

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 16 RULEMAKING PROCEDURES

19.2.16.1 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.
[19.2.16.1 NMAC - Rp 19 NMAC 2. SLO 16.1, 7/31/2002]

19.2.16.2 SCOPE: This rule governs the promulgation, amendment, and repeal of rules for the administration of the lands, resources, and assets held in trust by the commissioner of public lands under the terms of the Enabling Act and subsequent legislation. If any provision of this rule is inconsistent with any specific statutory procedures that govern rulemakings conducted by the commissioner, the specific statutory procedures shall apply.
[19.2.16.2 NMAC - Rp 19 NMAC 2. SLO 16.2, 7/31/2002]

19.2.16.3 STATUTORY AUTHORITY: N.M. Const., art. XIII, section 2, and in Section 19-1-1 *et seq.* NMSA 1978.
[19.2.16.3 NMAC - Rp 19 NMAC 2. SLO 16.3, 7/31/2002]

19.2.16.4 DURATION: Permanent.
[19.2.16.4 NMAC - Rp 19 NMAC 2. SLO 16.4, 7/31/2002]

19.2.16.5 EFFECTIVE DATE: July 31, 2002.
[19.2.16.5 NMAC - Rp 19 NMAC 2. SLO 16.5, 7/31/2002]

19.2.16.6 OBJECTIVE: The objective of this rule is to provide for the orderly and lawful promulgation, amendment, and repeal of rules for the administration of state trust lands.
[19.2.16.6 NMAC - Rp 19 NMAC 2. SLO 16.6, 7/31/2002]

19.2.16.7 DEFINITIONS: As used in this rule:

A. “commissioner” means the commissioner of public lands; the commissioner is the executive officer of the state land office and may delegate to state land office staff the performance of duties required of the commissioner under this rule;

B. “rule” means any written rule, regulation or standard, and any written amendment or repeal of a rule, regulation or standard, issued or promulgated by the commissioner and binding persons other than the commissioner or the employees of the state land office, but does not include:

(1) statements, policies, procedures, or directives concerning only internal management of the state land office and not binding lessees, applicants, or the public generally;

(2) rulings or decisions of the commissioner in proceedings authorized by law regarding individual leases;

(3) actions of the commissioner in regard to individual leases, contracts, grants, or other instruments executed by the commissioner; and

(4) any applications, forms, schedules of fees or any guidance documents issued by the commissioner to implement the rules of the commissioner unless such documents are required by law to be included in a rule;

C. “rulemaking record” means all materials received or generated by the commissioner during a rulemaking proceeding, including but not limited to:

(1) the public notice and any documents related to the publication or posting of the public notice;

(2) the proposed rule or rule change;

(3) any written comments submitted during the comment period;

(4) any record (audio tape, video tape or stenographic) of the public hearing, if any, on the proposed rule;

(5) any reports or other documents prepared or submitted by state land office staff regarding the proposed rule; and

(6) the commissioner’s order promulgating the rule;

D. “state land office” means the New Mexico state land office; and

E. “State Rules Act” means the State Rules Act codified at Chapter 14, Article 4 NMSA 1978, and any amendments thereof, and any rules adopted pursuant to that act.
[19.2.16.7 NMAC - Rp 19 NMAC 2. SLO 16.7, 7/31/2002]

19.2.16.8 PUBLIC REQUESTS FOR RULEMAKING: Any interested person may request in writing that the commissioner promulgate, amend, or repeal a rule. Within 120 days of receipt of the written request, the commissioner shall either initiate formal proceedings to consider the proposed rule or issue to the individual making the request, a written statement of the commissioner’s reasons for denial of the request.
[19.2.16.8 NMAC - Rp 19 NMAC 2. SLO 16.14, 7/31/2002; A, 6/11/2019]

19.2.16.9 COMMENT PERIOD: No rule shall be adopted by the commissioner until after the commissioner provides public notice and a period for public comment of not less than thirty days, except as provided in this rule for emergency rules.
[19.2.16.9 NMAC - Rp 19 NMAC 2. SLO 16.9, 7/31/2002]

19.2.16.10 NOTICE OF RULEMAKING: Notice that the commissioner intends to promulgate, amend, or repeal a rule shall be given by publication in the New Mexico register, by publication in at least one newspaper of general circulation in the state, and by posting on a website controlled or authorized by the commissioner. The notice shall state generally the subject of the proposed rulemaking, the manner in which interested persons may submit written comments and, if appropriate, the time and place of any public hearing. The notice may allow comments to be submitted by electronic mail. The notice shall also state where copies of the proposed rule may be obtained by interested persons. Individual notice of rulemaking to all state lessees, contract holders, or grantees shall not be necessary, unless as may be otherwise required by law.
[19.2.16.10 NMAC - Rp 19 NMAC 2. SLO 16.10, 7/31/2002]

19.2.16.11 RULEMAKING HEARINGS: In the commissioner’s discretion or as may be required by law, the commissioner may set a public hearing to allow comments on a proposed rule. Notice of such hearing shall be made as provided in 19.2.16.10 NMAC and shall be published and posted no less than 30 days prior to the date of the hearing. At such hearing the commissioner shall allow all interested persons, or groups of persons, reasonable opportunity to present written materials, present oral comments on the proposed rule, present questions, and to examine witnesses. State land office staff may appear at the hearing and present testimony and answer questions from the public. If the commissioner determines that oral presentation or the examination of witnesses is unnecessary or impractical, the commissioner may require that the presentation be submitted in writing and establish limitations on the examination of witnesses. At the hearing, all interested persons shall have the opportunity to review all documents or other pertinent information prepared in advance of the hearing. The commissioner may designate a hearing officer to conduct the public hearing. In the commissioner’s discretion, the commissioner may keep the rulemaking record open for a reasonable period of time after the hearing to receive further written materials.
[19.2.16.11 NMAC - Rp 19 NMAC 2. SLO 16.11, 7/31/2002; A, 6/11/2019]

19.2.16.12 CONSIDERATION OF THE RECORD; ORDER PROMULGATING RULE: After the close of the comment period, the commissioner shall consider the contents of the rulemaking record. If the commissioner adopts a rule, the commissioner shall, prior to the effective date of the rule, enter an order. The order shall include a concise statement of the commissioner’s principal reasons for promulgating the rule and a statement of the major comments adopted or rejected in promulgating the rule and the reasons for their adoption or rejection. A copy of the commissioner’s order shall be sent to all persons who submitted written comments and provided an address, and if a public hearing was held, all persons who were present at the hearing, as reflected on the attendance list. Individual notice of the order to state lessees, contract holders, or grantees shall not be necessary unless otherwise provided by law.
[19.2.16.12 NMAC - Rp 19 NMAC 2. SLO 16.15, 7/31/2002]

19.2.16.13 EFFECTIVE DATE OF RULES: Upon promulgation of a rule by the commissioner, the rule shall be posted in the state land office for the period required by law, if any, and filed as required by the State Rules Act. A rule shall be effective upon publication in the New Mexico register, unless a later date is specified by the commissioner.

[19.2.16.13 NMAC - Rp 19 NMAC 2. SLO 16.12, 7/31/2002]

19.2.16.14 EMERGENCY RULES: If the commissioner determines that an emergency exists which requires immediate action, the commissioner may promulgate, amend, or repeal a rule and post the rule in the state land office for any minimum statutory period and thereafter file the rule as required by the State Rules Act. The rule shall be effective immediately upon filing. An emergency rule shall be designated as such in the text of the rule and shall include a statement of the necessity for the emergency need for the rule. No emergency rule shall continue in effect longer than 30 days unless within that time period the rule is published in the New Mexico register and the commissioner commences proceedings to adopt the rule under the general provisions of this rule. If the commissioner commences such proceedings the emergency rule shall remain in effect until a permanent rule takes effect or until the proceedings are otherwise complete. In no event shall an emergency rule remain in effect for more than 120 days.

[19.2.16.14 NMAC - Rp 19 NMAC 2. SLO 16.13, 7/31/2002; A, 6/11/2019]

HISTORY of 19.2.16 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the New Mexico State Records Center under:

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

CPL 71-2, Rules and Regulations Concerning the Sale, Lease, and Other Disposition of State Trust Lands, 12/16/1971.

CPL 77-1, Rules and Regulations Concerning the Sale, Lease, and Other Disposition of State Trust Lands, 1/7/1977.

Rule 16, General Application, 3/11/1981;

SLO Rule 16, Relating to Promulgation, Amendment and Repeal of Rules, 10/2/1987.

History of Repealed Material:

Rule 16, General Application - Repealed 1/20/1984.

19 NMAC 2. SLO 16, Relating to Promulgation, Amendment and Repeal of Rules - Repealed 7/31/2002.