

## SECTION II – THREATENED AND ENDANGERED SPECIES

### INTRODUCTION

County lists of threatened and endangered species are no longer maintained online for Field Office review. All conservation planning, including technical assistance only and those receiving financial assistance, requires NRCS Area Biologist's review and approval prior to contract funding and/or practice implementation.

### BACKGROUND

The Endangered Species Act, first passed in 1973 and amended twice since, conserves endangered and threatened species and the ecosystems on which they depend.

### KEY ELEMENTS OF THE ENDANGERED SPECIES ACT

- *Section 4* – The Secretary of the Interior is provided authority to list species. (This authority has been relegated to the U.S. Fish and Wildlife Service (FWS)).
- *Section 7* – All federal agencies will consult with the FWS to ensure that:
  - Agency programs are carried out in a manner to conserve federally listed species.
  - Any activity funded, authorized, or implemented does not jeopardize survival of a listed or proposed listed species or adversely affect habitat determined to be critical.
- *Section 9* – Enforcement.
  - Forbids import, export, interstate, or foreign sale of protected species without a special permit.
  - Illegal to kill, harm, harass, possess, or remove protected animals without a special permit. Listed plants may not be taken from federal or private lands if it violates State law.
  - The penalty for a violation of the Act can include fines of up to \$100,000 and one year in jail. Organizations may be fined up to \$200,000.

## **NRCS POLICY FOR THE PROTECTION OF THREATENED AND ENDANGERED SPECIES**

General Manual, Title 190, Part 410.22, “Endangered and Threatened Species of Concern,” addresses the policy, which is summarized as follows:

1. NRCS will assist in the conservation of threatened and endangered species.
2. NRCS will avoid or prevent activities detrimental to threatened and endangered species.
3. NRCS will implement this policy for federally listed species and all species designated by the State as rare, threatened, and/or listed in the most recent Natural Heritage Program – Threatened and Endangered Species geodatabase.
4. State Conservationists will make full use of informal consultation with the FWS.

NOTE: In addition to the informal consultation with FWS, the NRCS-TN State Conservationist will consult with the Tennessee Department of Environment and Conservation (TDEC) and the Tennessee Wildlife Resources Agency (TWRA). This is delegated to NRCS-TN Biologists.

5. NRCS may initiate formal consultation when required from informal consultation on conservation activities.
6. NRCS will conduct an Environmental Evaluation (documented on the TN CPA-52) for all conservation practices, regardless of financial assistance, to determine possible effects on any species or their habitat.
7. NRCS will:
  - a. Offer landowners alternatives that will not impact species or their habitat;
  - b. Inform landowners of the Endangered Species Act; or,
  - c. Enter into informal consultation with the U.S. Fish and Wildlife Service (FWS) at the landowner’s request.
8. NRCS will terminate landowner assistance that impacts species if landowner declines NRCS guidance.

## NRCS-TN PLANNING PROCEDURE

1. **NRCS Field Offices shall submit to the NRCS Area Biologist all conservation activities for review of all federal and state species designated rare, threatened, endangered and/or listed in the most recent Tennessee Natural Heritage Program geodatabase.** The NRCS Area Biologist shall provide written responses to the Field Office prior to contract development and/or conservation practice installation.
2. The NRCS Area Biologist will review the proposed conservation activities against the most recent Tennessee Natural Heritage Program – Threatened and Endangered Species geodatabase (Refer to Tennessee Bulletin 190-15-09, dated April 13, 2015).
3. If there is no potential impact to any species, the NRCS Area Biologist will approve the project.
4. If there is potential impact to any species, the NRCS Area Biologist will request landowner approval on the Authorization of Release Form prior to conducting consultation with TWRA, TDEC, and/or FWS.
5. After receiving landowner approval for release of PII, the NRCS Area Biologist will initiate informal consultation with the appropriate agency.
6. If approved through informal consultation, the NRCS Area Biologist shall provide written documentation and approval to the Field Office and the project may proceed.
7. If not approved through informal consultation, the NRCS Area Biologist will contact the State Resource Conservationist to determine formal consultation options.
8. The Field Office shall complete a TN-CPA-52 documenting the NRCS environmental evaluation. The participant's folder shall include the NRCS Area Biologist's written response concerning the threatened and endangered (T&E) review on ALL planned conservation practices.