

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 17 GEOPHYSICAL EXPLORATION ON UNLEASED STATE TRUST LANDS

19.2.17.1 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.
[19.2.17.1 NMAC - N, 9/14/2000]

19.2.17.2 SCOPE: Future geophysical exploration permits of state trust lands, excluding exploration for minerals which may be leased under 19.2.17 NMAC. This part does not apply to geophysical exploration related to oil and gas operations on trust lands that are currently under an oil and gas lease in good standing; any geophysical exploration on those lands shall be conducted under the terms of the existing oil and gas lease.
[19.2.17.2 NMAC - N, 9/14/2000]

19.2.17.3 STATUTORY AUTHORITY: N.M. Const. Art. XIII; NMSA 1978 Section 19-10-1.
[19.2.17.3 NMAC - N, 9/14/2000]

19.2.17.4 DURATION: Permanent.
[19.2.17.4 NMAC - N, 9/14/2000]

19.2.17.5 EFFECTIVE DATE: September 14, 2000, unless a later date is cited at the end of a section.
[19.2.17.5 NMAC - N, 9/14/2000; A, 6/30/2016]

19.2.17.6 OBJECTIVE: The objective of this part is to provide the general terms and conditions for the geophysical exploration of state trust lands.
[19.2.17.6 NMAC - N, 9/14/2000]

19.2.17.7 DEFINITIONS:

A. “Commissioner” means the New Mexico commissioner of public lands, and the commissioner’s appointees under Section 19-1-7 NMSA 1978 acting within the scope of their authority. Except for the decision to cancel or otherwise terminate a lease, the commissioner may delegate to state land office staff the performance of functions required of the commissioner under this part.

B. “Geophysical exploration” means the quantitative physical study of the earth by reflection and refraction seismic (including dynamite sources), gravity, magnetic, electrical, electromagnetic or radiation methods.

C. “Geophysical exploration permit” or “permit” means a permit approved by the commissioner for geophysical exploration of trust lands.

D. “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.

E. “State land office” means the New Mexico state land office.

F. “Trust” means the trust created by congress under the New Mexico Enabling Act of June 20, 1910, and accepted by the state of New Mexico under Articles XIII and XIV of the New Mexico constitution.

G. “Trust lands” means those lands, their natural products and all assets derived from them, which are under the care, custody and control of the commissioner.

[19.2.17.7 NMAC - N, 9/14/2000; A, 6/30/2016; A, 6/11/2019]

19.2.17.8 PROHIBITION: Notwithstanding the issuance of a geophysical exploration permit, no person shall conduct any geophysical activity or associated surveys on trust lands unless the activity is conducted in conformity with all applicable local, state, and federal laws and regulations, and all necessary permits have been obtained.
[19.2.17.8 NMAC - N, 9/14/2000]

19.2.17.9 LANDS SUBJECT TO A GEOPHYSICAL EXPLORATION PERMIT: Geophysical exploration permits are required on all trust lands on which there is no valid existing oil and gas lease, specifically:

A. On all trust lands in which both the surface and mineral estate are held in trust, even if other surface leases are in existence.

B. On all trust lands in which only the mineral estate is held in trust. Such permit will allow the permittee to conduct geophysical investigations throughout the mineral estate; however, any access to the surface estate will be coordinated between the permittee and the surface owner.

C. On all trust lands in which only the surface estate is held in trust, even if other surface leases are in existence. Such permit will allow the permittee physical access to the surface for the purpose of conducting geophysical investigations; however, any access to the mineral estate shall be coordinated between the permittee and the mineral estate owner.

[19.2.17.9 NMAC - N, 9/14/2000]

19.2.17.10 APPLICATION FOR A PERMIT:

A. Applicants for a geophysical exploration permit must contact the oil, gas and minerals division of the state land office in Santa Fe to verify that the trust lands of interest are available to permit. Interested applicants shall then submit a complete application for permit on forms prescribed and furnished by the commissioner, and shall include, without limitation, the following:

(1) A check made payable to the commissioner for the appropriate fees in accordance with the schedule of fees adopted by the commissioner. Fees will be assessed for each individual or portion of a geophysical exploration line considered as a single entry, and will reflect rates according to trust surface and mineral ownership and locations within restricted districts or unrestricted areas as determined by the commissioner;

(2) A topographic map of suitable scale, identified by county, township, range and section, showing the approximate location of all survey lines which are proposed to cross the applicable trust lands. The map shall be verified as to correctness by the applicant or the applicant's duly authorized representative; and,

(3) A proposed survey operations plan which shall include, without limitation, a description of the methods to be used in conducting the survey, a description of equipment to be used, a description of ingress and egress locations and a spill prevention and control plan.

B. When the proposed survey method will include the use of explosives, the application for a geophysical exploration permit shall also include the following:

(1) A topographic map showing shot hole patterns, depth of shot hole, size of charge and location in relation to buildings, wells, roads, pipelines, power lines, drainages and any other cultural feature; and

(2) Contingency plans for control and mitigation of blowouts and unexploded shot holes.

[19.2.17.10 NMAC - N, 9/14/2000; A, 6/11/2019]

19.2.17.11 PERMIT ISSUANCE:

A. If the commissioner approves an application and determines that a permit will be in the best interest of the trust, a geophysical exploration permit will be issued. The application documents will be incorporated into the permit by reference and the provisions of the approved application documents will be enforceable in the same manner as any other condition of the permit. Any changes to operations approved under a permit must be approved in advance in writing by the commissioner.

B. Following approval of an application, the commissioner shall prepare a geophysical exploration permit in accordance with this part, in duplicate, and mail the two originals to the applicant. If the applicant agrees to all terms and conditions of the proposed permit, the applicant shall sign the originals before a notary public and return both originals to the commissioner. The commissioner shall thereafter approve and execute the geophysical exploration permit and return one fully executed original to the permittee.

[19.2.17.11 NMAC - N, 9/14/2000]

19.2.17.12 PERMIT TERMS AND CONDITIONS:

A. The permit shall be valid for 90 days from the date of its approval by the commissioner; provided, that an extension may be approved by the commissioner upon a showing by the permittee that reasonable work delays occurred because of conditions beyond the permittee's control.

B. No later than 150 calendar days after the expiration date of a permit, the permittee shall furnish to the commissioner, a map of suitable scale, identified by county, township, range and section, showing the location and depth of shot holes or station points on the permitted land. This map shall include the locations of source (vibrator) lines and receiver lines. The map shall be of a quality sufficient to enable visual inspection of the permitted lands after the project is completed. The map shall be verified as to correctness by the permittee or the permittee's duly authorized representative.

C. Source lines and receiver lines shall be no greater than 100 feet in width.

D. Motorized vehicles are not allowed off established ranch roads or off the permitted and surveyed source and receiver lines. The commissioner will allow limited and reasonable drive-arounds when justified and located on submitted updated maps. Areas between the permitted survey lines are not permitted and entry thereon will be considered trespass, which may result in cancellation of a permit.

E. The permittee shall at all times keep the permit area free and clear of trash and debris resulting from the permittee's occupation of the lands. Hazardous or toxic wastes or petroleum products may not be disposed of on the permit premises, and all such materials used in the operations must be removed from the permitted land prior to expiration of the permit. Due care shall be used to prevent leaks and spills of such materials; the clean-up of any spills and reclamation of the area shall be performed in consultation with the commissioner.

F. Unless authorized by the commissioner in writing, a permit does not authorize the use of trust lands for operation staging areas or for vehicle maintenance yards.

G. No access is granted to trust lands for any purpose without valid permits or agreements. Copies of permits and agreements must be in the possession of any representatives or subcontractors of geophysical permittees at all times when on trust lands. State land office representatives may order an immediate shut-down of operations until proof of a valid permit or agreement is on site.

H. Permits may contain specific requirements for reclamation, such as bank stabilization for watercourses and road repair.

I. The permittee shall comply with all applicable laws, regulations, rules, ordinances and requirements of city, county, state and federal authorities and agencies, in all matters and things affecting the permit area and operations, including but not limited to conservation, sanitation, aesthetics, pollution, cultural properties, fire and ecology.

[19.2.17.12 NMAC - N, 9/14/2000; A, 6/11/2019]

19.2.17.13 RECLAMATION AND RESTORATION: Any person who enters upon trust lands for purposes of geophysical exploration shall take all steps necessary to preserve and protect the natural environmental conditions of such lands. The permittee shall remove all stakes, markers, cables, ropes, wires or debris from disturbed areas, and shall restore and reclaim all areas disturbed by the permittee's operations at the conclusion of the operations, in accordance with the approved permit and standards established by the commissioner.

[19.2.17.13 NMAC - N, 9/14/2000; A, 6/11/2019]

19.2.17.14 FINANCIAL ASSURANCE:

A. Improvements; Waivers. Before commencement of geophysical exploration activity, the permittee shall execute and provide financial assurance to secure payment for potential injuries to tangible improvements upon the permitted area that may result from a permittee's activity. The commissioner shall fix the amount of such financial assurance in an amount not less than five thousand dollars (\$5,000.00) for each section or portion of a section of trust lands covered by the permit. The financial assurance instrument shall be in favor of the state, but held for the benefit of the state's contract purchasers, patentees, and surface lessees with pre-existing rights within the permitted area. Provided that, in lieu of said financial assurance, the commissioner may accept a waiver of financial assurance, duly executed or acknowledged by the owners of all improvements in the permitted land.

B. Blanket Bonds. The permittee may, with the approval of the commissioner, provide one instrument ("megabond") to cover financial assurance requirements under multiple permits or other instruments that authorize the permittee to enter trust lands. The commissioner shall fix the amount of the megabond, which shall be no less than twenty-five thousand dollars (\$25,000.00).

C. Reclamation Bonds. Notwithstanding the provision of financial assurance under this part, the commissioner may require a permittee to provide for additional financial assurance to guarantee performance of reclamation requirements promulgated under state land office rules.

D. Form of Financial Assurance Instruments. Forms for all financial assurance instruments shall either be prescribed and furnished by the commissioner, or be in a form approved by the commissioner. Self-insurance, in any form, shall not be allowed.

[19.2.17.14 NMAC - N, 9/14/2000]

19.2.17.15 SURFACE LESSEES:

A. Fees paid to the commissioner pursuant to this part for permits to conduct geophysical exploration on lands in which the surface is held in trust are consideration for access to use the surface for reasonable

geophysical activity. State land office surface lessees are not entitled to compensation from permittees for access across trust land.

B. Permittees must settle with and compensate state land office surface lessees for actual damage to or loss of livestock, authorized improvements, range, crops, and other valid existing rights recognized by law.
[19.2.17.15 NMAC - N, 9/14/2000]

HISTORY of 19.2.17 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the State Records Center and Archives:

SLO Rule 17, Relating to Seismic Exploration on Unleased State Lands, filed 8/3/1988

History of Repealed Material:

SLO Rule 17, Relating to Seismic Exploration on Unleased State Lands, 9/14/2000.