

**From:** [Caren Cowan](#)  
**To:** [Mason, Wendy, EMNRD](#)  
**Subject:** [EXTERNAL] Amendments to 19.21.2 NMAC Threatened & Endangered Plants  
**Date:** Tuesday, November 9, 2021 1:27:36 PM  
**Attachments:** [Endangered\\_plant\\_comments\\_Grant\\_County.docx](#)

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November 9, 2021

Wendy Mason

EMNRD, Forestry Division

1220 South Saint Francis Drive

Santa Fe, New Mexico 87505

[Wendy.mason@state.nm.us](mailto:Wendy.mason@state.nm.us)

**RE: Proposed Rulemaking, Amendments to 19.21.2 NMAC Threatened & Endangered Plants**

To Whom It May Concern:

On behalf of the Grant County Cattle Growers' Association (GCCGA), I am writing to comment on the above captioned proposed rulemaking.

There was no outreach to the agricultural community that manages the vast majority of the lands in New Mexico and to whom this rule is directed to.

It is impossible for anyone without prior knowledge to proposed rule, finding the documents on the Forestry Division's website is nearly impossible. Rulemakings do not appear to reach the level of importance to be anything more than a meeting and are listed only as meetings.

It is patently unfair to create and impose a rule with penalties "of not less than \$300, nor more than \$1,000 or imprisonment for a term of not more than 120 days or both" without thorough notification of all of those impacted.

For these reasons, **the GCCGA respectfully requests at least a 60-day extension** to the comment period so landowners and land stewards across the state have the opportunity to participate in their future.

Until we have more time to do a complete analysis of the rulemaking proposal, we submit the following areas of concern:

### **19.21.2.7 Definitions:**

Where did the definition of “**Agricultural Practice**” come from? How does it compare with other such definitions in statute and/or rule?

Is this proposed rule limited to agriculture? Why aren't other natural resource industries included? Not that we would wish this rule on anyone else, but targeting the community least financially equipped to deal with the burden.

“**Voucher Specimen**” indicates that anyone acquiring a permit must also engage the services of “a botanical collector.” Where do the funds come from to hire this specialist?

### **Incidental Take Permit**

#### **19.21.2.11- C**

If an endangered plant is also listed under federal law, before applying to the State Forester, a landowner or land steward would first be required to consult with the U.S. Fish & Wildlife Service (FWS). The FWS has no jurisdiction on private land unless there is federal nexus. Additionally FWS consultation is only required of federal agencies, thus do these regulations apply only to federal agencies?

#### **19.21.2.11- I**

How does anyone monitor prior to an emergency response? Are emergencies pre-planned? Who will be tasked with this monitoring? How will emergency responders know that there are known endangered plant(s) within any given area?

### **Permits for Scientific Study or Propagation**

#### **19.12.2.12- C**

What is “sufficient expertise to carry out permitted activities in a competent manner?”

**19.12.2.12- ??** Numbering appears to be incorrect.

What are “restricted fee lands or individual trust allotments?”

#### **19.21.2.14**

## **Voucher Specimens**

Where in the proposed rule, other than the mention in this section, is there a requirement for “taking three (3) specimens for each locality?”

### **1921.2.19**

#### **Penalties**

Penalties “of not less than \$300, nor more than \$1,000 or imprisonment for a term of not more than 120 days or both” are excessive.

Thank you for your time and attention.

Sincerely

*Ty Bays*

President

Grant County Cattle Growers' Association