

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 Division.
[10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.1 NMAC - Rn & A, 19 NMAC 21.2.1, 11/30/2006]

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.
[8/31/1995; 19.21.2.2 NMAC - Rn, 19 NMAC 21.2.2, 11/30/2006]

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 division (state forester) is the department secretary's designated representative for the purposes of endangered plant investigations and for issuing collection and transplantation permits.
[10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.3 NMAC - Rn & A, 19 NMAC 21.2.3, 11/30/2006]

19.21.2.4 DURATION: Permanent.
[8/31/1995; 19.21.2.4 NMAC - Rn, 19 NMAC 21.2.4, 11/30/2006]

19.21.2.5 EFFECTIVE DATE: August 31, 1995, unless a later date is cited at the end of a section.
[10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.5 NMAC - Rn & A, 19 NMAC 21.2.5, 11/30/2006]

19.21.2.6 OBJECTIVE: Native plant resources contribute to the economic, ecological, and aesthetic well-being of New Mexico citizens. This part's objective 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.
[8/31/1995; 19.21.2.6 NMAC - Rn & A, 19 NMAC 21.2.6, 11/30/2006]

19.21.2.7 DEFINITIONS:

A. "Agricultural practice" means grazing and grazing management practices such as feeding, herding or gathering; ditch clearing or burning; planting; applying herbicides to cultivated fields; harvesting; mowing of hay fields or pastures; burning pastures or fields or cultivating, plowing or disking fields or similar activities; road maintenance; and the maintenance, repair or replacement of fences, dirt tanks (earthen impoundments), water tanks and troughs, wells and windmills, pumps or solar panels powering wells, loading chutes, corrals, erosion control structures and water pipelines.

B. "Applicant" means the person applying for a permit required by 19.21.2 NMAC to take endangered plants for scientific study, propagation or collection of voucher specimens or to take an endangered plant(s) where taking is incidental and not the purpose of carrying out an otherwise lawful activity. If a governmental entity is issuing a permit, lease, license, authorization, right-of-way, easement or similar document that allows a person to conduct the lawful activity (drilling, fence installation, pipeline construction, etc.), the applicant for an incidental take permit shall be the person conducting the lawful activity not the governmental entity.

C. "Department" means the energy, minerals and natural resources department.

D. "Endangered plant" means a plant that is a member of the species listed in 19.21.2.9 NMAC.

E. “Harm” means direct physical injury or damage to a plant that results in reduced viability of the plant, including reproductive potential and future health and growth.

F. “Permittee” means the person issued a permit by the state forester or a person required to have a permit pursuant to 19.21.2 NMAC. The permittee shall be the person responsible for the scientific study, propagation or collection of voucher specimens of endangered plants or the person undertaking a lawful activity where taking of an endangered plant(s) is incidental and not the purpose of carrying out the otherwise lawful activity. If a governmental entity is issuing a permit, lease, license, authorization, right-of-way, easement or similar document that allows a person to conduct the lawful activity (drilling, fence installation, pipeline construction, etc.), the permittee for an incidental take permit shall be the person conducting the lawful activity not the governmental entity.

G. “Person” means an individual or entity including partnerships, corporations, associations or joint ventures and its officers, agents or employees; the state or a political subdivision of the state and its officers, agents or employees; or an agency, department or instrumentality of the United States and its officers, agents or employees.

H. “Population site” means an area of occurrence of a particular species.

I. “Specimen” means the physical parts or a plant in its entirety taken from a population site for the purpose of scientific study.

J. “State forester” means the director of the department’s forestry division and the department secretary’s designated representative for the purposes of administering the department’s authorities and responsibilities under Section 75-6-1 NMSA 1978 including endangered plant investigations and issuance of scientific study, propagation, collection of voucher specimen or incidental take permits.

K. “Taking” means to remove, harm, kill, destroy, possess, transport, export, sell, or offer for sale any of the plants, or parts thereof, listed in 19.21.2.9 NMAC, from the places in the state of New Mexico where they naturally grow including federally owned land, private land, state owned land or land owned by political subdivisions of the state, but not tribal trust or restricted fee land or individual trust allotments. Taking does not include the

(1) incidental removal, harm, killing or destruction of endangered plants resulting from agricultural practices; or

(2) removal, harm, killing, destruction, possession or transport of endangered plants by tribal members for religious purposes.

L. “Tribal member” means a member of an Indian nation, tribe or pueblo.

M. “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 shall be accompanied by pertinent information on location, habitat, collector, date taken and any other notes the collector can present concerning the population site.

[10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.7 NMAC - Rn & A, 19 NMAC 21.2.7, 11/30/2006; A, 07/28/2020; A, 04/25/2023]

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.

[10/29/1985, 8/31/1995; 19.21.2.8 NMAC - Rn, 19 NMAC 21.2.8, 11/30/2006]

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 subsection in 19.21.2.8 NMAC:

Agalinis calycina (Leoncita false-foxtail)	Subsection B of 19.21.2.8 NMAC
Aliciella formosa (Aztec gilia)	Subsection B of 19.21.2.8 NMAC
Allium gooddingii (Goodding’s onion)	Subsection B of 19.21.2.8 NMAC
Amsonia tharpianii (Tharp’s bluestar)	Subsection B of 19.21.2.8 NMAC

<i>Argemone pinnatisecta</i> (Sacramento prickly-poppy)	Subsection A of 19.21.2.8 NMAC
<i>Asplenium scolopendrium</i> var. <i>americanum</i> (American Hart's-tongue fern)	Subsection A of 19.21.2.8 NMAC
<i>Astragalus humillimus</i> (Mancos milkvetch)	Subsection A of 19.21.2.8 NMAC
<i>Peniocereus greggii</i> (night-blooming cereus)	Subsection B of 19.21.2.8 NMAC
<i>Castilleja ornata</i> (Swale paintbrush)	Subsection B of 19.21.2.8 NMAC
<i>Castilleja tomentosa</i> (Tomentose paintbrush)	Subsection B of 19.21.2.8 NMAC
<i>Cirsium vinaceum</i> (Sacramento Mountains thistle)	Subsection A of 19.21.2.8 NMAC
<i>Cirsium wrightii</i> (Wright's marsh thistle)	Subsection B of 19.21.2.8 NMAC
<i>Cleome multicaulis</i> (slender spiderflower)	Subsection B of 19.21.2.8 NMAC
<i>Coryphantha robustispina</i> ssp. <i>scheeri</i> (Scheer's pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<i>Cylindropuntia viridiflora</i> (Santa Fe cholla)	Subsection B of 19.21.2.8 NMAC
<i>Cymopterus spellenbergii</i> (Spellenberg's springparsley)	Subsection B of 19.21.2.8 NMAC
<i>Cypripedium parviflorum</i> var. <i>pubescens</i> (golden lady's slipper)	Subsection B of 19.21.2.8 NMAC
<i>Echinocereus fendleri</i> var. <i>kuenzleri</i> (Kuenzler's hedgehog cactus)	Subsection A of 19.21.2.8 NMAC
<i>Erigeron hessii</i> (Hess' fleabane)	Subsection B of 19.21.2.8 NMAC
<i>Erigeron rhizomatus</i> (Zuni fleabane)	Subsection A of 19.21.2.8 NMAC
<i>Eriogonum gypsophilum</i> (gypsum wild buckwheat)	Subsection A of 19.21.2.8 NMAC
<i>Escobaria duncanii</i> (Duncan's pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<i>Escobaria organensis</i> (Organ Mountain pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<i>Escobaria sneedii</i> var. <i>leei</i> (Lee's pincushion cactus)	Subsection A of 19.21.2.8 NMAC
<i>Escobaria sneedii</i> var. <i>sneedii</i> (Sneed's pincushion cactus)	Subsection A of 19.21.2.8 NMAC
<i>Escobaria villardii</i> (Villard's pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<i>Hedeoma todsenii</i> (Todsens pennyroyal)	Subsection A of 19.21.2.8 NMAC
<i>Helianthus paradoxus</i> (Pecos sunflower)	Subsection A of 19.21.2.8 NMAC
<i>Hexalectris colemanii</i> (Coleman's coralroot)	Subsection B of 19.21.2.8 NMAC
<i>Hexalectris nitida</i> (shining coralroot)	Subsection B of 19.21.2.8 NMAC
<i>Hexalectris arizonica</i> (crested coralroot)	Subsection B of 19.21.2.8 NMAC
<i>Ipomopsis sancti-spiritus</i> (Holy Ghost ipomopsis)	Subsection A of 19.21.2.8 NMAC
<i>Lepidospartum burgessii</i> (gypsum scalebroom)	Subsection B of 19.21.2.8 NMAC
<i>Lilium philadelphicum</i> (wood lily)	Subsection B of 19.21.2.8 NMAC
<i>Linum allredii</i> (Allred's flax)	Subsection B of 19.21.2.8 NMAC
<i>Opuntia arenaria</i> (sand prickly pear)	Subsection B of 19.21.2.8 NMAC
<i>Pediocactus knowltonii</i> (Knowlton's cactus)	Subsection A of 19.21.2.8 NMAC
<i>Pediomelum pentaphyllum</i> (Chihuahua scurfpea)	Subsection B of 19.21.2.8 NMAC
<i>Penstemon metcalfei</i> (Metcalf's beardtongue)	Subsection B of 19.21.2.8 NMAC
<i>Polygala rimulicola</i> var. <i>mescalorum</i> (San Andres milkwort)	Subsection B of 19.21.2.8 NMAC
<i>Puccinellia parishii</i> (Parish's alkali grass)	Subsection B of 19.21.2.8 NMAC
<i>Sclerocactus cloverae</i> (Clover's cactus)	Subsection B of 19.21.2.8 NMAC
<i>Sclerocactus mesae-verdae</i> (Mesa Verde cactus)	Subsection A of 19.21.2.8 NMAC
<i>Scrophularia macrantha</i> (Mimbres figwort)	Subsection B of 19.21.2.8 NMAC
<i>Spiranthes magnicamporum</i> (lady tresses orchid)	Subsection B of 19.21.2.8 NMAC
<i>Townsendia gypsophila</i> (gypsum Townsend's aster)	Subsection B of 19.21.2.8 NMAC

[10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.9 NMAC - Rn & A, 19 NMAC 21.2.9, 11/30/2006; A, 01/15/2019; A, 07/28/2020; A, 04/25/2023]

19.21.2.10 PROTECTION: The taking of endangered plants, other than pursuant to a permit issued by the state forester, is prohibited.

[19.21.2.10 NMAC – N, 04/25/2023]

19.21.2.11 INCIDENTAL TAKE PERMIT: The state forester may issue, issue with conditions or deny requests for an incidental take permit to allow a permittee to take endangered plants so long as taking is incidental to and not the purpose of carrying out an otherwise lawful activity. Such requests shall be subject to the following requirements.

A. The state forester may issue an incidental take permit only if the applicant submits a completed application on a form designated by the state forester that contains the following:

- (1) the impact on the species that will likely result from the taking including the number of endangered plants to be taken;
- (2) information and analysis that establishes that such taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild including range wide and local species status, number of endangered plants in the activity area, number of endangered plants in the activity area taken, number of endangered plants in the activity area avoided, direct and indirect effects on the species and population resulting from the activity, disturbance frequency and intensity, cumulative effects resulting from the activity and interrelated effects affecting the species' survival and any supporting documentation;
- (3) the best management practices and mitigation activities the applicant will use to avoid, minimize and mitigate the impacts to the species from such a taking during the implementation of the proposed activity (*e.g.*, fencing off areas with endangered plants during construction period, saving topsoil layer and returning to site after construction, dust mitigation, seed collection, adjusting or reducing project footprint, biological monitoring on site during construction); and
- (4) signed commitment that applicant will implement the best management practices and mitigation activities and submit a written report upon completion of the practices and activities.

B. An application must also include

- (1) the applicant's name, address, phone number, email address and, if applicable, name and title of the applicant's authorized representative;
- (2) the location of the proposed activity with a map, location coordinates (if available) and size (acreage) of proposed activity;
- (3) description of the proposed activity;
- (4) property ownership; and
- (5) a signed certification by the applicant that states that the applicant assumes complete responsibility for any resulting impacts on endangered plants or the occupied habitat of such plants caused by the activity.

C. An incidental take permit application for an endangered plant also listed under federal law must be accompanied by United States department of the interior, fish and wildlife service consultation response or biological opinion if federal law requires the response or biological opinion.

D. The state forester may authorize or require transplantation of endangered plants as a condition of an incidental take permit if the applicant demonstrates the need for transplantation or the state forester otherwise determines it is necessary. Where transplantation is proposed, in addition to the information required by Subsection A of 19.21.2.11 NMAC, the applicant shall:

- (1) explain the need for transplantation;
- (2) identify the number of plants to be transplanted;
- (3) explain the transplantation method/protocol to be employed;
- (4) identify the site to which the plants will be taken for transplantation and describe the long-term protections provided at the site;
- (5) identify the timeline for the proposed transplantation;
- (6) describe the monitoring plan for transplantation; and
- (7) include the name and qualifications of the person carrying out the transplantation.

E. If the state forester denies an application for an incidental take permit or issues an incidental take permit with conditions, the state forester shall provide the reasons for the denial or conditions in writing.

F. A permittee may not transfer an incidental take permit without the state forester's written approval.

G. The state forester's issuance of an incidental permit is not authorization to conduct the proposed activity; the incidental take permit only authorizes the incidental take. If the permittee does not own the land where the activity will occur, the permittee shall also possess or obtain the landowner's authorization for the incidental take if the landowner requires. A permittee shall comply with other applicable federal, state or local

laws; possess or obtain permits, licenses or other authorizations other entities require; and if not the owner of the land where the activity will occur, possess or obtain the landowner's authorization to conduct the activity or use the land for the activity.

H. The division does not require a person conducting an activity to survey to determine the existence of endangered plant(s), but this does not relieve the applicant to conduct surveys that may be required by federal, other state or local agencies.

I. Emergency response. The following are exempt from the requirement to obtain an incidental take permit: law enforcement or emergency responses or other federal, state or local agency civil actions, whether or not undertaken by or in coordination with the division, that are necessary to prevent or respond to immediate threats to public health, safety or environment, including firefighting and flood management or controlling, containing and capturing releases of hazardous or harmful materials. If the division is not involved in the emergency response, it should be notified of the response as soon as practicable. Any known endangered plant(s) within the area of emergency response should be monitored to the extent practicable so that any adverse effects can be avoided or mitigated.

[19.21.2.11 NMAC – N, 04/25/2023]

19.21.2.12 PERMITS FOR SCIENTIFIC STUDY OR PROPAGATION:

A. The state forester may also issue permits to take specimens for the purpose of conducting scientific studies that enhance understanding of the distribution of an endangered plant species, or 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 survival of an endangered plant species; or for propagation activities that will enhance the survival of endangered plant species. If the state forester denies an application for a permit or issues a permit with conditions, the state forester shall provide the reasons for the denial or conditions in writing.

B. The state forester may deny applications for scientific study or propagation permits in locations where endangered plant survival is especially precarious.

C. Each person applying for a scientific study or propagation 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 or permittee's representative's signature on the permit acknowledges willingness to comply with all applicable laws, rules or regulations and permit conditions.

E. A state permit to take endangered plants for scientific study or propagation is not required for federal employees working within the lands of their jurisdiction, nor for activities on tribal trust or restricted fee lands or individual trust allotments.

F. A permittee may not transfer a scientific study or propagation permit without the state forester's written approval.

[19.21.2.12 NMAC – Rn & A, 19.21.2.10 NMAC, 04/25/2023]

19.21.2.13 GENERAL PROVISIONS FOR SCIENTIFIC STUDY OR PROPAGATION:

A. When a permittee takes specimens pursuant to a scientific study permit, the permittee shall deposit at least one voucher specimen at either the university of New Mexico herbarium or New Mexico state university herbarium. When possible, the permittee 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).

B. The permittee or permittee's representative shall carry a copy of the scientific study or propagation permit at all times during the collection and transportation of endangered plants.

C. A scientific study or propagation permit for an endangered plant that is also listed under federal law must be accompanied by the United States department of the interior, fish and wildlife service recovery permit.

D. A scientific study or propagation permit does not extend to the permittee the privilege to trespass or enter on lands without the owner's permission. The permittee should contact the appropriate management agency or landowner before beginning studies or taking specimens on lands the permittee does not own or manage.

[19.21.2.13 NMAC – Rn & A, 19.21.2.11 NMAC, 04/25/2023]

19.21.2.14 VOUCHER SPECIMENS:

A. The state forester may issue a permit to take endangered plant voucher specimens during botanical inventories and environmental surveys 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. The permittee may take a maximum of three specimens, if the population is sufficient. If the population is very small and the taking of a single individual is detrimental, then the state forester may condition the permit so that the permittee may take only a fragment of an individual for voucher purposes.

D. The permittee shall deposit at least one specimen of the three taken from each locality at the university of New Mexico herbarium or New Mexico state university herbarium. The permittee may send duplicates 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 shall 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, permittees shall report all permitted collections of voucher specimens to the state forester by December 31 of each year. The report shall contain the voucher specimen label information and the place or places of deposition of specimens.

[19.21.2.14 NMAC – Rn, 19.21.2.12 NMAC, 04/25/2023]

19.21.2.15 PERMIT APPROVAL: The state forester shall only issue a permit if the application meets the applicable requirements in 19.21.2.11, 19.21.2.12, 19.21.2.13 or 19.21.2.14 NMAC for approval of an incidental take permit, scientific study, propagation or collection of voucher specimen permit. The state forester may not approve an application for a permit if an applicant (a) has taken an endangered plant outside the scope of a prior permit's provisions or without a permit, (b) otherwise failed to comply with a prior permit, (c) provided false information on a permit application or (d) attempted to transfer a prior permit without the state forester's written approval or allow someone else to use a prior permit.

[19.21.2.15 NMAC – Rn & A, 19.21.2.13 NMAC, 04/25/2023]

19.21.2.16 PERMIT AMENDMENT: A permittee shall submit a written application to the state forester to request an amendment to a permit. The application shall describe the amendment requested and explain why the amendment is needed.

[19.21.2.16 NMAC – N, 04/25/2023]

19.21.2.17 PERMIT REVOCATION:

A. The state forester may revoke a permit for actions or events including taking of endangered plants outside the scope of the permit's provisions or without a permit, failure to comply with the permit, discovery that any of the reasons that would have resulted in the state forester not approving a permit application exist, failure to deposit a voucher specimen in a designated New Mexico herbarium as required by Subsection A of 19.21.2.13 NMAC for a scientific study permit or by Subsection D of 19.21.2.14 NMAC for voucher specimen permits, taking specimens under a permit for commercial use, providing false information on the permit application, attempting to transfer the permit without the state forester's prior written approval or allowing someone else to use the permit.

B. The state forester shall provide 30 days' prior written notice of the permit revocation to the permittee unless such notice will result in long-term detrimental effect on the endangered plant population's survival. If such notice will result in long-term detrimental effect on the endangered plant population's survival, the state forester shall provide at least 48 hours written notice.

[19.21.2.17 NMAC – Rn & A, 19.21.2.14 NMAC, 04/25/2023]

19.21.2.18 PERMIT TERM: The permit term shall be for the scope of the activity or five years, whichever is less. If the activity is not completed within five years, the permittee shall apply for a new permit.

The scope of the activity does not include subsequent maintenance, repair or replacement, which are considered separate activities.

[19.21.2.18 NMAC – N, 04/25/2023]

19.21.2.19 PENALTIES:

A. Pursuant to Section 75-6-1 NMSA 1978, violation of 19.21.2 NMAC is a misdemeanor punishable by a fine of not less than \$300, nor more than \$1,000 or imprisonment for a term of not more than 120 days or both. Each individual endangered plant taken without a valid permit issued by the state forester is a violation of 19.21.2.10 NMAC; each individual incidence or occurrence is a violation of other provisions in 19.21.2 NMAC (e.g., failing to obtain a required permit, providing false information on a permit application, failing to comply with a permit condition).

B. Any law enforcement officer may seize any endangered plants taken, possessed, transported, exported, processed, sold or offered for sale or shipped in violation of 19.21.2 NMAC.

[19.21.2.19 NMAC – Rn & A, 19.21.2.15, 04/25/2023]

19.21.2.20 TRANSITION: The prohibition on removing, harming, killing or destroying endangered plants without a permit issued by the state forester shall not apply to ground-disturbing activities for which a person received a permit or similar authorization from a federal, state or local government agency prior to April 25, 2023 so long as the ground disturbance commences by October 22, 2023.

[19.21.2.20 NMAC – N, 04/25/2023]

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, filed 10/29/1985;

NMFRCD Rule No. 91-1, Regulations Governing Endangered Plant Species, filed 12/23/1991.

History of Repealed Material: [RESERVED]

Other History:

NMFRCD Rule No. 91-1, Regulations Governing Endangered Plant Species (filed 12/23/1991) was renumbered, reformatted and replaced by 19 NMAC 21.2, Endangered Plant Species List and Collection Permits, effective 8/31/1995.

19 NMAC 21.2, Endangered Plant Species List and Collection Permits (filed 8/17/1995) was renumbered, reformatted, amended and replaced by 19.21.2 NMAC, Endangered Plant Species List and Collection Permits, effective 11/30/2006.