesnake root
<i>Nestronia umbellula</i> Raf.	conjuror's nut
<i>Packera crawfordii</i> (Britt.) A.M. Mahoney & R.R. Lowal	Crawford's ragwort
<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>Penstemon kralii</i> D. Estes	Kral's beardtongue
<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
<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>Prunus pumila</i> L.	sand cherry
<i>Pycnanthemum beadlei</i> (Small) Fern.	Beadle's mountain mint
<i>Pycnanthemum torrei</i> Benth.	Torrey'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> var. <i>beadlei</i> (Small) Fernald	browneyed susan
<i>Rugelia nudicaulis</i> Shuttlw. ex Chapman	Rugel's ragwort
<i>Sabatia capitata</i> (Raf.) Blake	rose gentian

Sagittaria rigida Pursh
Sanguisorba canadensis L.
Saxifraga caroliniana A. Gray
Saxifraga pennsylvanica L.
Schoenoplectus subterminalis (Torr.) Soják
Scutellaria arguta Buckl.
Sedum nevii A. Gray
Silene ovata Pursh
Silphium brachiatum Gattinger
Solidago gattingeri Chapm.
Solidago lancifolia Torr. and A. Gray
Solidago porteri Small
Solidago ptarmicoides (Nees) Boivin
Solidago rupestris Raf.
Solidago spithamea M.A. Curtis
Sparganium androcladum (Engelm.) Morong
Sphenolobopsis pearsoni (Spruce) Shust. & Kitag.
Spiraea alba DuRoi
Spiraea virginiana Britt.
Spiranthes magnicamporum Sheviak
Spiranthes ochroleuca (Rydb.) Rydb.
Spiranthes odorata (Nutt.) Lindl.
Sporobolus junceus (P.Beauv.) Kunth
Stachys appalachiana D.B. Poind. & J.B. Nelson
Stellaria alsine Grimm
Stellaria longifolia Muhl.
Stenanthium diffusum Wofford
Sullivantia sullivantii (Torr. & Gray) Britt.
Symphotrichum ericoides
(L.) G.L. Nesom var. *ericoides*
Symphotrichum praealtum (Poiret) G. L. Nesom
Symphotrichum pratense (Rafinesque) Nesom
Symplocarpus foetidus (L.) Nutt.
Taxus canadensis Marsh.
Thaspium pinnatifidum (Buckley) A. Gray
Tortula ammonsiana Crum & Anders.
Tortula fragilis Tayl.
Triantha glutinosa (Walter) Small
Triantha racemosa (Walter) Small
Tridens flavus
(L.) Hitchc. var. *chapmanii* (Small) Shinnery
Trichophorum cespitosum (L.) Hartman
Trifolium calcaricum J.L. Collins & Wieboldt
Trifolium reflexum L.
Trillium decumbens Harbison
Trillium lancifolium Raf.
Trillium pusillum Michx.
Trillium rugelii Rendle
Trillium tennesseense E.E. Schill. & Floden
Utricularia cornuta Michx.
Vaccinium elliotii Chapm.
Veronica catenata Pennell
Veronica scutellata L.
Viburnum molle Michx.
Vitis rupestris Scheele
Xyris ambigua Beyr. ex. Kunth.
Xyris fimbriata Ell.
Xyris tennesseensis R. Kral
Zigadenus glaucus Nutt.

sessile-fruited arrowhead
canada burnet
Carolina saxifrage
swamp saxifrage
swaying bulrush
hairy scullcap
Nevius' stonecrop
ovate catchfly
Cumberland rosinweed
Gattinger's goldenrod
broadleaf goldenrod
Porter's goldenrod
prairie goldenrod
rock goldenrod
Blue Ridge goldenrod
branching bur-reed
a liverwort
narrow-leaved meadow-sweet
Virginia spiraea
Great Plains ladies'-tresses
yellow nodding ladies'-tresses
sweetscent ladies'-tresses
Piney-woods dropseed
Appalachian hedge-nettle
trailing stitchwort
longleaf-stitchwort
Cumberland featherbells
Sullivan's coolwort
bushy aster

willow aster
barrens silky aster
skunk-cabbage
American yew
cutleaf meadow parsnip
Ammon's tortula
fragile tortula
sticky false asphodel
coastal false-asphodel
purpletop tridens

tufted club-rush
running glade clover
buffalo clover
trailing trillium
narrow-leaved trillium
least trillium
southern nodding trillium
Tennessee trillium
horned bladderwort
mayberry
sessile water-speedwell
marsh-speedwell
softleaf arrow-wood
rock grape
coastal-plain yellow-eyed-grass
fringed yellow-eyed-grass
Tennessee yellow-eyed-grass
white camas

Authority: T.C.A. §§ 4-5-201 et seq. and 70-8-301 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 12/18/2019, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/09/19

Rulemaking Hearing(s) Conducted on: (add more dates). 11/15/19

Date: December 18, 2019

Signature: _____

Name of Officer: David W. Salyers, P.E.

Title of Officer: Commissioner

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Pursuant to T.C.A. §§ 70-8-305 and 70-8-313, I have reviewed and concur with the additions and deletions to the list of endangered species.

Dr. Charlie Hatcher, Commissioner
Department of Agriculture

Agency/Board/Commission: Commissioner of the Department of Environment and Conservation

Rule Chapter Number(s): 0400-06-02

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Comment: In the Departments response to comments would you list the geography, topography, and typical habitat, etc. for the plants that were added or removed from the list.

Our goal for your responses would be to assist in informing ordinary citizens, so they can be aware of where these plants are found in the state, so they may be sensitive to where they might encounter these plants. Obviously, we want people to remain sensitive to the plant types that are being removed; otherwise they will end back up on the list.

Response: The requested information is provided for the plants that were added to the list:

Latin Name: *Blephilia subnuda* Common name: Cumberland pagoda-plant
Location: Franklin County, Tennessee
Habitat/Topography: Limestone outcrop woodlands of the Cumberland Plateau

Latin name: *Helianthemum canadense* Common name: Canada frostweed
Location: Monroe, Blount, and Sevier Counties, Tennessee
Habitat/Topography: Dry ridges in the mountains
Fact: This species was removed from the list in 2016 because the populations had not been seen in many years but the site in Blount county was rediscovered in 2018.

Latin name: *Schoenoplectus subterminalis* Common name: swaying bulrush
Location: Cumberland County, Tennessee
Habitat/Topography: In the Caney Fork River

Latin name: *Stachys appalachiana* Common name: Appalachian hedge-nettle
Location: Johnson County, Tennessee
Habitat/Topography: Bogs of Shady valley

The requested information is provided for the plants that were removed from the list:

Latin name: *Allium stellatum* Common name: glade onion
Habitat/Topography: cedar glades of middle Tennessee
Fact: The removal of this species is due to a realization that the few locations in Rutherford and Wilson counties where we have been using this name are actually the same as an undescribed entity which is frequently found on middle Tennessee cedar glades. The two are very similar and early workers didn't realize that what they were seeing was something new. *Allium stellatum* is not known to occur in Tennessee.

Latin name: *Melanthium woodii* Common name: Ozark bunchflower
Location: Wayne, Hickman, Clay, Franklin, Grundy, Campbell and Morgan Counties, Tennessee
Habitat/Topography: Dry woods on slopes that face south and west.
Fact: In recent years much work has been conducted in these habitats and many more plants have been found.

Latin name: *Stellaria longifolia* Common name: longleaf stitchwort
Location: Stewart, Johnson, Carter and Blount counties.
Habitat/Topography: Bogs and meadows

Latin name: *Symphotrichum prealtum* Common name: willow aster
Location: Davidson, Johnson, Shelby, Carroll and Fayette counties, Tennessee
Habitat/Topography: Wet areas near rivers, bogs

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

There are no changes to the costs or benefits to small businesses in the proposed rule changes.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no changes to reporting or recordkeeping in the proposed rule changes.

- (3) A statement of the probable effect on impacted small businesses and consumers.

No effect on businesses or consumers is expected.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

Any measures less burdensome would not achieve the purpose of the rule.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The Endangered Species Act of 1973 (16 USC. 1531-1544) and the federal regulations promulgated thereunder provide special protection for species of plants that have been found to be endangered nationally. The Rare Plant Protection Act of 1985 (Tenn. Code Ann. § 70-8-301, et seq.) and the rules promulgated thereunder provide protection for plants found in Tennessee that are protected under the federal law and also protects additional species that have been found in Tennessee and are endangered but that may or may not be protected under federal law.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There are no additional requirements in the rule changes.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department does not anticipate that these amended rules will have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rulemaking includes modifications to Chapter 0400-06-02, Rare Plant Protection and Conservation Regulations, that remove some plants from the list, add some plants to the list and correct scientific names for some plants on the list.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Rare Plant Protection Act of 1985 (T.C.A. § 70-8-301 et seq.) sets forth guidelines for establishing a rare plant list and maintaining a program to monitor the trade in endangered plant species.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Rare plant dealers would be the only entities that could potentially be affected. However, the Division of Natural Areas has no knowledge that any of the newly listed plants have been traded to date. Public notice was provided, but no comments were received from dealers or other stakeholders.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Department is not aware of any.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The Department does not expect any increase or decrease in revenues or expenditures because there are no fees associated with this rule.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

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- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Horace Tipton
Office of General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Economic Impact Statement [Tenn. Code Ann. § 4-33-104(b)]

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.
- Updating the Tennessee Endangered Plant list is the proposed action and that involves removing plant species from or adding plant species to the list through a rule change. The purpose of the action is to update the status of endangered plants on the list based on the most up to date data and observations. The Rare Plant Protection Act of 1985 (T.C.A. § 70-8-301 et seq.) sets forth guidelines for establishing a rare plant list and maintaining it.
- (2) A determination that the action is the least-cost method for achieving the stated purpose.
- A rule change is the only method available for the action.
- (3) A comparison of the cost-benefit relation of the action to nonaction.
- No revenue expenditures are associated with this action.
- (4) A determination that the action represents the most efficient allocation of public and private resources.
- A rule change is the only method available for the action.
- (5) A determination of the effect of the action on competition.
- No effect on competition is expected.
- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.
- No effect on the cost of living is expected.
- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.
- No effect on employment is expected.
- (8) The source of revenue to be used for the action.
- This rulemaking was funded using existing revenue.
- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.
- No economic impact is expected from this action.