

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 19 RELATING TO RECREATIONAL AND EDUCATIONAL ACCESS TO STATE TRUST
LANDS

19.2.19.1 ISSUING AGENCY: Commissioner of Public Lands, New Mexico State Land Office, 310 Old Santa Fe Trail, Santa Fe, New Mexico 87501; or, P. O. Box 1148, Santa Fe, New Mexico 87504-1148, Phone: (505) 827-5713.

[19.2.19.1 NMAC – Rp, 19.2.19.1 NMAC, 12/13/13]

19.2.19.2 SCOPE: This rule governs recreational and educational access to state trust lands open to such access and assures that recreational and educational access are conducted in a manner consistent with the purposes of the trust.

[19.2.19.2 NMAC – Rp, 19.2.19.2 NMAC, 12/13/13]

19.2.19.3 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.

[19.2.19.3 NMAC – Rp, 19.2.19.3 NMAC, 12/13/13]

19.2.19.4 DURATION: Permanent.

[19.2.19.4 NMAC – Rp, 19.2.19.4 NMAC, 12/13/13]

19.2.19.5 EFFECTIVE DATE: December 13, 2013 unless a later date is cited at the end of a section.

[19.2.19.5 NMAC – Rp, 19.2.19.5 NMAC, 12/13/13]

19.2.19.6 OBJECTIVE: The objective of 19.2.19 NMAC is to provide for the orderly and lawful use of state trust lands open to recreational and educational access.

[19.2.19.6 NMAC – Rp, 19.2.19.6 NMAC, 12/13/13]

19.2.19.7 DEFINITIONS: As used in this rule, the following terms shall have the meaning here indicated:

A. “Commissioner” - the commissioner of public lands or any agent or employee of the commissioner who is authorized to act in the commissioner's stead.

B. “Recreational access” - access to state trust lands open to recreational and educational access described in Subsection D of 19.2.19.7 NMAC for the purpose of conducting non-commercial permitted activities thereon.

C. “Permitted activities” - those activities on lands open to recreational access that are authorized by the issuance of a recreational access permit and are not prohibited under 19.2.19.18 NMAC. Permitted activities include, but are not limited to, such activities as hiking, sightseeing, picnicking, observing wildlife, non-commercial pinon nut gathering, photographing, and cross country skiing.

D. “Lands open to recreational access” - those lands, other than lands leased under a New Mexico state land office business lease, that are identified by the surface tract books of the New Mexico state land office as in the care, custody, and control of the commissioner, that have not been withdrawn from recreational access by the commissioner, and on which no oil and gas operations or mining operations are being conducted.

E. “Recreational access permit” - an instrument issued by the commissioner that authorizes recreational access by the recreational access permittee and a certain number of persons accompanying the permittee. A recreational access permit shall be valid only in the possession of the recreational access permittee and shall be rendered invalid by its transfer to another. Recreational access permits shall be of two types:

(1) “Individual/family permit” - a recreational access permit issued to a recreational access permittee that authorizes recreational access by the permittee and all family members (not to exceed 10 other persons) in the company of the permittee. The permit shall be valid for one year from the date of issuance, such term to apply retroactively to any individual/family permit issued during the 12-month period prior to the effective date of this rule.

(2) “School/educational permit” - a recreational access permit issued to a recreational access permittee who is the teacher, leader, or sponsor of a school class or educational group, that authorizes recreational

access by the permittee and no more than 50 members of the permittee's school class or educational group for up to three days. The permit shall be valid from sunrise to sunset for one to three consecutive calendar days.

F. "Recreational access permittee" - any person 18 years old or older to whom or in whose name a recreational access permit is issued.

G. "Established road" - A road built or maintained by equipment, and which shows no evidence of being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades, or posted closures. In addition, this includes observable two-track roads. A two-track road is one which shows use for purposes such as recreation, mining, logging, or ranching, and which shows no evidence of being closed to vehicular traffic by such means as berms, ripping, scarification, reseeding, fencing, gates, barricades, or posted closures.

[19.2.19.7 NMAC – Rp, 19.2.19.7 NMAC, 12/13/13]

19.2.19.8 WITHDRAWAL OF LANDS FROM RECREATIONAL ACCESS: The commissioner, in the commissioner's sole discretion, may at any time withdraw any state trust lands from recreational access if the commissioner determines that such withdrawal is in the best interests of the trust. Any lands so withdrawn shall remain unavailable for recreational access until the commissioner, in the commissioner's sole discretion, determines that the availability of the lands for recreational access is in the best interests of the trust.

[19.2.19.8 NMAC - Rp, 19.2.19.8 NMAC, 12/13/13; A, 6/11/19]

19.2.19.9 RECREATIONAL ACCESS PROHIBITED WITHOUT A PERMIT: Recreational access to state trust lands is prohibited in the absence of a recreational access permit issued pursuant to this rule or other express, written authorization from the commissioner. Access in accordance with an easement issued to the New Mexico state game commission does not require an additional recreational access permit or other express, written authorization. A person engaged in recreational access in accordance with this rule shall, upon request by a state land office employee or lessee, present the person's written authorization for inspection.

[19.2.19.9 NMAC – N, 12/13/2013; A, 6/11/2019]

19.2.19.10 INTERFERENCE WITH LAWFUL RECREATIONAL ACCESS: No lessee or other person shall interfere with lawful recreational access permitted in accordance with this rule. The lessee of the subject state trust lands may, without such interference, make inquiry concerning the status of those using state lands.

[19.2.19.10 NMAC – N, 12/13/13]

19.2.19.11 PERMIT APPLICATION AND FEES: Applications for recreational access permits shall be written in ink upon forms prescribed by the commissioner and shall contain information the commissioner deems appropriate, or applications shall be submitted electronically if allowed by the commissioner's web site. Each application shall be accompanied by the appropriate fees as posted on the web site from time to time, which shall be non-refundable, and which are subject to change without notice. The commissioner reserves the right to reject any and all applications if the commissioner determines such rejection is in the best interests of the trust.

[19.2.19.11 NMAC – Rp, 19.2.19.9 NMAC, 12/13/13]

19.2.19.12 PERMIT APPLICATION AVAILABILITY: Applications for recreational access permits may be obtained: 1) by mailing a written request to the commissioner of public lands, New Mexico state land office, P. O. Box 1148, Santa Fe, New Mexico 87504-1148; 2) by telephone, 505-827-5724; 3) on the web site, nmstatelands.org; or, 4) in person at the New Mexico state land office, 310 Old Santa Fe Trail, Santa Fe, New Mexico 87501.

[19.2.19.12 NMAC – Rp, 19.2.19.10 NMAC, 12/13/13]

19.2.19.13 IDENTIFICATION AND LOCATION OF RECREATIONAL ACCESS LANDS: Recreational access permittees are solely responsible for correctly identifying and locating the lands they seek to visit pursuant to a recreational access permit. Maps are available at the New Mexico state land office at a nominal fee, or they may be obtained from the web site, nmstatelands.org.

[19.2.19.13 NMAC – Rp, 19.2.19.11 NMAC, 12/13/13]

19.2.19.14 TRAVEL: A recreational access permit does not grant a right to enter upon or cross lands not under the control of the commissioner. Also, a recreational access permit does not grant a right to access lands by motorized vehicle. The use of motorized vehicles or any mechanical form of transportation for recreational access is

restricted to public highways and roads, as defined by Section 67-2-1 NMSA 1978, and to established roads that cross the lands to which access is granted under the recreational access permit. When lands open to recreational access are fenced, vehicle access is allowed only where there is an unlocked gate that can be accessed from an immediately adjacent public highway or road, or from an immediately adjacent established road that crosses the lands to which access is granted. When a recreational access permittee opens an unlocked gate to gain access to lands by motorized vehicle, the permittee must close the gate after passing through. Where there is no such access through an unlocked gate in the fence, recreational access beyond the fence shall be limited to travel by foot. [19.2.19.14 NMAC – Rp, 19.2.19.12 NMAC, 12/13/13]

19.2.19.15 TRESPASS AND WASTE: Prohibited activities as described in 19.2.19.18 NMAC, on lands open to recreational access are deemed to be in trespass, waste, or both. [19.2.19.15 NMAC – Rp, 19.2.19.13 NMAC, 12/13/13]

19.2.19.16 LIABILITY: Each recreational access permittee shall agree, as a condition of permit issuance, to assume all liability for claims, losses or damages arising out of, alleged to arise out of, or indirectly connected with activities conducted during recreational access by the permittee and any and all individuals accompanying the permittee. Each recreational access permittee shall further agree to save, hold harmless, indemnify, and defend from all such liability, claims, losses, or damages lessees of state trust land, the commissioner, and the commissioner's agents and employees in their official and individual capacities. [19.2.19.16 NMAC – Rp, 19.2.19.14 NMAC, 12/13/13]

19.2.19.17 CANCELLATION: The commissioner may cancel any recreational access permit by providing oral notice of cancellation to the permittee or by mailing written notice of cancellation to the permittee. [19.2.19.17 NMAC – Rp, 19.2.19.15 NMAC, 12/13/13]

19.2.19.18 PROHIBITED ACTIVITIES:

- A.** Those activities that are not allowed on lands open to recreational access include, but are not limited to:
- (1) disturbing, harassing, injuring, destroying or removing wildlife, livestock, or any other animal life;
 - (2) disturbing, dislodging, damaging, destroying or removing native plants, standing timber, wood products, flowers, growing crops, or any other plant life other than pinon nuts gathered non-commercially;
 - (3) disturbing, dislodging, damaging, defacing, destroying or removing historical, archaeological, paleontological or cultural sites, or artifacts;
 - (4) disturbing, dislodging, defacing, damaging or destroying any improvement, fixture, item, object, or thing placed or located in, under, or upon the land;
 - (5) crossing lands not open to recreational access under this rule, without permission, to gain access to state trust lands that are open to recreational access;
 - (6) conducting off-road vehicle activities;
 - (7) bringing unrestrained (unleashed) animals to state trust lands;
 - (8) discarding refuse, waste, or litter of any kind;
 - (9) building open fires, igniting fireworks, or conducting any other activity that increases the risk of range, brush, or forest fires;
 - (10) conducting any type of commercial operation;
 - (11) discharging firearms, camping overnight, opening (without closing) gates;
 - (12) bringing onto state trust lands or consuming thereon any type of alcoholic beverage;
 - (13) violating any applicable law, statute, regulation, ordinance, or rule enacted by a governmental entity;
 - (14) fishing, trapping, or hunting without a valid New Mexico license;
 - (15) mineral exploration, development, or mining, or collecting valuable rocks or minerals;
 - (16) interfering with the authorized activities of other land users; or,
 - (17) entering, climbing, or accessing in any way structures, buildings, fixtures, or improvements other than fences located on state trust lands.

B. Recreational access shall not be exercised in a manner that materially interferes with other authorized uses of state trust lands or valid existing rights, such as agricultural leases or rights-of-way, or in a

manner that prevents or limits the commissioner's exercise of the commissioner's constitutional, statutory, or regulatory responsibilities.

C. The commission of a prohibited activity by one who gained access to state trust lands pursuant to a recreational access permit shall render the permit invalid, and shall constitute grounds for the commissioner to deny recreational access to, and to reject permit applications by, any person who gained recreational access pursuant to the invalid permit.

[19.2.19.18 NMAC - Rp, 19.2.19.16 NMAC, 12/13/13; A, 6/11/19]

HISTORY OF 19.2.19 NMAC:

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

SLO Rule 19, Relating to Recreational Access to State Trust Lands, filed 08/13/90.

SLO Rule 19, Amendment No. 1, filed 11/04/91.

History of Repealed Material: 19.2.19 NMAC, Relating to Recreational Access to State Trust Lands, filed 9/16/02 repealed effective 12/13/13 and replaced with 19.2.19 NMAC, Relating to Recreational and Educational Access to State Trust Lands effective 12/13/13.