

From: [Debbie Hughes](#)
To: [Mason, Wendy, EMNRD](#)
Subject: [EXTERNAL] Comments from NMACD for final endangered plant rule
Date: Friday, October 8, 2021 2:45:17 PM
Attachments: [Final Endangered Plant Rule NMACD Letter.docx](#)

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Please find attached comments from NMACD. Thank you, Debbie Hughes



NEW MEXICO ASSOCIATION OF CONSERVATION DISTRICTS

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Carlsbad, NM 88220

(575) 361-1413
conserve@nmacd.org

October 4, 2021

Ms. Wendy Mason
wendy.mason@state.nm.us
EMNRD Forestry Division
1220 S St. Francis Dr.
Santa Fe, NM 87505

Dear Ms. Mason:

The New Mexico Association of Conservation Districts (NMACD) has reviewed the New Mexico Forestry Division's proposed changes to the rule pertaining to the conservation of endangered plants. NMACD appreciates the opportunity to provide feedback and a few suggestions that we think will improve the proposed rule, as we do have a few concerns with the proposal as written. Below are the issues and recommendations:

Agriculture exemptions – While we appreciate that many agricultural practices are exempted, we are concerned that some invasive plant spray projects will still require an ITP. NMACD advocates large spray projects on many landownerships that are designed to minimize the occurrence of salt cedar, Russian olive, mesquite, and other invasive and noxious plants. To deal with this concern, we suggest the following change, in yellow highlight below, to the Takings section of the proposed rule:

A. **“Agricultural Practice”** means grazing, 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 and the maintenance, repair or replacement of fences, water tanks and troughs, wells and windmills, pumps or solar panels powering wells, loading chutes, corrals and water pipelines.

Timeframe for issuance – Currently, the proposed rule does not contain a deadline for the Forestry Division to approve or deny an ITP. The rule should contain a reasonable timeframe for the Forestry Division to review and determine whether or not an ITP will be issued. We suggest a timeframe of two to three weeks. Language should also be added that states if a decision has not been made in this timeframe the ITP will be presumed to be approved.

Amendments to ITP – Although, this version includes a provision for amending an ITP, there is still no timeframe for approval or denial of the ITP amendment. We recommend a two-to-three-week timeframe for the Forestry Division to take action on an ITP amendment.

In closing, NMACD appreciates the opportunity to review and provide suggestions on the proposed rule. We are concerned however that the requirements in the proposed rule will place new burdens on landowners and project proponents who are working to improve lands that are under their management. In addition, the Forestry Division will have a new and significant workload relating to reviewing and making decisions pertaining to the new permits. We understand that there is no public data base with precise locations of the endangered plants. The plant occurrence is only listed by county, and all but four counties in New Mexico have at least one endangered plant. We believe the number of ITP requests could be overwhelming for Forestry Division staff and this could lead to delays in issuing or denying ITPs.

Again, we appreciate the opportunity to comment and hope that you will take our suggestions into consideration.

Sincerely:

A handwritten signature in black ink that reads "Debbie Hughes". The signature is written in a cursive style and is centered within a light gray rectangular box.

Debbie Hughes, Executive Director
New Mexico Association of Conservation Districts