

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 14 PERTAINING TO LAND SALES

19.2.14.1 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; 19.2.14.1 NMAC - Rn, 19 NMAC 3. SLO 14.1, 9/30/2002]

19.2.14.2 SCOPE: This rule pertains to the sale of lands, resources or other assets held in trust by the commissioner of public lands under the terms of the Enabling Act and subsequent legislation (trust lands). There are certain exceptions to this rule as follows: applications to purchase received between August 1st and September 30th may be rejected summarily as set out in subsection B of 19.2.14.8 NMAC below.
[12/31/1999; 19.2.14.2 NMAC - Rn, 19 NMAC 3. SLO 14.2, 9/30/2002]

19.2.14.3 STATUTORY AUTHORITY: The commissioner's authority to manage the state trust lands is found in N.M. Const., Art. XIII, Section 2, 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; 19.2.14.3 NMAC - Rn, 19 NMAC 3. SLO 14.3, 9/30/2002]

19.2.14.4 DURATION: Permanent.
[12/31/1999; 19.2.14.4 NMAC - Rn, 19 NMAC 3. SLO 14.4, 9/30/2002]

19.2.14.5 EFFECTIVE DATE: September 5, 1985, unless a later date is cited at the end of a section.
[12/31/1999; 19.2.14.5 NMAC - Rn, 19 NMAC 3. SLO 14.5, 9/30/2002; A, 6/30/2016]

19.2.14.6 OBJECTIVE: The objective of 19.2.14 NMAC is to provide for the orderly and lawful sale of state trust lands, assets and resources.
[12/31/1999; 19.2.14.6 NMAC - Rn, 19 NMAC 3. SLO 14.6, 9/30/2002]

19.2.14.7 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; 19.2.14.7 NMAC - Rn, 19 NMAC 3. SLO 14.7, 9/30/2002; A, 6/30/2016]

19.2.14.8 LAND SUBJECT TO SALE: All lands, including lands acquired by escheat, shown upon the New Mexico state land office tract books to be open for sale, may be sold at public auction, at the discretion of the commissioner. All minerals of whatsoever kind, including but not limited to oil and gas, coal, sand and gravel, clay, shale, caliche and building stone, will be reserved to the state of New Mexico, together with the right to use so much of the surface as may be reasonably necessary to explore for and remove same. Such rights are subject to the right of the purchaser to be compensated for the purchaser’s improvements lawfully placed upon the land. Geothermal resources are reserved under the same terms and conditions as minerals.

A. The beneficiary institution shall be advised of the receipt of any application to purchase.

B. All applications filed between August 1 and September 30 each year will be summarily rejected unless it is determined that they will not interfere with the annual surface lease renewal program.
[12/31/1999; 19.2.14.8 NMAC - Rn, 19 NMAC 3. SLO 14.8, 9/30/2002; A, 6/11/2019]

19.2.14.9 APPLICATION FEES - COST - REQUIREMENTS: Applications to purchase state trust lands shall be:

A. Made under oath, in ink, or typewritten upon forms prescribed and furnished by the commissioner.

B. Accompanied by the application fee as set forth in the schedule of fees and a deposit against the expense of advertising and sale as set forth in the schedule of fees. The successful bidder shall pay the total cost of advertising, appraising, and sale, and will be billed for any cost in excess of the deposit. The deposit of unsuccessful bidders will be refunded.

C. Accompanied by an appraisal of the land by a disinterested and creditable person familiar with the land, and said appraisal shall be based upon personal knowledge and not information and belief. Such appraisal shall not be binding upon the commissioner.

D. Signed by the original applicant or by the applicant's agent or attorney duly authorized by written power of attorney. Applications not made in conformity with these rules are subject to rejection and in the event any application is withdrawn or rejected, the applicant shall pay the cost incurred up to that time. When special circumstances warrant, the commissioner, upon notice to the applicant, may add additional requirements. Nothing in these rules contained shall be construed as preventing the commissioner on the commissioner's own initiative at any time from offering for sale all or part of any lands of the state when the commissioner determines that such sale is in the best interest of the trust.

[12/31/1999; 19.2.14.9 NMAC - Rn, 19 NMAC 3. SLO 14.9, 9/30/2002; A, 6/30/2016; A, 6/11/2019]

19.2.14.10 APPRAISAL OF LAND AND IMPROVEMENTS:

A. Upon receipt of a proper application to purchase, and upon a preliminary determination that the sale might be advantageous to the trust, the commissioner will cause an appraisal of the land and the authorized improvements to be made. Thereafter, if the commissioner determines to offer the land for sale, a copy of the appraisal will be furnished to the applicant and to the owner of the improvements as well as to any other interested parties requesting same. Any party in interest aggrieved by the decision of the commissioner in setting the value of the improvements may appeal to the district court within 60 days as provided by law.

B. Upon receipt of the appraisal, the applicant shall notify the commissioner in writing as to whether the applicant is agreeable to starting the bidding upon the land at the appraised price. If not, the unused portion of the deposit shall be refunded to the applicant and the application rejected. If the applicant is agreeable with the appraisal of the land and the improvements, the applicant shall file with the commissioner a sum equal to the appraised value of the improvements or a waiver of payment signed by the owner thereof. If the applicant disagrees with the appraisal of the improvements the applicant may post bond with the commissioner to assure payment and appeal the appraisal as provided by law. Upon payment or posting of the bond the commissioner may proceed to advertise the sale.

C. Authorized improvements shall include water rights and all permanent improvements placed upon the land in compliance with the provisions of Section 19-7-51 NMSA 1978; all improvements placed upon the land prior to March 1, 1955, whether or not prior written permission of the commissioner was obtained; and all improvements approved by the commissioner under the provisions of Section 19-7-51 NMSA 1978.

D. Upon completion of the sale, the commissioner shall pay to the owner of the authorized improvements the value thereof as hereinabove determined; provided, however, in the event the lease provides for removal of improvements, either permanent or removable, the terms of the lease shall take precedence over this Rule.

[12/31/1999; 19.2.14.10 NMAC - Rn, 19 NMAC 3. SLO 14.10, 9/30/2002; A, 6/11/2019]

19.2.14.11 ADVERTISEMENT: Notice of sale shall be published once each week for ten (10) consecutive weeks in a newspaper of general circulation published locally at the state capital, and a newspaper of like circulation which shall be locally published nearest the lands so offered for sale. Said notice shall set forth the nature, time and specific place of the sale, which place shall be at the county seat wherein the lands or the major portion thereof are located.

[12/31/1999; 19.2.14.11 NMAC - Rn, 19 NMAC 3. SLO 14.11, 9/30/2002]

19.2.14.12 QUALIFICATION OF BIDDERS: In order to qualify as a bidder, the prospective bidder shall deposit with the commissioner:

A. A deposit to cover the cost of sale, as set forth in the notice of sale.

B. Ten percent of the appraised value of the lands.

C. The appraised value of the improvements, a waiver of payment of such amount signed by the owner of the improvements, or a bond sufficient to cover the appraised value if an appeal is to be taken, unless the prospective bidder is the owner of the improvements.

[12/31/1999; 19.2.14.12 NMAC - Rn, 19 NMAC 3. SLO 14.12, 9/30/2002; A, 6/30/2016]

19.2.14.13 AUCTION SALE TO HIGHEST BIDDER: No preference right to purchase shall be given to any bidder upon the advertised land. If sold at all, the land shall be sold to the highest and best bidder at public auction. Said auction may be conducted by oral auction or by the acceptance of sealed bids, which shall be opened at

the time of the auction. Should there be identical sealed bids, those submitting them shall be allowed to orally bid until there is a highest and best bidder. Bids must be for all of the land offered in a given tract. [12/31/1999; 19.2.14.13 NMAC - Rn, 19 NMAC 3. SLO 14.13, 9/30/2002]

19.2.14.14 CONTRACTS AND PATENTS:

A. On the date of sale the successful bidder, if any, shall be required to pay the full amount bid, unless the commissioner has given notice that the commissioner will accept payment by purchase contract. If a purchase contract is permitted, the successful bidder shall be required to pay at least ten percent of the purchase price. Upon making such payment, together with the cost of sale, if any, such purchaser shall be entitled to a 30 year contract whereunder the balance of the principal shall be payable in 30 equal annual installments with interest in advance on the deferred principal balance at a rate set by the commissioner in the notice of auction sale published as required by law. The first principal and interest payment shall be due on or before the date possession of the premises is established. This date shall serve as the anniversary date of the contract on which all successive payments shall be due. Purchaser at purchaser's option may, however, pay cash in full and receive a patent. No extension of the 30 year term of the contract will be granted. In case of death of a contract purchaser, the commissioner may upon written application by an heir, devisee or personal representative of the deceased, defer the due date of the next payment for one year. Deposit of unsuccessful bidders will be refunded. Sample copies of a standard purchase contract agreement and patent will be furnished prospective bidders upon request.

B. Holders of purchase contracts may pay off the contract balance at any time. Interest payments made in advance cannot be refunded. In case of the final discharge of the obligation before maturity date, interest must be paid to the date when the contract is paid in full. No patent covering any portion of state trust land under contract will be issued until the total purchase price of the contract is paid in full regardless of the number of assignments outstanding, except the commissioner will issue patents to separate assignments in instances where the assignments were approved by the commissioner prior to September 4, 1956. [12/31/1999; 19.2.14.14 NMAC - Rn, 19 NMAC 3. SLO 14.14, 9/30/2002; A, 6/11/2019]

19.2.14.15 ASSIGNMENT OF PURCHASE CONTRACTS:

A. Any purchaser of state trust lands under purchase contract, which contract is in good standing, may assign a part or all of the purchaser's right, title and interest under any such contract, provided that a certified copy of such assignment shall be filed with the commissioner before the same shall become effective. The approval or disapproval by the commissioner of an assignment or a partial assignment of a state contract is not required. The filing of a certified copy of the assignment or partial assignment with the commissioner completes the assignment, provided, however, if the contract is under collateral assignment the approval of the commissioner is required and such permission shall not be given unless the assignee agrees in writing to assume or take the contract subject to the rights of any collateral assignee. No relinquishment of a purchase contract shall be approved unless the collateral assignee shall join in said relinquishment.

B. No patent shall be issued to any contract holder or assignee thereto until the entire bid price for the entire tract bid upon is paid in full, except for contracts assigned with the approval of the commissioner prior to September 4, 1956.

C. Each assignment shall be accompanied by a fee of sixty dollars (\$60.00).

D. The mailing address of the assignee shall be clearly shown upon the assignment and a copy of the assignor's purchase contract shall accompany the assignment.

E. The assignment must show the marital status of the assignor and, if married, both husband and wife must join in the execution of the assignment which signatures must be acknowledged as in the case of conveyances of other real estate.

[12/31/1999; 19.2.14.15 NMAC - Rn, 19 NMAC 3. SLO 14.15, 9/30/2002; A, 6/11/2019]

19.2.14.16 COLLATERAL ASSIGNMENT (MORTGAGE) OF CONTRACTS:

A. With the consent of the commissioner the owner of a purchase contract may mortgage the owner's interest in the contract together with the improvements upon the land by means of assigning the owner's interest as collateral security to insure the payment of an indebtedness specified in said assignment. Upon approval of such collateral assignment by the commissioner, the assignee shall have a lien upon the said interests of the assignor and thereafter no contract so assigned shall be transferred free and clear except after release of said collateral assignment.

B. Collateral assignments shall be made only upon forms prescribed by the commissioner, which forms shall meet the other specified requirements of law.

C. Collateral assignments may be foreclosed by the assignee in the manner provided by law for the foreclosure of mortgages on real estate and the purchaser at such foreclosure sale shall, if otherwise qualified to purchase state trust land, be entitled to the purchase contract and the improvements located upon the land subject to prior collateral assignments, if any there be.

[12/31/1999; 19.2.14.16 NMAC - Rn, 19 NMAC 3. SLO 14.16, 9/30/2002; A, 6/11/2019]

19.2.14.17 CANCELLATION FOR DEFAULT - RELINQUISHMENT:

A. In the event the purchaser shall fail to comply with the terms and conditions of contract of purchase the commissioner may, at the commissioner's option, declare a forfeiture of such contract after 30 days' notice given as provided under Section 19-7-50 NMSA 1978, unless the purchaser shall comply with the demands made in such notice in which case cancellation shall not be made. A purchaser may consent to the cancellation by waiver of notice of intention to cancel.

B. Late interest payments shall bear interest at the rate of one percent per month until paid.

C. In case of forfeiture all monies theretofore paid under any such contract, together with improvements upon the land, shall remain and become the property of the state of New Mexico.

D. Any contract executed by the commissioner which has been obtained by fraud or executed through mistake, or without authority at law, may be canceled after 30 days' notice by registered mail upon order to show cause as provided by Section 19-7-8 NMSA 1978.

[12/31/1999; 19.2.14.17 NMAC - Rn, 19 NMAC 3. SLO 14.17, 9/30/2002; A, 6/11/2019]

19.2.14.18 COUNTY BOND LANDS: The rules applicable to the sale of other lands are generally applicable to the sale of county bond lands.

[12/31/1999; 19.2.14.18 NMAC - Rn, 19 NMAC 3. SLO 14.18, 9/30/2002]

19.2.14.19 WATER RIGHTS:

A. Water Pertinent to Irrigated Land. Water used on state trust land and the right to use same upon said land shall never be severed or transferred from the land without the written consent of the commissioner. Because title to lands under purchase contract remains in the state of New Mexico until the land is paid for and a patent is issued, the written permission of the commissioner must be secured in order to transfer or sever water rights from the lands under purchase contract.

B. Permission to Transfer. Any purchase contract holder desiring to apply for permission to change the use of water from state trust lands to other lands, including other state trust lands but not excluding privately owned lands; or to change the method of use of such water; or to change the location of a well; or to change the point of diversion of surface waters from any stream or arroyo shall comply with 19.2.12 NMAC.

[12/31/1999; 19.2.14.19 NMAC - Rn, 19 NMAC 3. SLO 14.19, 9/30/2002]

HISTORY OF 19.2.14 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 14, Pertaining to Land Sales, filed 3/11/1981;

SLO Rule 14, filed 1/20/1984;

SLO Rule 14, Amendment No. 1, filed 6/24/1985;

SLO Rule 14, filed 9/5/1985.

History of Repealed Material: [RESERVED]