

This rule was filed as 19 NMAC 21.2.

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 21 ENDANGERED PLANTS
PART 2 ENDANGERED PLANT SPECIES LIST AND COLLECTION PERMITS

19.21.2.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Forestry and Resources Conservation Division
 [10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.2 SCOPE: The general public that collects, transports or offers for sale native, vascular plants within the state of New Mexico, with the exceptions of federal employees working on lands within their jurisdiction, and any plant collection activities within lands owned by, or held in trust for, Native American tribes.
 [8/31/95; Recompiled 12/31/01]

19.21.2.3 STATUTORY AUTHORITY: Section 75-6-1 NMSA 1978 directs the energy, minerals and natural resources department (department) to investigate all plant species in the state for the purpose of establishing a list of endangered plant species. It also authorizes the Department to prohibit the taking of endangered species, with the exception of permitted scientific collections or propagation and transplantation activities that enhance the survival of endangered species. The forestry and resources conservation division (state forester) is the designated representative of the department secretary for the purposes of endangered plant investigations and for issuing collection and transplantation permits.
 [10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.4 DURATION: Permanent
 [8/31/95; Recompiled 12/31/01]

19.21.2.5 EFFECTIVE DATE: August 31, 1995 [unless a later date is cited at the end of a section.]
 [10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.6 OBJECTIVE: Native plant resources contribute to the economic, ecological and aesthetic well-being of New Mexico citizens. The objective of Part 1 of Chapter 21 is to prevent the extinction or extirpation of native plant species in the state of New Mexico. It establishes the criteria for the recognition of endangered plant species and a list of plant species perceived, by the department, to be endangered within the state. This Part also prescribes rules and permitting requirements for taking endangered plants during scientific investigations or propagation and transplantation activities that enhance survival.
 [8/31/95; Recompiled 12/31/01]

19.21.2.7 DEFINITIONS:

- A. "Population site" means an area of occurrence of a particular species.
 - B. "Specimen" means the physical parts or a plant in its entirety, taken from a population site for the purpose of scientific study.
 - C. "Taking" means the removal, with the intent to possess, transport, export, sell or offer for sale any of the plants listed in Section 9 of this Part, from the places in the state of New Mexico where they naturally grow.
 - D. "Voucher specimen" means an identifiable and representative specimen taken by a botanical collector from a population site for the purpose of documenting that site as occupied habitat. It should be accompanied by pertinent information on location, habitat, collector, date taken and any other notes the collector can present concerning the population site.
- [10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.8 CRITERIA FOR INCLUSION ON THE ENDANGERED PLANT SPECIES LIST:

- A. The taxon is listed as threatened or endangered under the provisions of the Federal Endangered Species Act (16 U.S.C. Sections 1531 et seq.), or is considered proposed under the tenets of the Act or
 - B. The taxon is a rare plant across its range within the state, and of such limited distribution and population size that unregulated taking could adversely impact it and jeopardize its survival in New Mexico.
- [10/29/85, 8/31/95; Recompiled 12/31/01]

19.21.2.9 LIST OF NEW MEXICO STATE ENDANGERED PLANT SPECIES: The following list of plants constitutes the New Mexico state endangered plant species list. Listed are the plant's scientific name, its common name, and the criterion for inclusion by the paragraph numbers in Section 8:

Allium goodingii
 (Gooding's Onion) 8.2 [now Subsection B of 19.21.2.8 NMAC]

Amsonia tharpia
 (Tharp's Bluestar) 8.2 [now Subsection B of 19.21.2.8 NMAC]

Argemone pleiakantha subsp. pinnatisecta (Sacramento Prickle-poppy)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Astragalus humillimus (Mancos Milkvetch)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Peniocerius greggi (Night-blooming Cerius)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Cirsium vinaceum (Sacramento Mountain Thistle)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Cleome multicaulis (Slender Spiderflower)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Coryphantha scheeri var. scheeri (Scheeri's Pincushion Cactus)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Coryphantha scheeri var. uncinata (Scheer's Hook-spine Cactus)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Cyrepedium calceolus var. pubescens (Golden Lady's Slipper)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Echinocereus fendleri var. kuenzleri (Kuenzler's Hedgehog Cactus)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Echinocereus lloydii (Lloyd's Hedgehog Cactus)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Erigeron hessii (Hess' Fleabane)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Erigeron rhizomatus (Zuni Fleabane)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Eriogonum gypsophilum (Gypsum Wild Buckwheat)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Escobaria duncanii (Duncan's Pincushion Cactus)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Escobaria organensis (Organ Mountain Pincushion Cactus)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Escobaria sneedii var. leei (Lee's Pincushion Cactus)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Escobaria sneedii var. sneedii (Sneed's Pincushion Cactus)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Escobaria villardii (Villard's Pincushion Cactus)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Gilia formosa (Aztec Gilia)	8.2 [now Subsection B of 19.21.2.8 NMAC]
Hedeoma todsenii (Todsens Pennyroyal)	8.1 [now Subsection A of 19.21.2.8 NMAC]
Helianthus paradoxus	8.2 [now Subsection B of 19.21.2.8 NMAC]

(Puzzle Sunflower)

Hexalectris nitida 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Shining Coralroot)

Hexalectris spicata 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Crested Coralroot)

Ipomopsis sancti-spiritus 8.1 [now Subsection A of 19.21.2.8 NMAC]
(Holy Ghost Ipomopsis)

Lepidospartum burgessii 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Gypsum Scalebroom)

Lilium philadelphicum 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Mountain Lily)

Mammillaria wrightii var. *wilcoxii* 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Wilcox Pincushion Cactus)

Opuntia arenaria 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Sand Prickly Pear)

Opuntia viridiflora 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Green-flowered Cholla)

Pediocactus knowltonii 8.1 [now Subsection A of 19.21.2.8 NMAC]
(Knowlton's Cactus)

Polygala rimulicola var. *mescalerorum* 8.2 [now Subsection B of 19.21.2.8 NMAC]
(San Andres Milkwort)

Puccinellia parishii 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Parish's Alkali Grass)

Sclerocactus cloveriae subsp. *brackii* 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Brack's Cactus)

Sclerocactus mesae-verdae 8.1 [now Subsection A of 19.21.2.8 NMAC]
(Mesa Verde Cactus)

Spiranthes magnicamporum 8.2 [now Subsection B of 19.21.2.8 NMAC]
(Lady Tresses Orchid)

[10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.10 PERMITS:

A. Permits to take state endangered plant species may be issued by the state forester for the purpose of conducting scientific studies that enhance understanding for the distribution of, or conditions required for survival of, endangered plant species; or for propagation or transplantation activities that enhance the survival of endangered plant species.

B. Permits will only be issued to individuals. No one may operate under the authority of another's permit.

C. Each person applying for a permit must demonstrate sufficient expertise to carry out the permitted activities in a competent manner. The following information may be used to support the request for a permit: education in botany or related area, field experience, collection numbers, accessions into a recognized herbarium, publications and recommendations from recognized authorities.

D. The permittee's signature on the permit will acknowledge willingness to comply with all applicable laws, regulations, and permit conditions.

E. A copy of the permit must be carried by the permittee at all times during the collection and transportation of endangered species.

F. A permit does not give the bearer authority to take federally threatened or endangered plants. Taking of these species also requires a federal permit issued by the U.S. fish and wildlife service.

G. A permit does not extend to the permittee the privilege to trespass or enter on lands without the permission of the owner. The permittee should contact the appropriate management agency or landowner before beginning studies or taking specimens on federal, state or private lands.

H. A state permit to take, propagate or transplant the endangered plant species listed in Section 9 of this Part is not required for federal employees working within the lands of their jurisdiction, nor for activities within tribal reservations.
[10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.11 SCIENTIFIC INVESTIGATIONS:

- A. A permit to take endangered plants for scientific studies may be issued if the studies will generate new knowledge in the genetic, anatomical, chemical, morphological, life history or in other relevant areas of research enhancing the understanding of the conditions required for the survival of the endangered species.
- B. Known population sites will be provided with the permit when the permittee requires them for the permitted study. The permit will contain any special parameters for the taking.
- C. If specimens are taken, at least one voucher specimen shall be deposited at either the university of New Mexico herbarium or New Mexico state university herbarium.
- D. When possible, the investigator shall take specimens in such a way as to not reduce the population (e.g. take a single stem from an herbaceous perennial, leaving the root intact, or other methods appropriate to the particular species).
- E. Taking may be prohibited in some known locations where survival is especially precarious.
[10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.12 VOUCHER SPECIMENS:

- A. A permit to take endangered plant voucher specimens during botanical inventories and environmental surveys may be issued for the purposes of species verification and documentation of population sites.
- B. Taking specimens for the sole purpose of exchange with other herbaria is prohibited.
- C. The collection of voucher specimens shall make no long-term detrimental effect on the population. A maximum of three specimens may be taken, if the population is sufficient. If the population is very small and the taking of a single individual is detrimental, then only a fragment of an individual for voucher purposes may be taken.
- D. At least one specimen of the three taken from each locality shall be deposited at the university of New Mexico herbarium or New Mexico state university herbarium. Duplicates may be sent to the western New Mexico university herbarium, government agency collections within New Mexico, or herbaria in other states that are formally listed in index herbariorum. The label affixed to each specimen will contain information on collection location, description of the habitat, collector's name, date of collection and estimated size of the population.
- E. To assist in the identification and preservation of endangered plant species in New Mexico, all permitted collections of voucher specimens shall be reported to the state forester by 31 December of each year. The report shall contain the voucher specimen label information and the place(s) of deposition of specimens.
[10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.13 PROPAGATION AND TRANSPLANTATION:

- A. Permits to take endangered plants to propagate or transplant may be issued when evidence is presented that the activity will enhance the survival capability of that particular species.
- B. Permits to transplant endangered species (not including federally listed taxa) may be issued when such species occur on areas of land use conversion.
- C. Permits for transplantation will be issued by the state forester upon approval of a proposal submitted by the applicant outlining the need for such transplantation, the method to be employed, the site to which the plants will be taken for transplantation and the qualifications of the person carrying out the transplantation.
[10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

19.21.2.14 PERMIT REVOCATION: Prohibited activities that shall render a collection permit invalid and may cause the permittee to be subject to prosecution under applicable federal and state laws include: taking of specimens of endangered plant species outside the scope of the provisions of the permit, failure to deposit a voucher specimen in a designated New Mexico herbarium, taking specimens under permit for commercial use, providing false information on the permit application, or allowing use of the permit by someone else.
[10/29/85, 8/31/95; Recompiled 12/31/01]

19.21.2.15 PROTECTION AND PENALTIES:

- A. The taking of plants listed in Section 9 of this Part, other than taking under valid permit issued by the State Forester, is hereby prohibited.
- B. Pursuant to Section 75-6-1 NMSA 1978, violation of this Part (19 NMAC 21.2) [now 19.21.2 NMAC] is a misdemeanor punishable by a fine of not less than three hundred dollars (\$300), nor more than one thousand dollars (\$1,000) or imprisonment for a term of not more than one hundred twenty (120) days or both.
- C. Any law enforcement officer may seize any plants taken, transported, exported, processed, sold or offered for sale or shipped in violation of 19 NMAC 21.2 [now 19.21.2 NMAC].
[10/29/85, 12/23/91, 8/31/95; Recompiled 12/31/01]

HISTORY OF 19.21.2 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

NRD Rule No. 85-3, Endangered Plant Species in New Mexico, 10/29/85.

NMFRCD Rule No. 91-1, Regulations Governing Endangered Plant Species, 12/23/91.

History of Repealed Material: [RESERVED]