

State of New Mexico
Energy, Minerals and Natural Resources Department

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Permit Application for the Incidental Take of State Endangered Species

Download this form to your desktop to complete the application and email or send to the address on the last page of application. Review of the application may take up to several weeks depending on the complexity of the request, necessary reviews and workload. Please plan accordingly.

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. Transplantation of endangered plants may be allowed 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. A permit is not needed if take can be avoided. As such, applicants are encouraged to consider alternatives that minimize, or in the best scenario, avoid taking endangered plants where possible. Consulting with our staff on mitigation and avoidance prior to submitting a permit is also encouraged, as there is no appeals process if the permit is denied.

An Incidental Take Permit will only be considered if the applicant submits a completed application (see 19.21.2.11 NMAC and Permit Application section below). All fields are required followed by a signed commitment that the applicant will implement the best management practices and mitigation activities and submit a written report upon completion of the practices and activities.

The applicant for an Incidental Take Permit is the person conducting the lawful activity not the governmental entity 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, mining, building, road construction and maintenance, transmission line construction, etc.).

An Incidental Take Permit Application for an endangered plant, which is 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 a response or biological opinion.

Incidental Take Permit Application

1. Name:

Street Address:

Phone Number:

Email:

2. Name/Title of the applicant's representative, if applicable:

3. Name of the project, if applicable:

4. Legal description (T/R/S) of the project's location and, if available, spatial coordinates of project area and/or species locations. Please also attach or include maps or aerial photographs depicting the location of the project and the area of impact to the species:

5. Size (acreage) of proposed project:

6. Property ownership(s):

7. Anticipated start date of project:

8. Estimated completion date of project:

9. Description of the project:

10. State Endangered species proposed for taking:

Species 1:

Species 2:

Species 3:

Species 4:

11. Describe the number of plants, for each endangered species selected above, that are being proposed for incidental take (that directly coincide with the project footprint) and the number of plants to be avoided (number of plants immediately adjacent to or within ~10-15 meters from disturbance). If individual plants cannot be counted, then estimate the total numbers of plants or the area the plants occupy, that will be impacted or proposed for take:

12. Describe the direct and indirect, permanent and temporary impacts of the project on endangered species remaining/avoided that are immediately adjacent to project disturbance or within approximately a 10 meter buffer from project activities. Include disturbance frequency and intensity and potential cumulative long- and short-term effects resulting from activities (e.g., dust, habitat loss, hydrology changes, erosion, etc):

13. Information or analysis that establishes such taking will not appreciably reduce the likelihood of the long-term survival and recovery of the species range-wide (e.g., the take will not remove the only plants known to occur in New Mexico or the plants do not represent the only potential gene pool for neighboring populations):

14. Best management practices or activities the applicant will use to avoid, minimize, and mitigate impacts of the project disturbance to endangered plants during the implementation of the proposed activity and throughout the duration of disturbance (e.g., fencing off areas with endangered plants during construction period, dust mitigation, seed collection, erosion control, adjusting or reducing project footprint to avoid additional taking, biological monitoring on site during or after construction):

15. If project cannot be modified and plants cannot be avoided, transplanting or salvaging (donating) may be authorized if deemed appropriate as a mitigation technique. If transplanting or salvaging is being proposed, then explain the need and fill out the remaining fields below:

16. Identify the timeline for the proposed transplantation:

17. Identify the number of plants to be transplanted, or provide an estimate of patch size for each population if individuals cannot be counted:

18. Provide a detailed description for how the transplanting will occur (e.g., saving topsoil, protecting roots from damage, tools to be used, how plants will be stored prior to transport, how and when will they be transported and in what types of containers, how deep are you digging, etc):

19. Transplanting will only be approved if the effort is led by a professional with prior background in such activities. Include the name and qualifications of the person(s) carrying out the transplantation:

20. Describe and identify an appropriate site to which the plants will be taken for transplantation and describe the long-term protections that site provides (e.g., who is the landowner? what kinds of current or future disturbance / threats exists at the new location?):

21. Describe the monitoring protocols you will use to track survival success after transplanting. Transplanting will only be approved if there is a monitoring plan in place for the next 1-5 years. The purpose of this is to establish a structured and repeatable assessment of transplant projects to examine the plant's response to being relocated. If this is not possible, then explain why:

22. 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 (required):

Signature of Applicant

Date of signature

23. 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 proposed activity (required):

Signature of Applicant

Date of signature

Additional Attachments:

- 1) Attach any supplementary information provided by a consultant, such as a biological assessment, that documents plant locations were identified during a field survey. Also attach any report supplied by the New Mexico Environmental Review Tool (provided by the NM Dept. of Game and Fish) or data received from Natural Heritage New Mexico that documents the potential for endangered plants to occur in the activity area. The Forestry 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 from conducting surveys that may be required by federal, other state, or local agencies.
- 2) If space was not sufficient to answer permit application questions in full, please include an addendum with additional details.
- 3) If an endangered plant is also listed under federal law, a United States Department of the Interior, Fish and Wildlife Service consultation response or biological opinion if federal law requires the response or biological opinion.

Submitting Permit Application and Reports

Electronically: rareplantpermits@emnrd.nm.gov

By mail:

Energy, Minerals and Natural Resources Department; Forestry Division
Attn: Erika Rowe, State Botanist
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Santa Fe, NM 87505

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