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## Amendment

### Chapter 0400-02-08

#### Management of Tennessee Natural Resource Areas

Chapter 0400-02-08 Management of Tennessee Natural Resource Areas is deleted in its entirety and replaced with the following so that, as amended, the Chapter shall read:

### Chapter 0400-02-08

#### Management of Tennessee Natural Areas

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#### 0400-02-08-.01 Natural Areas

Natural areas are areas possessing scenic; scientific, including biological and geological; and/or recreational values. Natural areas consist of legislatively designated areas that have been established to preserve an area's inherent qualities and/or provide a specialized recreational facility. Each natural area is maintained and operated primarily for the preservation of the particular area or resource. The development of natural areas shall be limited to a few basic physical facilities. Larger structures such as interpretation and visitor centers, staff residences, picnic areas, parking areas and toilet facilities shall be located in specified zones near the major access points, if they cannot be located outside of the natural area. The purpose of these rules is to assure the preservation of natural areas throughout the state and to prevent abuse and misuse of the privileges and facilities provided.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.02 Applicability and Scope

These rules apply to all natural areas. The state park rules at Chapter 0400-02-02 also apply to natural areas. Many state statutes are also applicable to all natural areas, including, but not limited to, T.C.A. § 11-5-108 regarding vandalism of caves.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.03 Definitions

When used in these rules the following terms have the meanings given below unless otherwise specified:

- (1) "Commissioner" means the Commissioner of the Tennessee Department of Environment and Conservation or the Commissioner's designee.
- (2) "Department" means the Tennessee Department of Environment and Conservation.
- (3) "Natural area" means those areas legislatively designated natural areas pursuant to T.C.A. § 11-14-108.
- (4) "Program Administrator" means the administrator of the Natural Areas program.
- (5) "Manager" means that person given the responsibility by the Commissioner of overseeing a particular natural area.
- (6) "Designated agency" means that agency designated in the management plan for the natural area as being responsible for management of the natural area.
- (7) "Exotic species" means those species considered non-indigenous to the particular area.
- (8) "Unmanned aircraft system" or "UAS" means unmanned aircraft system as defined in Rule 0400-02-02-.33.
- (9) "FAA" means the Federal Aviation Administration, or its successor agency.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.04 Penalties

- (1) T.C.A. § 11-14-115(a) states that whoever violates, fails, neglects, or refuses to obey any provision of the Natural Areas Preservation Act or rule promulgated thereunder may be punished by a fine of not less than \$100 for each day of such violation.
- (2) T.C.A. § 11-14-115(b) states that any person who commits any of the following acts or omissions is subject to a civil penalty of up to \$10,000 per day for each day during which the act or omission continues or occurs:
  - (a) Any damage or vandalism to any natural area;
  - (b) The removal or destruction of any rare, threatened or endangered species of plants in any natural area; or
  - (c) Any other violation of the Natural Areas Preservation Act or this Chapter.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.05 Management Plan

- (1) There shall be a management plan for each natural area. Development of each management plan shall adhere to a standardized outline format. The Department may consult with citizen's organizations, as well as federal, state, and municipal agencies in the preparation of these plans.
- (2) Responsibility for preparation and revision of the management plan for each natural area shall rest with the natural area's Program Administrator or the state park manager with the approval of the Commissioner. The state park manager is responsible for preparation and revision when the primary management authority is the state park. For natural areas owned and managed by federal agencies, both the preparation and revision of the management plan and the day to day management of the natural area are the responsibility of the federal agencies. The Program Administrator shall be notified when federal agencies or state park managers are preparing and revising a management plan. For natural areas that are not owned by state or federal agencies, the owners shall be consulted regarding the management plan preparation. Representatives of administering agencies, private organizations, and other interested groups or individuals may provide written comment on management plans.
- (3) The management plan for each natural area and revisions thereto shall take effect upon approval by the Commissioner. A deviation from these rules shall take effect only as provided in paragraph (5) of this rule. An up-to-date copy of each management plan shall be held by the manager, the Department, and the designated agency. These copies shall be available to public inspection during regular business hours as provided by law.
- (4) Management of each natural area shall be in accordance with these rules except for deviations as may be provided in the management plan for natural areas.
- (5) Whenever it is required in accordance with the management plan that there be a deviation from the rules in the management of a natural area, such deviation shall be set forth in detail, together with the reasons therefore, in the management plan. A deviation from these rules shall take effect only upon approval by the Commissioner, and only when in accordance with the provisions and restrictions of the Natural Areas Preservation Act of 1971, T.C.A. §§ 11-14-101 et seq.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.06 Administration and Custody

The form and method of administration and custody of each natural area shall be designated in the management plan. Each natural area shall have a manager who shall administer, manage, and protect the natural area in accordance with these rules and the management plan. The management plan shall designate an agency or owner to manage the natural area. The management plan may make a recommendation on whether an individual manager is needed full time in the natural area.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.07 Reports

The designated agency shall submit an annual report and such other periodic reports to the Commissioner in such form and at such time as the Commissioner may designate. The annual report shall include a record of management activities, land and easement inspection reports, natural catastrophes, visitor use data, and other influences affecting natural conditions within the natural area as provided in Rule 0400-02-08-.30. State and federal agencies shall be contacted for special conditions that might affect the natural area.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.08 Intrusions

- (1) Environmental intrusions are those areas, structures, or works of man that cause a negative impact upon the character of the natural area or the experience the natural area offers to its users.
- (2) There shall be no development of structures, rights-of-way, or land uses which do not conform with the purposes and definition of a natural area as specified in T.C.A. §§ 11-14-101 et seq., or these rules, except for intrusions that are permitted by each management plan. Any intrusion allowed by the

management plan shall be considered as a deviation from these rules and treated as provided in Rule 0400-02-08-.05.

- (3) Any environmental intrusion not necessary for the public use or well-being or for the management of the natural area, and is of such nature that it can be excluded, shall be so removed. This includes, but is not limited to, removing and revegetating roads, relocating powerlines, removing buildings, removing dams, and removing trash dumps.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.09 Publicity

Information about natural areas and appropriate descriptive material shall be developed and made available to all interested persons. Publicity that would tend to induce the general public to visit a natural area, except to such extent as is compatible with the maximum desirable visitor use for the natural area as established by the management plan shall be avoided. (See Rule 0400-02-08-.25.) Information shall emphasize protection and preservation of the natural area.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.10 Boundary Markers

State owned natural area boundaries shall be made clearly evident by placing survey monuments at corners or other strategic locations, by posting boundary markers at intervals not exceeding 200 feet, or a shorter distance if necessary, so that each sign shall be visible from at least one other sign, except as otherwise provided in the management plan, and, if appropriate, by fencing or other means. Boundary marking of non-state owned natural areas shall be addressed in the management plan.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.11 Boundary Fences

Necessary boundary fences and barriers may be installed as provided in the management plan. Generally, the fences and barriers shall not be in a form that may create a detrimental effect on movement of wildlife, air circulation, or other natural or aesthetic conditions. The fences and barriers shall also not, generally, cause unnecessary public opposition.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.12 Roads

- (1) **Service Roads.** Vehicular access lanes shall be installed and maintained within a natural area only where essential for patrol, fire control, or other necessary management activities, and in accordance with the management plan. Such lanes shall be closed to all vehicles except service and emergency vehicles. The service roads shall provide a single track and clearing shall not extend more than seven feet on each side of the center of the lane. Existing roads that are no longer necessary for management purposes shall be treated as intrusions per Rule 0400-02-08-.08 unless otherwise utilized for public access as part of a trail system.
- (2) **Public Access Roads.** Public access roads shall be installed and maintained only when needed to provide for visitor utilization of the natural area. Installation of these roads shall be in accordance with Rule 0400-02-08-.24 and the management plan. These roads shall be constructed subject to the following criteria:
  - (a) Road development in all natural areas shall be limited to the minimum extent necessary to provide access for the maintenance and/or public use of the natural area. Roads shall be designed and located with extreme care and with a concern for the environment. Roads shall follow the general contour of the natural terrain.

- (b) Roads in natural areas shall be constructed for a design speed not to exceed twenty-five miles per hour. Excessive cuts and fills shall be avoided. The width of roadways shall not exceed eighteen feet. Shoulders of the roadway shall not exceed one foot in width on each side. Two additional feet of shoulder may be allowed where guardrails are needed for safety purposes. The design of all structures, including, but not limited to, bridges, tunnels, grade separation devices, and retaining walls, shall be aesthetically pleasing and functional. Grades of up to 10% may be used where needed for short distances. Gravel surfaced roads shall be used when practical in keeping with primitive character of the natural area. Asphalt or concrete surfacing may be used where heavy use will make gravel surfacing impractical or when the safety of the visitor is involved.
- (3) Careful attention shall be given to the impact that roads will have on the environment in the planning phase of natural area development. Road construction will not be initiated if during this phase it is determined that the impact will be negative to the character of the natural area. The appropriate Program Administrator for the natural area shall carefully weigh such values as drainage, streamflow, wildlife habitat and mobility, natural vegetation, geologic features, scenic features, noise levels, and other natural characteristics of the natural area before determining whether a road is to be built. The exact route of the proposed road shall be inspected at the site to ensure that all natural features have been considered.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.13 Trails

Location, form, and plan of any trails other than natural wildlife paths shall be specified in the management plan and conform to the objectives of the natural area. Trails shall be adequate to provide for permitted use of a natural area and to prevent erosion, trampling of vegetation, and other deterioration, but otherwise shall be kept to a minimum. Use of tread materials, footbridges, and elevated walks is permissible when necessary and provided for in the management plan. Trail development in natural areas is limited to foot trails and foot bridges. Only low impact recreation associated with hiking is permitted on foot trails. An exception may be granted for county or municipal owned natural areas where bicycling was expressly permitted prior to designation, provided that it is mentioned as a deviation in the management plan, as provided in Rules 0400-02-08-.05 and 0400-02-08-.30.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.14 Other Structures and Improvements

Necessary signs, trash receptacles, and similar structures are permitted if provided for in the management plan or in a permit for scientific research activities. All structures and service facilities shall be located in specified areas only. Signs and structures shall conform to such style and standards as the Commissioner may establish.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.15 Buffer Areas

Buffer areas may be established adjacent to or within natural areas when deemed appropriate to eliminate the adverse effects of external influences. Such buffer areas may be devoted to uses other than nature preservation that do not adversely affect the natural area. Buffer areas may be controlled by ownership, easement, cooperative agreement, or other appropriate means. Criteria for buffer areas shall be included in the management plan. Management of a buffer area shall be in accordance with guidelines and provisions in the Natural Areas Preservation Act of 1971, T.C.A. §§ 11-14-101 et seq.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.16 Service Areas

Service areas may be established within buffer areas to provide access and parking, management facilities, and visitor facilities. Provisions for service areas shall be included in the management plan.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.17 Scenic and Landscape Management

- (1) No measures shall be taken to alter natural growth or features for the purpose of enhancing the beauty, neatness, or amenities of a natural area.
- (2) Except as provided in the management plan, in a natural area there shall be no:
  - (a) Cutting of grass, brush, or other vegetation;
  - (b) Thinning of trees;
  - (c) Removal of dead wood, except for safety purposes;
  - (d) Opening of scenic vistas; or
  - (e) Planting.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.18 Visitor Safety

Guardrails, fences, steps, and other devices necessary for visitor safety may be installed as provided in the management plan.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.19 Removal or Introduction of Objects

Except as provided in the management plan, there shall be no removal of any natural material, product, or object from a natural area. A Scientific Research and Collecting permit is required for collecting in all natural areas. (See Rule 0400-02-08-.28.) No natural or man-made object that could endanger or detract from the natural characteristics of the natural area may be introduced to the natural area.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.20 Water Level Control

Natural water levels shall not be altered. Water levels that have been altered by human activity may be changed if provided for in the management plan as essential for the restoration, safety, management, or maintenance of the natural area.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.21 Fire Control

All wildfires within a natural area shall be brought under control as quickly as possible. After a fire within a natural area there shall be no cleanup, fire hazard reduction, or replanting except with the approval of the Commissioner. Any special procedures and methods to be used for prevention and control of fire shall be included in the management plan.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.22 Erosion Control

Erosion and soil deposition due to past or present disturbance by human activity or natural conditions within the natural area may be controlled in accordance with provisions of the management plan.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.23 Vegetation and Wildlife Management

- (1) Management of Rare or Unusual Plants and Animal Species.
  - (a) Control of plant succession and habitat shall be undertaken only if restoration or preservation of a particular vegetative type, or preservation of a rare species of native flora or fauna, is designated in the management plan as an objective of the natural area.
  - (b) Control measures must be undertaken only with adequate prior observation and study of the natural areas and only with adequate scientific evidence of necessity. Control measures shall be followed by adequate observation and study of results. The Tennessee Wildlife Resources Agency shall be consulted in matters of management or control of wildlife populations.
- (2) Control of Exotic Species. Control of exotic species may be undertaken as provided in the management plan. No introduction of non-indigenous species is allowed except if the introduced species is used to control damaging pests. The Tennessee Wildlife Resources Agency shall be consulted in matters of management or control of wildlife populations.
- (3) Control of Native Populations. There shall be no action to increase or reduce populations of native plants or animals or to restrict movement of wildlife across boundaries of a natural area except as provided in the management plan. The Tennessee Wildlife Resources Agency shall be consulted in matters of management or control of wildlife populations.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.24 Use

- (1) Use of natural areas shall be allowed only to such extent and in such manner as will not impair natural conditions. To the extent possible, the management plan shall define the use of each portion of the natural area and specify the controls and restrictions to be placed on access and use. The manager shall monitor conditions under which use will result in deterioration of the area and shall have the authority to further restrict access and use as necessary to protect the area. (See Rule 0400-02-08-.25.)
- (2) Visitor activities that are not compatible with the preservation of the natural character of each natural area shall not be permitted.

Authority: T.C.A. §§ 11-1-101, 11-14-104, 11-14-106, and 4-5-201 et seq.

#### 0400-02-08-.25 Natural Environment Zone

- (1) Each natural area may be divided into Natural Environment Zones according to degree of development within the respective Natural Environmental Zones. Visitor presence and use may be specified for each Natural Environmental Zone.
- (2) In establishing Natural Environmental Zones, consideration shall be given to the natural features and characteristics of the resource and to the objectives of the natural area as stated in the management plan.
- (3) Natural areas are classified by default as natural environment predominates (Natural Environmental Zone 2). Delineation of any part of a natural area as any other Natural Environmental Zone shall be referenced in the management plan.
- (4) Classification of Natural Environment Zones.

#### ZONE DESCRIPTION AND PRIMARY USE

- |   |   |
|---|---|
| 1 | Unmodified area containing unique natural characteristics is predominant. Primary use is research. Permit required for utilization.     |
| 2 | Natural environment predominates. Day use passive recreation experience is emphasized. Primary visitor uses are hiking and observation. |

- 3 Slightly modified natural environment discernible. Man-made structures are minimal. Primary visitor uses are hiking, observation, and camping.
- 4 Modified natural environment evident. Visitor centers, staff residences, picnic, parking, and sanitary facilities are permitted.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.26 Access Control

Ingress and egress shall be allowed only at such locations and under such conditions as may be specified in the management plan. (See Rule 0400-02-08-.24 and Rule 0400-02-08-.12(2).)

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.27 Orientation and Guidance of Visitors

There may be an interpretive program within each natural area for the orientation, education, and guidance of visitors. Exhibits, programs, and printed materials as well as guide service, interpretive programs, and labeled nature trails may be provided within the area. The overall interpretive program shall conform to the criteria in the management plan and to such additional general or special rules as the Commissioner may establish.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.28 Special Use of Areas

- (1) A person wishing to engage in research or educational activities in a natural area not otherwise permitted by these rules or in the management plan for the area shall secure a permit from the Department. If the activities are to be carried on by a group, a special use permit may be issued to the group leader who shall be responsible for the actions of the group.

##### (a) Educational Permits.

1. This permit shall provide adequate information about the applicant and his or her educational activities, including:
  - (i) The name, address, position, professional qualifications, and general field of interest of the applicant; and
  - (ii) A description of the educational activities including:
    - (I) The objective, methods, and procedures to be followed;
    - (II) Records to be kept;
    - (III) Duration of the project;
    - (IV) Areas to be visited;
    - (V) Frequency and length of visits; and
    - (VI) Detailed description of disturbances to be made.
2. Educational permits shall be required on Natural Environment Zone 1 and other areas that may be designated in the management plan. (See Rule 0400-02-08-.25)

##### (b) Scientific Research and Collecting Permits.



1. This permit shall provide adequate information about the applicant and his or her research activities, including:
  - (i) The name, address, position, professional qualifications, and general field of interest of the applicant; and
  - (ii) A description of the activities, including:
    - (I) The objective, methods, and procedures to be followed;
    - (II) Records to be kept;
    - (III) Duration of the project;
    - (IV) Areas to be visited;
    - (V) Frequency and length of visits; and
    - (VI) Detailed description of disturbances to be made.
2. Scientific Research and Collecting permits may be issued to an individual or individuals for the purpose of collection of biological, geological, or archaeological materials in natural areas. Permits shall be issued on the basis that the applicant agrees to adhere to these rules concerning natural areas.
3. Applicants who are granted permission to conduct research or collect in natural areas must submit written yearly reports of their research to the Commissioner after the application is approved. The collection data must be available to the public at all times for the purpose of scientific research and to be made part of the natural area's management plan.
4. The application must specify information concerning the species or objects to be taken, numbers of species, method of taking, and disposition of specimens. A Scientific Research and Collecting permit shall be required for activities conducted in any part of a natural area. Any permit that may be required by another agency must be obtained prior to research or collecting in natural areas.
5. Specimens collected for curation shall be deposited in a publicly accessible institution.

(c) Fire Permits.

A permit for the use of fire in a natural area shall be required for areas designated by the management plan as Natural Environment Zones 1 and 2. In Natural Environmental Zones 3 and 4 a fire permit is not necessary but shall be restricted to designated areas.

(d) Unmanned Aircraft System Permits.

All flights of unmanned aircraft systems (UAS) in a natural area shall be conducted and permitted according to the requirements outlined in Rule 0400-02-02-.33. For natural areas without a full-time manager, the Program Administrator shall serve as the manager for purposes of UAS operations in those natural areas.

(2) General Information Concerning Permits.

- (a) A permit shall be valid for no longer than one year but may be renewed if a completed request for renewal on the form required by the Commissioner is received prior to the expiration of a permit. If no request for renewal is received prior to the expiration of an existing permit, then the permit holder shall file an application for a new permit.

- (b) The Commissioner may modify, suspend, revoke, refuse to issue, or refuse to renew a permit at any time. Reasons for such action include, but are not limited to:
1. Violation of any rule, law, term or condition of a permit, or order of the Department or Commissioner;
  2. Violation of the terms or conditions of any current or previously-issued permit issued by the Department or the Commissioner;
  3. Allowing the activity under the permit will create an unreasonable threat to a natural area or the health or safety of the public;
  4. The permit holder does not intend to comply with, or cannot comply with, any terms, conditions, or requirements of the permit, including compliance with all required laws and rules; or
  5. Issuance, renewal, or continuation of the permit is not in the best interest of any natural area.
- (c) A person holding a permit shall report to the manager as required by the permit. Required reporting may include, but not be limited to, reporting before commencing and/or upon completing permitted activities.
- (3) For the purposes of this rule, unless context otherwise requires, "permit means an Educational permit, a Scientific Research and Collecting permit, or a Fire permit issued pursuant to this rule. A permit issued under this rule only constitutes temporary, terminable permission to engage in the permitted activity and is not intended to create any ongoing right to engage in any activity.
- (4) The Commissioner may, prior to the issuance or renewal of any permit, require a permit applicant to pay (in the form of a credit card, cash, certified check, or money order made payable to the Department) an amount determined by the Commissioner to be the reasonable anticipated costs sufficient to cover costs incurred by the Department in processing the permit application and overseeing the permitted activity as determined by the specific facts and circumstances of that permit. Upon request, the Commissioner shall provide a written breakdown of the anticipated costs. Nothing in this paragraph shall require the Commissioner to charge any costs for the issuance or renewal of a permit if the Commissioner determines that the permit may be issued and overseen without substantial cost to the Department.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.29 Management Research

There shall be continuing studies of the general problems regarding the management of natural areas. Appropriate action shall be taken by the manager to alleviate problems determined by these studies and to enhance preservation of the natural area.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.

#### 0400-02-08-.30 Record

Records shall be retained for each natural area. Records may include annual reports of the manager as provided in Rule 0400-02-08-.07 and all other pertinent documentary material, studies, reports, obsolete portions of the management plan, Scientific Research and Collecting permits, and descriptions of significant events. The form and content of the record shall be as the Commissioner may establish.

Authority: T.C.A. §§ 11-1-101, 11-14-104, and 4-5-201 et seq.