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This is an amendment to 19.21.2 NMAC, Section 9, effective 01/15/2019.

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:

<i>Aliciella formosa</i> (Aztec gilia)	Subsection B of 19.21.2.8 NMAC
<i>Allium gooddingii</i> (Goodding's onion)	Subsection B of 19.21.2.8 NMAC
<i>Amsonia tharpii</i> (Tharp's bluestar)	Subsection B of 19.21.2.8 NMAC
<i>Argemone pleiacantha</i> subsp. <i>pinnatisecta</i> (Sacramento prickle-poppy)	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>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 scheeri</i> var. <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>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 nitida</i> (shining coralroot)	Subsection B of 19.21.2.8 NMAC
<i>Hexalectris spicata</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>Mammillaria wrightii</i> var. <i>wilcoxii</i> (Wilcox pincushion cactus)	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>Polygala rimulicola</i> var. <i>mescalerorum</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>Scleroacactus cloveriae</i> subsp. <i>brackii</i> (Brack'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>Spiranthes magnicamporum</i> (lady tresses orchid)	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]

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**STATEMENT OF REASONS FOR AMENDMENT OF 19.21.2.9 NMAC, LIST OF NEW
MEXICO STATE ENDANGERED PLANT SPECIES**

This Statement of Reasons provides the basis upon which the Energy, Minerals and Natural Resources Department (EMNRD) amends 19.21.2.9 NMAC, List of New Mexico State Endangered Plant Species, to remove *Sclerocactus cloveriae* subsp. *brackii* (Brack's cactus) from the list.

I. Statutory Authority

19.21.2 NMAC contains rules concerning the endangered plants in New Mexico that are protected from unauthorized collection by the New Mexico Endangered Plants Species Act, NMSA 1978. EMNRD adopts rules for endangered plant species pursuant to NMSA 1978, Section 75-6-1, which authorizes EMNRD to make regulations establishing a list of endangered plant species and NMSA 1978, Section 9-1-5(E) that authorizes the secretaries of departments within the executive branch to adopt rules to carry out the duties of their departments and divisions within those departments.

EMNRD proposed to amend 19.21.2.9 NMAC to remove *Sclerocactus cloveriae* subsp. *brackii* (Brack's cactus) from the list of state endangered plants in 19.21.2.9 NMAC because according to a recent DNA analysis, *Sclerocactus cloveriae* subsp. *brackii* (synonym *Sclerocactus cloverae* subsp. *brackii*) is not genetically distinct from *Sclerocactus cloveriae* subsp. *cloveriae* (synonym *Sclerocactus cloverae* subsp. *cloverae*) to warrant recognition as a separate subspecies and should therefore not be awarded separate taxonomic status. Porter, M.J. and A. Clifford. 2018. Genetic diversity within *Sclerocactus cloverae* Heil & Porter based on ddRAD-seq: the genetic basis for subspecies recognition. Unpublished report to the BLM State Office, Santa Fe, NM.

II. Process

Notice of the rulemaking and a public hearing was published in the Albuquerque Journal on October 30, 2018 and in the New Mexico Register on November 13, 2018. In addition, the EMNRD, Forestry Division distributed notice of the rulemaking by e-mailing to the Legislative Council Service on October 25, 2018, posting on the Department of Information Technology's Sunshine Portal and on the Forestry Division's website on October 25, 2018, posting in the Forestry Division's Santa Fe and district offices, and e-mailing to interested parties. On December 13, 2018, the Forestry Division held a public hearing on the proposed rule amendment at 10:30 a.m. in the Garrey Carruthers Building, Second Floor, Room 2027, 1209 Camino Carlos Rey in Santa Fe. The Forestry Division did not receive any public comments regarding the proposed amendment.

III. Conclusion

EMNRD considered the potential impacts of the rule on small businesses and determined that there do not appear to be any negative impacts as Brack's cactus was proposed for removal from the list of state endangered plants because recent DNA analysis found it did not warrant recognition as a subspecies and should not have separate taxonomic status.

After conducting a public meeting in Santa Fe, EMNRD amends 19.21.2.9 NMAC because recent DNA analysis found Brack's cactus does not warrant recognition as a subspecies and

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should not have separate taxonomic status. The attached amendment of 19.21.2.9 NMAC shall become effective on January 15, 2019.



Ken McQueen, Cabinet Secretary

Date: 12/14/2018