

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 11 RELATING TO SALT WATER DISPOSAL SITE EASEMENTS

19.2.11.1 ISSUING AGENCY: Commissioner of Public Lands, New Mexico State Land Office, 310 Old Santa Fe Trail, P. O. Box 1148, Santa Fe, New Mexico 87501, Phone: (505)827-5713
[12/31/1999; 19.2.11.1 NMAC - Rn, 19 NMAC 3. SLO 11.1, 9/30/2002]

19.2.11.2 SCOPE: This rule pertains to all salt water disposal site easements on those lands held in trust by the commissioner of public lands under the terms of the Enabling Act and subsequent legislation (trust lands). This rule governs the grantees of all salt water disposal site easements on such trust lands entered into subsequent to the date of this rule.
[12/31/1999; 19.2.11.2 NMAC - Rn, 19 NMAC 3. SLO 11.2, 9/30/2002]

19.2.11.3 STATUTORY AUTHORITY: The commissioner's authority to manage the trust lands is found in N.M. Const., Art. XIII, and in Section 19-1-1 NMSA 1978. The authority to promulgate this rule is found in Section 19-1-2 NMSA 1978.
[12/31/1999; 19.2.11.3 NMAC - Rn, 19 NMAC 3. SLO 11.3, 9/30/2002]

19.2.11.4 DURATION: Permanent.
[12/31/1999; 19.2.11.4 NMAC - Rn, 19 NMAC 3. SLO 11.4, 9/30/2002]

19.2.11.5 EFFECTIVE DATE: January 20, 1984, unless a later date is cited at the end of a section.
[12/31/1999; 19.2.11.5 NMAC - Rn, 19 NMAC 3. SLO 11.5, 9/30/2002; A, 6/30/2016]

19.2.11.6 OBJECTIVE: The objective of 19.2.11 NMAC is to provide for the orderly and lawful administration, and the appropriate use and development of salt water disposal site easements on trust lands.
[12/31/1999; 19.2.11.6 NMAC - Rn, 19 NMAC 3. SLO 11.6, 9/30/2002]

19.2.11.7 DEFINITIONS: “**Schedule of fees**” means a list of fees that must be paid for performance of certain administrative functions. The schedule of fees shall be published on the state land office website and is subject to change at the discretion of the commissioner. Unless otherwise noted in the schedule of fees or in this rule, the fee shall be non-refundable.
[12/31/1999; 19.2.11.7 NMAC - Rn, 19 NMAC 3. SLO 11.7, 9/30/2002; A, 6/30/2016]

19.2.11.8 APPLICABILITY OF RULES: The following rules govern the issuance of easements upon state trust lands for sites for the underground disposal of salt water produced in connection with oil and gas operations. Because an oil and gas lessee is entitled to use so much of the land as is necessary to explore for and remove the oil and gas, the lessee does not need additional permission of the commissioner to dispose of the salt water upon or under the leased land so long as the water being disposed of is produced exclusively from wells upon the state trust land and so long as it is reasonable under the circumstances to do so. Conversely, if any of the salt water to be injected is produced from land not under the applicant's state oil and gas lease, then the applicant, in addition to a disposal site easement, will be required to secure a regular right of way and easement for a pipeline, roadway, or other means of conveyance under the rules pertaining to right of way and easements generally. (See 19.2.10 NMAC “Rules Relating to Easements, and Rights of Way”.) Permission to dispose of produced salt water in natural salt lakes, or other surface facilities located upon state trust lands and approved by the New Mexico oil conservation commission, shall be given at the discretion of the commissioner by means of issuance of a “business lease.” (See 19.2.9 NMAC “Business Leasing”.)
[12/31/1999; 19.2.11.8 NMAC - Rn, 19 NMAC 3. SLO 11.8, 9/30/2002; A, 6/11/2019]

19.2.11.9 LANDS AVAILABLE FOR DISPOSAL SITE EASEMENTS:

A. Subject to the commissioner's right to exercise the commissioner's discretion, all lands listed as state owned on New Mexico state land office tract books are subject to application for salt water disposal easement sites; however, reference must be had to New Mexico state land office records in each case to determine which prior rights, if any, have been conveyed to or contracted for by third parties which would limit or prohibit the

commissioner from issuing a salt water disposal site easement. In any case, such easements are issued subject to prior rights.

B. The commissioner reserves the right to refuse to grant an easement when to do so would be detrimental to the trust. The following are some of the factors which may have bearing on the commissioner's decision:

(1) That an abandoned oil or gas well may have greater value for foreseeable future oil or gas production from a different zone.

(2) That the salt water storage space proposed to be used may be needed for disposal of salt water produced from wells on state trust lands in the foreseeable future.

(3) That disposal of salt water in the particular zone may interfere with development and production of oil and gas or other minerals owned by the state of New Mexico in trust.

C. Although applications will be accepted for filing on disposal sites prior to the approval of the disposal facility or operation by the New Mexico oil conservation division, the commissioner may withhold or deny issuance of the salt water disposal easement pending approval or disapproval by the New Mexico oil conservation division.

[12/31/1999; 19.2.11.9 NMAC - Rn, 19 NMAC 3. SLO 11.9, 9/30/2002; A, 6/11/2019]

19.2.11.10 APPLICATION: Each application for a salt water disposal easement shall be made in ink or typewritten upon forms prescribed and furnished by the commissioner, under oath, and accompanied by the following:

A. a filing fee as set forth in the schedule of fees;

B. a plat showing disposal well and wells from which produced salt water is to be disposed together with pipelines and haul roads;

C. if the land is under an oil and gas lease, the written consent of the record owner that the easement may be issued, or in the event of the record owner's refusal to consent, then a statement of the reasons, if any, given for the refusal;

D. statement as to the estimated number of barrels of salt water to be disposed; and

E. a written appraisal of the land made under oath by some disinterested and credible person familiar with the land. All easements, except as to the true value of the land, must be based upon personal knowledge and not upon information and belief.

[12/31/1999; 19.2.11.10 NMAC - Rn, 19 NMAC 3. SLO 11.10, 9/30/2002; A, 6/30/2016; A, 6/11/2019]

19.2.11.11 TERM AND CONDITIONS: Salt water disposal site easements shall be issued for five (5) years or less with a preference right of renewal, subject to the commissioner's decision not to continue the easement. The easement shall normally cover not more than two and one half (2 1/2) acres surrounding the proposed injection site. Applicant shall also file an appraisal of the land with regard to the value for water easement purposes made under oath by some disinterested party who is familiar with the land. Such appraisal shall take into account the extent and nature of the use that the application indicates will be made of the surface.

[12/31/1999; 19.2.11.11 NMAC - Rn, 19 NMAC 3. SLO 11.11, 9/30/2002]

19.2.11.12 CONSIDERATION: Payment for such water disposal easement sites shall be at a negotiated rate but not less than two hundred fifty dollars (\$250.00) annual rental.

[12/31/1999; 19.2.11.12 NMAC - Rn, 19 NMAC 3. SLO 11.12, 9/30/2002]

19.2.11.13 BOND: Before any disposal site easement is issued, the applicant shall post with the commissioner a sufficient bond or undertaking in an amount to be fixed by the commissioner, in favor of the owner of improvements lawfully located upon the land, to secure payment of damage, if any, done to such improvements by reason of the operations of the applicant. Upon written notice to the holder of a salt water disposal site easement, the commissioner may require such holder to fence the site for the protection of the surface user's livestock.

[12/31/1999; 19.2.11.13 NMAC - Rn, 19 NMAC 3. SLO 11.13, 9/30/2002]

19.2.11.14 ASSIGNMENT - RELINQUISHMENT - CANCELLATION: A disposal site easement may, with the prior written approval of the commissioner, upon such terms and conditions as the commissioner may require, and payment of the fee as set forth in the schedule of fees, be assigned to third parties or relinquished to the state and the commissioner may cancel such easement for breach or violation of the terms and conditions thereof after thirty days registered notice is given as required by law.

[12/31/1999; 19.2.11.14 NMAC - Rn, 19 NMAC 3. SLO 11.14, 9/30/2002; A, 6/30/2016; A, 6/11/2019]

HISTORY OF 19.2.11 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives under:

CPL 69-5, Rules and Regulations Concerning The Sale, Lease, and Other Disposition of State Trust Lands, filed 9/2/1969;

CPL 71-2, filed 12/16/1971;

CPL 77-1, filed 1/7/1977;

Rule 11, Relating to Salt Water Disposal Site Easements, filed 3/11/1981;

SLO Rule 11, filed 1/20/1984.

History of Repealed Material: [RESERVED]