

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 2 STATE TRUST LANDS
PART 10 EASEMENTS AND RIGHTS OF WAY

19.2.10.1 ISSUING AGENCY: Commissioner of Public Lands - New Mexico State Land Office.
[19.2.10.1 NMAC - Rp, 19.2.10.1 NMAC, 06/30/04]

19.2.10.2 SCOPE: This part covers all easements and rights of way granted over, upon, through, or across, trust lands for pipelines, public highways, railroads, tramways, telegraph, fiber optic, telephone and power lines, irrigation works, mining, logging, and for other purposes, except easements or rights of way granted in a lease, or salt water disposal easements covered by 19.2.11 NMAC, or water easements covered by 19.2.12 NMAC.
[19.2.10.2 NMAC - Rp, 19.2.10.2 NMAC, 06/30/04]

19.2.10.3 STATUTORY AUTHORITY: N.M. Const., Art. XIII; NMSA 1978 Sections 19-1-1 and 19-7-57. The authority to promulgate this part is found in Section 19-1-2 NMSA 1978.
[19.2.10.3 NMAC - Rp, 19.2.10.3 NMAC, 06/30/04]

19.2.10.4 DURATION: Permanent, unless otherwise provided in a specific section of this part.
[19.2.10.4 NMAC - Rp, 19.2.10.4 NMAC, 06/30/04]

19.2.10.5 EFFECTIVE DATE: June 30, 2004, unless a later date is cited at the end of a section.
[19.2.10.5 NMAC - Rp, 19.2.10.5 NMAC, 06/30/04]

19.2.10.6 OBJECTIVE: The objective of this part is to provide for the orderly and lawful administration and the appropriate granting of easements and rights of way on trust lands.
[19.2.10.6 NMAC - Rp, 19.2.10.6 NMAC, 06/30/04]

19.2.10.7 DEFINITIONS:

A. “Appraisal” means an appraisal as defined in Section 61-30-3A NMSA 1978.

B. “Commissioner” means the New Mexico commissioner of public lands, and his appointees under Section 19-1-7 NMSA 1978, acting within the scope of their authority. The commissioner may delegate to state land office staff the performance of functions required of the commissioner under this part.

C. “Easement” means a right or privilege granted by the commissioner, to use a defined area of trust lands for a prescribed purpose and time, which right can be terminated as provided in this part.

D. “Right of way” means a right or privilege granted by the commissioner, to pass over, upon, through, or across, a defined area of trust lands for a prescribed purpose and time, which right can be terminated as provided in this part.

E. “Fair market value” means the value that a willing buyer would pay a willing seller for a right of way or easement in the open market as set forth in a price schedule adopted by the commissioner or as otherwise determined, in the commissioner’s discretion, by an appraisal or field inspection.

F. “Field inspection” means an on-site inspection of a right of way or easement, made by authorized state land office personnel, which, if required under the price schedule or otherwise appropriate, may include specialized services such as market analysis or a determination of fair market value.

G. “Price schedule” means a schedule, adopted by the commissioner pursuant to this Part 10, showing the consideration due for the acquisition of an easement or right of way, which schedule shall be reviewed periodically by the commissioner and revised by him, when he deems it necessary, to reflect changes in the fair market value of easements and rights of way. A price schedule may incorporate varying considerations to account for the different uses, sizes, and locations, of easements and rights of way. The adoption of a price schedule and any revision thereof shall be preceded by reasonable public notice and the opportunity for public comment. Public notice shall consist of publication on the state land office website, and such other means as the commissioner may determine are appropriate, including but not limited to direct notification by mailing or electronic means to known interested parties. The time permitted for public comment shall be determined by the commissioner in his discretion.

H. “Purchase contract lands” means trust lands being purchased under a contract.

I. “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.

J. “**State land office**” means the New Mexico state land office.

K. “**Trust**” means the trust created by the New Mexico Enabling Act and administered by the commissioner.

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

[19.2.10.7 NMAC - Rp, 19.2.10.7 NMAC, 06/30/04; A, 06/30/16]

19.2.10.8 NO RIGHTS TO BE OBTAINED BY PRESCRIPTION: Easements or rights of way on trust lands may be acquired only by application and grant made in compliance with this part and applicable laws. No easement, right of way, or other interest in trust lands may be acquired by prescription, or pursuant to any other legal doctrine, except as provided by statute.

[19.2.10.8 NMAC - Rp, 19.2.10.8 NMAC, 06/30/04]

19.2.10.9 TRESPASS:

A. Any use of trust lands for right of way or easement purposes prior to the grant of a right of way or easement as provided by this Part 10 shall constitute an unauthorized use of such lands and will be deemed a trespass. The use of trust lands for easement or right of way purposes, if based upon any approval by any means other than as provided for in this Part 10, will likewise be deemed a trespass. However, in extenuating circumstances and for good cause shown, the commissioner may, in his discretion and upon written request, waive the trespass penalties set out below when the trespass consists of an inadvertent failure to obtain or renew an easement or right of way and that failure is promptly corrected when discovered.

B. Upon notification or determination that an unauthorized use exists, the commissioner shall initiate criminal or civil trespass sanctions, or both, against the unauthorized user; provided, however, that prior to the initiation of such action, the commissioner may attempt to remedy the trespass non-judicially by such means as he deems best including, but not limited to: 1) offering the unauthorized user the opportunity to terminate the unauthorized use, restore the lands to their condition prior to the unauthorized use, and pay the pro-rated fair market value of the unauthorized use through the date of termination; or, 2) offering to ratify the unauthorized use upon receipt of the required consideration plus the applicable trespass penalty set forth in Subsection D of 19.2.10.9 NMAC below. The commissioner shall not initiate or otherwise pursue criminal or civil trespass sanctions against an unauthorized user if that unauthorized user accepts and complies with any non-judicial remedy offered by the commissioner to remedy the unauthorized use.

C. All time limitations imposed upon an unauthorized user by the commissioner when offering non-judicial remedies shall be reasonable, but in no case shall any such limit be less than 10 days nor more than 60 days.

D. Trespass penalties: All trespass penalties are due in addition to the consideration due under 19.2.10.15 NMAC below.

- (1) An unauthorized user must pay the following trespass penalty:
 - (a) for the first occurrence of unauthorized use, 100% of the applicable fair market value;
 - (b) for the second occurrence, 500% of the applicable fair market value;
 - (c) for the third occurrence, 1000% of the applicable fair market value;
 - (d) for the fourth and subsequent occurrences, 1000% of the applicable fair market value and the grant of easement or right of way is limited to a maximum 5-year term at the applicable fair market value for a 35-year term;
- (2) Any occurrence of trespass preceded by 5 years of non-occurrence by the party in trespass will be treated as a first occurrence.
- (3) In the commissioner’s sole discretion, applicable trespass penalties will be reduced by no more than 50% if the trespass is self-reported before the commissioner learns of it from any other source.
- (4) The trespass penalties described above apply only to unauthorized uses that commence on or after February 28, 2002. The trespass penalty for an unauthorized use that commenced prior to that date is 100% of the fair market value.

[19.2.10.9 NMAC - Rp, 19.2.10.9 NMAC, 06/30/04]

19.2.10.10 LANDS SUBJECT TO APPLICATION: An applicant must review state land office records to determine which rights, if any, have been conveyed to or contracted for by third parties, which would limit or prohibit the commissioner's issuance of additional interests. As to lands under purchase contract, see 19.2.10.29 NMAC.

[19.2.10.10 NMAC - Rp, 19.2.10.10 NMAC, 06/30/04]

19.2.10.11 SURVEY PERMISSION: Anyone desiring to apply for an easement or right of way covering trust lands shall, prior to entry for surveying activities, file with the commissioner a written notice of intent to conduct a survey of the proposed location of such easement or right of way.

A. Such written notice, which may be in letter form, shall adequately describe the proposed project, including the purpose and general location (giving section, township and range coordinates).

B. The written notice shall contain the following agreement: "The undersigned applicant indemnifies and holds harmless the commissioner, his agents and employees, and any authorized lessees of the state of New Mexico, against any and all liability for loss of life, personal injury and property damage due to survey or related activities of the applicant, or by employees, contractors or subcontractors of the applicant." In lieu of such agreement, the applicant may submit a surety bond in an amount acceptable to the commissioner.

C. Upon receipt of the notice, the commissioner shall first determine whether the requested survey is, in fact, trust lands, and if the notice and agreement are acceptable. If accepted, the applicant and any surface lessees will be notified, and the applicant will be informed of any conditions being imposed on the proposed entry by the commissioner. Failure to comply with such conditions may result in the denial of a subsequent application for a right of way or easement.

[19.2.10.11 NMAC - Rp, 19.2.10.11 NMAC, 06/30/04]

19.2.10.12 SURVEY PLAT:

A. Unless waived by the commissioner pursuant to 19.2.10.13 NMAC, each application for an easement or right of way shall include a survey plat, which describes the location (by quarter-section parts or lots, township, and range coordinates) of the proposed easement or right of way. The survey plat shall be based upon an actual survey on the ground and shall include a plat prepared in accordance with the Minimum Standards for Surveying in New Mexico as set out by the New Mexico board of registration for professional engineers and surveyors, by a professional surveyor who is registered in New Mexico or exempt from registration under the provisions of the Engineering and Surveying Practice Act, Sections 61-23-1 to -32 NMSA 1978, or its successor provisions. The survey plat shall be properly certified showing the surveyor's state of registration and registration number. The survey plat shall show the centerline of the proposed easement or right of way or, if there is no centerline, then the area of the proposed easement or right of way. The survey plat shall identify every point where the proposed easement or right of way enters or leaves state trust land, crosses a section line, fence, road, pipeline, telephone line, irrigation works, or any other visible boundary, use, or easement. The survey plat shall show the location of all improvements in the close proximity of the easement or right of way. The survey plat shall show ties to section and quarter section corners, and measurements shall be to the nearest tenth of a foot with bearings expressed to the nearest minute. In no case shall the smallest unit of angular measurement be more than one minute. Acreage shall be computed to the nearest one hundredth of an acre and the survey plat shall show the number of acres, and the number of rods, included in the proposed easement or right of way in each legal subdivision of 40 acres, more or less.

B. When the requirement to submit a survey plat in accordance with Subsection A of 19.2.10.12 NMAC has been waived pursuant to 19.2.10.13 NMAC, then the applicant must provide to the commissioner a plat (prepared by the applicant, or his designated agent), drawn to scale, and showing the location of the easement or right of way and indicating the approximate number of acres and rods to be taken, as well as the legal description (by quarter-section parts or lots, township, and range coordinates) of the lands to be burdened by the proposed easement or right of way in the form required by Subsection A of 19.2.10.12 NMAC.

[19.2.10.12 NMAC - Rp, 19.2.10.12 NMAC, 06/30/04]

19.2.10.13 APPLICATION FORM: Written application for any grant of an easement or right of way shall be made upon forms prescribed and furnished by the commissioner. Such application shall be made under oath, and contain the following:

A. the application fee as set forth in the schedule of fees;

B. the field inspection fee as set forth in the schedule of fees, which fee may, in the discretion of the commissioner, be waived where the applicant is a governmental body which is prohibited by law from paying fees; and,

C. a legal description of the trust lands to be burdened by the proposed easement or right of way, together with a survey plat as provided under Subsection A of 19.2.10.12 NMAC; provided, however, that the requirement to submit a survey plat in accordance with Subsection A of 19.2.10.12 NMAC may be waived, in the discretion of the commissioner, upon a showing of good cause or undue hardship; all requests for waivers, setting forth the basis of the request, must be submitted in writing to the commissioner; in the event a waiver is granted, the applicant shall comply with the requirements set forth in Subsection B of 19.2.10.12 NMAC.
[19.2.10.13 NMAC - Rp, 19.2.10.13 NMAC, 06/30/04; A, 06/30/16]

19.2.10.14 TENURE: Easements and rights of way granted under this part shall be granted for a term, which the commissioner, in his discretion, deems in the best interests of the trust. Under no circumstances will the commissioner grant an easement or right of way for a perpetual term or as a fee simple grant.
[19.2.10.14 NMAC - Rp, 19.2.10.14 NMAC, 06/30/04]

19.2.10.15 CONSIDERATION:

A. For telecommunications, electric line, and pipeline easements and rights-of-way, consideration for the grant of a right of way or easement shall be in an amount determined by the applicable price schedule unless the commissioner, in his discretion, elects to establish the price through separate field inspection or appraisal, and/or subsequent negotiation, taking into account the circumstances and damage to remaining lands; for all others, consideration shall be determined by field inspection or appraisal, and/or subsequent negotiation, or such other method as the commissioner in his discretion deems best. In each case however, unless a credit is allowed pursuant to Subsection B of 19.2.10.15 NMAC below, consideration shall not be less than the fair market value of the interest to be granted. This Section 19.2.10.15 applies to all federal, state, county, municipal, or other governmental agencies, as well as quasi-governmental bodies or organizations, as if they were private parties.

B. For gathering pipelines, salt water disposal pipelines and other pipelines not used for main transmission, the commissioner may authorize a credit of up to thirty percent (30%) of the fair market value of the interest to be granted if, after a written showing by the applicant, the commissioner, in his sole discretion, determines: 1) that the grant of an easement or right of way, with a credit, will enhance oil and gas production from trust lands; 2) that the royalties resulting from the enhanced oil and gas production will far exceed any benefits derived from receiving fair market value from the grant of easement or right of way; and 3) that granting the credit is in the best interests of the trust. If such a credit is authorized, the grantee shall pay the fair market value less the amount of the credit.

C. An applicant for an easement or right of way may apply to use an existing right of way or easement. The application must be accompanied by: a) the written consent of the existing user for the proposed second use, if different from the applicant; and b) if a discount is being requested, an appraisal, satisfactory to the commissioner, comparing the damage to trust lands that will result from the proposed easement or right of way and the damage that would be caused by that same right of way or easement if located adjacent to the proposed one. Other factors supporting a discount may be included for the commissioner's consideration. In cases where a second use is approved by the commissioner within an existing right-of-way or easement, the commissioner may, based upon the approved appraisal, and if he deems it in the best interests of the trust, discount the consideration for the second grant by no more than twenty percent (20%).

D. No applicant may have both the Subsection B of 19.2.10.15 credit and the Subsection C of 19.2.10.15 discount above. If both are applied for, the commissioner in his discretion will determine which, if any, will be allowed.

[19.2.10.15 NMAC - Rp, 19.2.10.15 NMAC, 06/30/04]

19.2.10.16 EASEMENT OR RIGHT OF WAY DIMENSIONS: The commissioner shall determine the minimum dimensions of easements and rights of way, which determinations may be changed from time to time or waived in his discretion.

[19.2.10.16 NMAC - Rp, 19.2.10.16 NMAC, 06/30/04]

19.2.10.17 ACCESS PERMITS: The rights granted by the commissioner in any right of way or easement shall not include any right of access over, or right to use, trust lands not within the actual dimensions of the right of way or easement. If a right of way or easement is not large enough to permit vehicular or other access necessary for

the maintenance, repair, or improvement, of the right of way or easement, or for other permitted activities within the right of way or easement, access in such cases must be obtained by applying for and receiving a temporary access permit from the commissioner using such form or forms, and subject to the payment of such fees and costs, as the commissioner deems in the best interests of the trust and promulgates from time to time. Temporary access permits may also be issued to prospective applicants for rights of way or easements to allow them to conduct pre-application assessments. Each entry upon trust lands without an access permit as required by 19.2.10.17 NMAC shall be a separate trespass under 19.2.10.9 NMAC above.

[19.2.10.17 NMAC - Rp, 19.2.10.17 NMAC, 06/30/04]

19.2.10.18 DAMAGE SURETY:

A. The holder of an easement or right of way is required to compensate the state or its lessee, patentee, or purchase contract holder, for the reasonable value of any measurable damage done to improvements or other property, belonging to the person claiming such damages, lawfully upon the trust lands burdened by the easement or right of way. Before an easement or right of way may be issued, the applicant shall file with the commissioner a bond or other surety in an amount determined by the commissioner to be sufficient to cover such damages; provided, however, that the commissioner, in the exercise of his discretion, may waive this requirement if the applicant agrees to furnish to the commissioner, upon request, the names and addresses of its construction contractors, and if at least one of the following additional conditions is met:

(1) each lessee, patentee or purchase contract holder of the trust lands burdened by the easement or right of way provides a written waiver of this surety bond requirement; or,

(2) the applicant is a governmental agency which is prohibited by law from posting a surety bond and lawfully assumes sole and complete contractual liability for any damages arising from or in connection with its survey or use of the right of way or easement; or,

(3) the applicant is a governmental agency which is not immune from suit or is otherwise required by law to pay such damages and is thereby its own insurer, and lawfully assumes sole and complete contractual liability for any damages arising from or in connection with its survey or use of the right of way or easement; or,

(4) the commissioner, in his discretion, is satisfied that each lessee, patentee or contract holder will be afforded adequate protection other than through the posting of a bond or other surety by the applicant.

B. With the approval of the commissioner, a \$25,000.00 bond, or one in any other amount that is determined by the commissioner from time to time to be in the best interests of the trust, or a different surety acceptable to the commissioner, may be used for more than one easement or right of way which the grantee has executed with the commissioner.

[19.2.10.18 NMAC - Rp, 19.2.10.18 NMAC, 06/30/04]

19.2.10.19 EXPEDITED APPLICATION: Upon the request of an applicant, satisfactorily demonstrating an emergency situation, an application for an easement or right of way may be expedited as follows:

A. If the applicant does not already have one, the application may be sent to the applicant by fax or in electronic format.

B. The applicant must complete the application and return it with an offered rental and the appropriate fees.

C. A telephonic inquiry will then be made to the appropriate state land office personnel for verbal recommendations regarding the application and the proper fee per unit to be charged.

D. After evaluating the verbal recommendation from the state land office personnel, an easement or right of way will be prepared along with a request for additional rental if necessary and faxed to the applicant.

E. Upon return of the faxed and signed notarized easement, along with payment of or an acceptable agreement to pay additional rental if requested, the applicant will, within three days of receipt, be given verbal or fax approval.

[19.2.10.19 NMAC - N, 06/30/04]

[19.2.10.19 NMAC EXPEDITED APPLICATION is a new section added and replaces 19.2.10.19 NMAC CONSTRUCTION REPORTS. The old section headed CONSTRUCTION REPORTS is now 19.2.10.20 NMAC below]

19.2.10.20 CONSTRUCTION REPORTS: The holder of an easement or right of way shall notify the commissioner immediately when any historic or prehistoric ruin or monument, or any object of historical, archeological, or scientific value is discovered upon or within the easement or right of way. Upon such discovery,

the holder of the easement or right of way shall immediately refrain from further use or disturbance of the discovery area, or any related areas where further discoveries are likely, until the commissioner has consented in writing to any further activity upon or use of the easement or right of way and notified such other authorities as the commissioner deems it in the best interests of the trust to notify.

[19.2.10.20 NMAC - Rp, 19.2.10.19 NMAC, 06/30/04]

19.2.10.21 AFFIDAVIT OF COMPLETION: Upon the completion of construction of any easement or right of way, the holder of the easement or right of way shall, within 60 days after completion of construction, file with the commissioner an affidavit of completion. Failure to file such affidavit in accordance with this section shall subject the easement or right of way to termination in accordance with the provisions of this part.

[19.2.10.21 NMAC - Rp, 19.2.10.20 NMAC, 06/30/04]

19.2.10.22 CONFLICT OF USE: Unless otherwise authorized in writing by the commissioner, an easement or right of way shall not be used for any other or additional purposes or by any other or additional parties except those expressly identified in the grant of easement or right of way. Unless expressly stated otherwise in the grant of easement or right of way, the commissioner reserves the right to grant easements or rights of way to third parties over, under, upon, through, across or parallel to an existing easement or right of way; provided, however, that the commissioner shall not approve such subsequent easements or rights of way if, in his discretion, such co-use would present a safety hazard or otherwise unreasonably interfere with the existing easement or right of way. When a subsequent easement or right of way is permitted, the commissioner will require the subsequent grantee to post a bond or other surety to insure payment of damages, if any, which are done to the prior grantee's improvements and installations unless the prior grantee waives this requirement.

[19.2.10.22 NMAC - Rp, 19.2.10.21 NMAC, 06/30/04]

19.2.10.23 AMENDMENTS: Any holder of an existing easement or right of way desiring to change the use, or widen or otherwise alter the easement or right of way shall make application to do so by following the same procedure as is used in making an application for a new easement or right of way. Depending on the scope of the proposed change to the easement or right of way, the commissioner may waive certain application requirements, such as the survey plat or the application fee.

[19.2.10.23 NMAC - Rp 19.2.10.22 NMAC, 06/30/04]

19.2.10.24 ASSIGNMENT - RELINQUISHMENT: An easement or right of way may be assigned to third parties or relinquished to the state with the prior written approval of the commissioner and upon such terms and conditions as he may prescribe, and payment of the fee as set forth in the schedule of fees. The commissioner may waive the relinquishment fee when relinquishment is to accommodate a request or demand of the commissioner.

[19.2.10.24 NMAC - Rp, 19.2.10.23 NMAC, 06/30/04; A, 06/30/16]

19.2.10.25 RENEWAL OF EASEMENT OR RIGHT OF WAY: Prior to the expiration date of any easement or right of way heretofore or hereafter granted for a limited term of years, an application may be submitted for a renewal of the grant. If the renewal involves no change in the location or status of the original easement or right of way, the applicant may file with the application a statement under oath setting out this fact, and the commissioner, in his discretion, may extend the grant for an additional term upon payment of such additional consideration as the commissioner determines is appropriate; provided, however, that in no case shall such consideration be less than the fair market value of the interest granted unless a credit is allowed by this part.

[19.2.10.25 NMAC - Rp, 19.2.10.24 NMAC, 06/30/04]

19.2.10.26 TERMINATION OF EASEMENT OR RIGHT OF WAY: Any easement or right of way granted by the commissioner on trust land may be terminated in whole or in part for failure to comply with any term or condition of the grant or any applicable laws or regulations. Upon determination by the commissioner that an easement or right of way is subject to termination pursuant to the terms or conditions of the grant or applicable laws or regulations, the commissioner shall give the grantee a written 30-day notice at the address shown most recently in the records of the state land office, and if the grantee fails to remedy the problems set out in the notice to the satisfaction of the commissioner, then the commissioner shall issue an appropriate instrument terminating the easement or right of way, which instrument shall be placed in the public records of the state land office with a copy to the former grantee.

[19.2.10.26 NMAC - Rp, 19.2.10.25 NMAC, 06/30/04]

19.2.10.27 ABANDONMENT: Abandonment of all or part of an easement or right of way by a grantee shall consist of the non-use of all or part of a granted easement or right of way for the purposes authorized in the granting instrument for a period of one year. Upon discovering evidence of abandonment, the commissioner shall notify the grantee by written notice sent by regular mail to the grantee's last known address as shown in the records of the state land office, giving the grantee 60 days to prove that abandonment did not occur, all to the commissioner's satisfaction. Failure to do so shall result in the termination of the easement or right of way due to the failure of a condition subsequent, and upon such termination the easement or right of way shall automatically vest in the commissioner without further action or notice required. Any non-use of a portion of an easement or right of way for a period of one year shall, at the commissioner's discretion, be deemed an abandonment of that portion so used and subject to termination.

[19.2.10.27 NMAC - Rp, 19.2.10.26 NMAC, 06/30/04]

19.2.10.28 RECLAMATION AND RESTORATION: Any person who enters upon trust lands for purposes of surveying or constructing an easement or right of way shall take all steps necessary to preserve and protect the natural environmental conditions of the land, including reclamation of disturbed areas by leveling or terracing and reasonable attempts at re-vegetation where appropriate. Re-vegetation shall include the establishment of suitable grasses and forbs in accordance with applicable state land office rules and policies. The grantee of any right of way or easement shall consult with the commissioner regarding reclamation prior to undertaking reclamation and shall make reasonable attempts at restoration.

[19.2.10.28 NMAC - Rp, 19.2.10.27 NMAC, 06/30/04]

19.2.10.29 EASEMENTS OR RIGHTS OF WAY OVER PURCHASE CONTRACT LANDS:

A. The commissioner may, on the basis of the state's legal title and subject to the terms and conditions of the applicable purchase contract, approve and record easements and rights of way over, upon, through or across purchase contract lands on the following terms and conditions:

(1) submission of an application by the easement or right of way applicant on the form prescribed by the commissioner accompanied by an original or certified copy of the easement or right of way executed between the applicant and the purchase contract holder;

(2) payment of the administrative fee as set forth in the schedule of fees for the approval and recording of the easement or right of way; and,

(3) submission of a legal description of the property to be burdened by the easement or right of way, together with a survey plat as provided in 19.2.10.12 NMAC.

B. The commissioner shall reject any application and initiate necessary legal proceedings to prevent the construction of any easement or right of way or the use of any easement or right of way that will diminish or impair the state's legal title to the purchase contract lands.

[19.2.10.29 NMAC - Rp, 19.2.10.28 NMAC, 06/30/04; A, 06/30/16]

19.2.10.30 INFORMAL RECONSIDERATION: Any party aggrieved by a decision related to the payment of amounts due for any easement or right of way granted or applied for under this part, may request an informal reconsideration of such decision by written request made to the commissioner. Such request shall describe the decision for which reconsideration is requested, state the grounds for reconsideration and the relief sought, and be submitted to the commissioner within 15 days after the date of the decision for which reconsideration is requested. Any such request will be reviewed and decided by the commissioner in an expeditious manner, with or without an oral presentation by the aggrieved party. The right to request informal reconsideration shall be in addition to, and not in lieu of, any right of contest available to the aggrieved party, and the filing of a request for informal reconsideration shall not extend any deadline for initiating a contest proceeding.

[19.2.10.30 NMAC - Rp, 19.2.10.29 NMAC, 06/30/04]

[The old section 19.2.10.30 NMAC PRICE SCHEDULE: TELECOMMUNICATIONS EASEMENTS AND RIGHTS OF WAY is repealed, effective 06/30/04]

HISTORY OF 19.2.10 NMAC:

Pre-NMAC History:

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 09/02/69; CPL 71-2, filed 12/16/71; CPL 77-1, filed 01/07/77;

Rule 10, Relating To Easements And Rights Of Way, filed 03/11/81;
SLO Rule 10, Relating To Easements And Rights Of Way, filed 01/20/84;
SLO Rule 10, Relating To Easements And Rights Of Way, filed 08/07/85;

History of Repealed Material:

19 NMAC 3.SLO 10, Relating To Easements And Rights Of Way - Repealed, 02/28/02.
19.2.10 NMAC, Easements and Rights of Way filed 02/15/02 repealed effective 06/30/04 and replaced with 19.2.10
NMAC, Easements and Rights of Way effective 06/30/04