

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 13 RELATING TO THE SALE OF TIMBER ON STATE LANDS

19.2.13.1 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; 19.2.13.1 NMAC - Rn, 19 NMAC 2. SLO 13.1, 9/30/2002]

19.2.13.2 SCOPE: This rule pertains to all timber and timber products, except dead and down timber, 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 harvest and sales of timber and timber products on trust lands subsequent to the date of this rule.
[12/31/1999; 19.2.13.2 NMAC - Rn, 19 NMAC 2. SLO 13.2, 9/30/2002]

19.2.13.3 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; 19.2.13.3 NMAC - Rn, 19 NMAC 2. SLO 13.3, 9/30/2002]

19.2.13.4 DURATION: Permanent.
[12/31/1999; 19.2.13.4 NMAC - Rn, 19 NMAC 2. SLO 13.4, 9/30/2002]

19.2.13.5 EFFECTIVE DATE: January 20, 1984, unless a later date is cited at the end of a section.
[12/31/1999; 19.2.13.5 NMAC - Rn, 19 NMAC 2. SLO 13.5, 9/30/2002; A, 6/30/2016]

19.2.13.6 OBJECTIVE: The objective of 19.2.13 NMAC is to provide for the orderly and lawful administration, and the appropriate harvest and sale of timber and timber resources on trust lands.
[12/31/1999; 19.2.13.6 NMAC - Rn, 19 NMAC 2. SLO 13.6, 9/30/2002]

19.2.13.7 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; 19.2.13.7 NMAC - Rn, 19 NMAC 2. SLO 13.7, 9/30/2002; A, 6/30/2016]

19.2.13.8 POLICY: The general policy of the New Mexico state land office is to manage the timber resources of the state on a basis of sustained yield and according to standards that will protect the timber and timber products and the watersheds of the state. Timber contracts in all cases must reflect this policy.
[12/31/1999; 19.2.13.8 NMAC - Rn, 19 NMAC 2. SLO 13.8, 9/30/2002]

19.2.13.9 TIMBER SALES - HOW MADE: Sales of state timber and timber products may be made only at public auction at the county seat of the county wherein the same are situated, and after advertisement of sale by publication for 10 weeks in a newspaper regularly published in the city of Santa Fe, and concurrently in a newspaper regularly published in the county wherein the lands are situated. Provided, however, that the commissioner may issue permits for the sale of dead and down firewood without advertising such sale. A public auction will not be required on the sale or issuance of permits for dead and down firewood. Ordinarily, timber will be sold upon application by a prospective purchaser (and the commissioner's concurrence) except that the commissioner reserves the right to offer such timber for sale as the commissioner deems to be in the best interest of the trust.
[12/31/1999; 19.2.13.9 NMAC - Rn, 19 NMAC 2. SLO 13.9, 9/30/2002; A, 6/11/2019]

19.2.13.10 TIMBER SALES - APPRAISEMENT AND RECOMMENDATIONS OF THE REPRESENTATIVE OF THE NEW MEXICO STATE LAND OFFICE: Merchantable timber on state trust land will ordinarily be sold only after appraisement, report and recommendation of a representative of the New Mexico state land office. The representative may be an employee of the New Mexico state land office, of the U. S. forest service or of the New Mexico state forestry division of the natural resources department, by request of the commissioner, under cooperative agreement.

[12/31/1999; 19.2.13.10 NMAC - Rn, 19 NMAC 2. SLO 13.10, 9/30/2002]

19.2.13.11 APPLICATION TO PURCHASE TIMBER: Each application to purchase timber on state trust land must be accompanied by the application fee as set forth in the schedule of fees and a five hundred dollar (\$500.00) deposit, unless a different deposit sum is required to cover the expenses of appraisal, advertising and sale. The advertisement will specify time, date and place of public sale, together with the description of the lands containing timber to be sold.

[12/31/1999; 19.2.13.11 NMAC - Rn, 19 NMAC 2. SLO 13.11, 9/30/2002; A, 6/30/2016]

19.2.13.12 BIDDERS MUST BE QUALIFIED: In order to be qualified as a bidder at a public sale of state-owned timber, a person must have complied with and met all conditions and requirements prescribed in the notice of sale, which shall include filing an application to purchase and payment of the application fee in accordance with 19.2.13.11 NMAC, and must have deposited with the commissioner, or the commissioner's agent conducting the sale, an amount as set forth in the notice of sale, in cash or certified check, prior to the opening of the sale. If the applicant or any other qualified bidder is not the successful bidder, the applicant's or any other qualified bidder's deposit will be refunded. If the cost of sale exceeds the deposit, the successful bidder shall pay the difference before receiving the successful bidder's timber contract. If the costs of sale are less than the initial deposit, the successful bidder will be refunded or credited the difference at the successful bidder's option.

[12/31/1999; 19.2.13.12 NMAC - Rn, 19 NMAC 2. SLO 13.12, 9/30/2002; A, 6/30/2016; A, 6/11/2019]

19.2.13.13 NO PREFERENCE RIGHTS: State-owned timber is sold at public auction to the highest and best bidder. There is no preference right of any kind accorded to any person or persons in awarding state timber contracts.

[12/31/1999; 19.2.13.13 NMAC - Rn, 19 NMAC 2. SLO 13.13, 9/30/2002]

19.2.13.14 THE SUCCESSFUL BIDDER - CONTRACT BOND: The highest and successful bidder shall sign the regular New Mexico state land office timber agreement form, as may be amended or changed in the best interest of the trust. Before the commissioner executes the contract, the successful bidder shall post a corporate surety bond (in such an amount as may be required by the commissioner) countersigned by an authorized New Mexico resident agent of a bonding company authorized to do business in the state of New Mexico. Such bond shall be conditioned upon faithful performance by the purchaser of the terms and provisions of the timber sale contract.

[12/31/1999; 19.2.13.14 NMAC - Rn, 19 NMAC 2. SLO 13.14, 9/30/2002]

19.2.13.15 TIMBER SALE CONTRACTS - PAYMENTS: Timber contracts may be issued for a period of five (5) years or less unless the same be canceled for cause, unless sooner cut out or unless conditions beyond the control of the purchaser prevent completion within the specified time. Upon proper application and due proof of inability to complete the contract within its term, the commissioner may extend the same for reasonable periods in the best interests of the trust.

[12/31/1999; 19.2.13.15 NMAC - Rn, 19 NMAC 2. SLO 13.15, 9/30/2002]

19.2.13.16 PAYMENT FOR CONTRACTED TIMBER: No timber will be marked for cutting under the provisions of the contract unless payment therefor shall have been made and credited in the New Mexico state land office, and in no case will cutting be permitted in advance of marking by the New Mexico state land office representative.

[12/31/1999; 19.2.13.16 NMAC - Rn, 19 NMAC 2. SLO 13.16, 9/30/2002]

19.2.13.17 SUPERVISION OF TIMBER CONTRACTS - FORM OF CONTRACT: Where sales of timber are made, the cutting and logging practices will be supervised by a representative of the New Mexico state land office as indicated in 19.2.13.10 NMAC above, and the timber sale contract will in all cases be the standard form of contract adopted by the commissioner with such amendments as may be necessary in each case.

[12/31/1999; 19.2.13.17 NMAC - Rn, 19 NMAC 2. SLO 13.17, 9/30/2002]

19.2.13.18 YEARLY CUT: Unless otherwise provided by the timber sale agreement, the yearly cut will be one-fifth (1/5th) of the total estimated merchantable timber board measure specified in the timber sale agreement.

[12/31/1999; 19.2.13.18 NMAC - Rn, 19 NMAC 2. SLO 13.18, 9/30/2002]

19.2.13.19 THE MINIMUM TO BE MARKED FOR CUTTING: Unless otherwise provided by the timber sale agreement, the minimum merchantable timber to be marked at any one (1) time will be one-fourth (1/4th) of the annual required cut.

[12/31/1999; 19.2.13.19 NMAC - Rn, 19 NMAC 2. SLO 13.19, 9/30/2002]

19.2.13.20 SURVEY OF TIMBER LANDS: State timber is sold based upon state trust lands described by the United States system of public land surveys by section, subdivision, township and range. Should uncertainties as to exact boundaries of state timber contracts be encountered, then an actual survey may be ordered by the commissioner, the cost of the same to be borne by the applicant or the successful bidder, whichever the case may be.

[12/31/1999; 19.2.13.20 NMAC - Rn, 19 NMAC 2. SLO 13.20, 9/30/2002]

19.2.13.21 BRUSH DISPOSAL BY CONTRACT HOLDER: The timber sale contract shall contain sufficient, proper and adequate provisions therein requiring the contract holder to dispose of the brush resulting from the sale. The term "brush" as used herein shall mean to include all tops, slash and debris resulting from logging operations, including stems and limbs or portions thereof not exceeding four inches in diameter. The sufficiency of the brush disposal work done by the contract holder shall be subject to the approval of the commissioner, or the commissioner's duly authorized representative. In no instance shall brush disposal be allowed to fall behind cutting, except when the depth of snow or other adequate reason beyond the control of the contract holder makes proper disposal impracticable. In such an event, the disposal of brush may, with the written consent of the representative of the commissioner in charge, be postponed until conditions are more favorable.

[12/31/1999; 19.2.13.21 NMAC - Rn, 19 NMAC 2. SLO 13.21, 9/30/2002; A, 6/11/2019]

19.2.13.22 SUSPENSION OF LOGGING OPERATIONS AND TERMINATION OF THE TIMBER CONTRACT BY THE COMMISSIONER: The timber contract shall also contain a provision that all operations on the sale area, including the removal of scaled timber, may be suspended by written notice from the commissioner, or the commissioner's duly authorized representative in charge, if the conditions and requirements contained in the timber sale contract are disregarded by the contract holder, or the contract holder's agents or employees. Such suspension by the representative of the commissioner shall be only upon the approval of the commissioner. The commissioner may cancel any lease, contract or other instrument executed by the commissioner relating to state trust lands for nonpayment of monies due or for violation of any of the terms, covenants or conditions of such lease or instrument, after giving the party or parties in interest 30 days notice by registered mail; provided, however, if within the 30 days, the party or parties in interest shall comply with the demand in the notice, cancellation shall not be made. Provided, further, that in case where monies due are delinquent, the commissioner may, at the commissioner's option, look to the purchaser or the purchaser's sureties and the commissioner's lien upon improvements for payment, rather than cancel the contract.

[12/31/1999; 19.2.13.22 NMAC - Rn, 19 NMAC 2. SLO 13.22, 9/30/2002; A, 6/11/2019]

19.2.13.23 ASSIGNMENT OF STATE TIMBER SALE CONTRACTS: Subject to the approval of the commissioner, state timber sales contracts may be assigned, provided that the assignee, in the opinion of the commissioner, is able and qualified to fulfill such contract, and provided further that the assignee shall provide a corporate surety bond as required by the said contract and conditioned upon the assignee's faithful performance of the provisions thereof.

[12/31/1999; 19.2.13.23 NMAC - Rn, 19 NMAC 2. SLO 13.23, 9/30/2002; A, 6/11/2019]

19.2.13.24 MODIFICATION OF TIMBER SALES AGREEMENT: Upon application by the holder of a state timber sale contract for modification of the holder's agreement and good cause being shown, the commissioner may consent to certain changes, in the commissioner's discretion, provided that the applicant for modification shall have first obtained the consent of its surety.

[12/31/1999; 19.2.13.24 NMAC - Rn, 19 NMAC 2. SLO 13.24, 9/30/2002; A, 6/11/2019]

19.2.13.25 [RESERVED]

[12/31/1999; 19.2.13.25 NMAC - Rn, 19 NMAC 2. SLO 13.25, 9/30/2002]

19.2.13.26 CONTRACTOR RESPONSIBILITIES: Under the general powers of the commissioner and the appropriate provisions in timber contracts, the commissioner will require holders of timber sales contracts to respect

forest service fences and the fences of individuals in the timber sale area, and unless state timber operators have made proper arrangements to the contrary, all gates must be closed after passing through the same.
[12/31/1999; 19.2.13.26 NMAC - Rn, 19 NMAC 2. SLO 13.26, 9/30/2002]

19.2.13.27 CANCELLATION OF TIMBER CONTRACT FOR CAUSE: The commissioner may cancel any lease, contract or other instrument executed by the commissioner, which shall have been obtained by fraud or executed through mistake or without authority of law. In such case, the commissioner shall serve upon the party in interest a 30 day registered notice to show cause before the commissioner upon a date to be fixed in the notice, why such instrument should not be canceled.
[12/31/1999; 19.2.13.27 NMAC - Rn, 19 NMAC 2. SLO 13.27, 9/30/2002; A, 6/11/2019]

HISTORY OF 19.2.13 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 9/02/1969;

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

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

Rule 13, Relating to the Sale of Timber on State Lands, filed on 3/11/1981;

SLO Rule 13, filed on 1/20/1984.

History of Repealed Material: [RESERVED]