

NOTICE OF PROPOSED RULEMAKING

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), Forestry Division hereby gives notice of the following proposed rulemaking. EMNRD proposes to amend its rule, 19.21.2 NMAC, Endangered Plant Species List and Collection Permits, by removing *Sclerocactus cloveriae* subsp. *brackii* (Brack's cactus) from the list of state endangered plants in 19.21.2.9 NMAC.

Purpose of Amendment. EMNRD proposes the amendment 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 and Clifford 2018).

Legal Authority. EMNRD proposes this rule amendment under the authority of NMSA 1978, Section 75-6-1 and NMSA 1978, Section 9-1-5(E).

The full text of the proposed rule amendment is available from Andrew Frederick at (505) 476-3343 or AndrewG.Frederick@state.nm.us or can be viewed on the EMNRD, Forestry Division's website at <http://www.state.nm.us/SFD> or at the Forestry Division's offices in Santa Fe, Chama, Cimarron, Las Vegas, Rio Rancho, Socorro, Capitan, and Silver City.

Public Hearing and Comment. EMNRD will hold a public hearing on the proposed rule amendment at 10:30 a.m. on Thursday, December 13, 2018, in the Garrey Carruthers Building, Second Floor Room 2027, 1209 Camino Carlos Rey, Santa Fe, New Mexico 87507.

Those wishing to comment on the proposed rule amendment may make oral or written comments or submit information at the hearing or may submit written comments by December 13, 2018 by 5:00 p.m. by mail or email or through the portal on the Forestry Division's website at <http://www.state.nm.us/SFD>. Please mail written comments to Andrew Frederick, EMNRD, Forestry Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or submit comments by email to AndrewG.Frederick@state.nm.us.

Technical Information that served as a basis for the proposed rule amendment includes:

Heil, K. and M. Porter. 1994. *Sclerocactus* (Cactaceae): A revision. *Haseltonia* No. 2: 20 – 46.
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.

A copy of the technical information can be obtained from Andrew Frederick at (505) 476-3343 or AndrewG.Frederick@state.nm.us or can be viewed on the EMNRD, Forestry Division's website at <http://www.state.nm.us/SFD>.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Andrew Frederick at (505) 476-3343 or through the New Mexico Relay Network at 1-800-659-1779 one week prior to the hearing. Public documents can be provided in various accessible formats. Please contact Andrew Frederick at (505) 476-3343, if a summary or other type of accessible format is needed.