Cultural Properties Protection Rule

CRM Training

Cultural Resources Office

CROINFO@slo.state.nm.us

nmstatelands.org/divisions/cultural-resources-office
Rule Development and History

2019
• Creation of the Greater Chaco Region Cultural Buffer

2021
• Establishment of the NMSLO Cultural Resources Office
• Proposal of the Cultural Properties Protection Rule
• Public Comment Period and Tribal Consultation

2022
• Incorporation of Public Comments to the CPP Rule
• Publication of the CPP Rule

December 1, 2022 – CPP Rule Takes Effect
“The previous approach to cultural properties on trust lands was, ‘if you break it, you buy it,’ and that simply isn’t good enough. This rule gives my staff the tools and authority to ensure parcels are thoroughly surveyed for cultural properties before irreparable harm is done. Cultural properties found on state trust lands are very much a part of New Mexico’s story, and it is my duty to protect these resources as much as the land itself.”
What is Required?

“Good Behavior”
Clause
Avoidance of Damage
Persons shall not disturb, dislodge, damage, destroy or remove cultural properties.

Any persons engaged in activities on state trust lands are subject to the requirements of the Cultural Properties Act, the Cultural Properties Protection Act, and 19.2.24.13 NMAC. Persons shall not disturb, dislodge, damage, destroy, or remove any cultural properties on state trust lands. Any project on state trust lands that has the potential to directly or indirectly damage cultural properties is additionally subject to the requirements of Subsections B, C, D, and E of 19.2.24.8 NMAC.
What is Required?

Signed Acknowledgment

Parties must understand, agree, and comply with the Cultural Properties Protection Rule.

Only One Signed Acknowledgment per Lease

Parties shall acknowledge, on a form prescribed by the commissioner, that they understand and agree to comply with applicable laws and rules pertaining to the protection of cultural properties on state trust lands.
What is Required?

**ARMS Inspection and Survey**

Archaeological Resource Management System inspections help to know if a survey have been, or need to be completed.

Prior to conducting surface disturbing activities, parties shall cause a permitted archaeologist to submit to the state land office an ARMS inspection of the entire area of potential effect... In the best interest of the trust, the commissioner, in the commissioner’s discretion, may elect to provide the ARMS inspection for any particular portion of state trust land.
High-Level Process Overview

NMSLO Project Process:
- NMSLO receives project application
- Leasing Division reviews application
- Application is accepted and entered into the Land Information Management System

Cultural Consultant Process:
- Conduct Fieldwork
- Upload, NIAF, Site/HCPI Forms, and GIS files to NMCRIS

Cultural Compliance Review Process:
- Cultural Resource Compliance Review is initiated
- Cultural Resources Office staff reviews submitted files
- Submit concurrence to SHPO OR Request changes from cultural Consultant

Leasing Division reviews application
- Application is accepted and entered into the Land Information Management System

工作与NMSLO CRO协作，必要时实施请求

Lease progresses to issue or rejection

NMSLO接收项目申请

Leasing Division审阅申请

应用被接受并进入土地信息管理系统

文化资源办公室工作人员审阅提交的文件

向SHPO提交共识 OR 要求从文化顾问处更改

租赁进展到发行或拒绝

与NMSLO CRO协作，必要时实施请求

图中的流程包括：
- 项目申请的接收
- 土地信息管理系统中应用的接受和录入
- 文化资源的审阅
- 提交共识或向文化顾问请求更改
- 租赁流程的进展至发行或拒绝
- 与NMSLO CRO协作，必要时实施请求
Web Portal Dashboard

Dashboard

Lessees / Operators

Cultural Properties Protection Acknowledgment
Start Form

Oil & Gas Project Description
Start Form

For Cultural Resource Consultants

ARMS Inspection/Records Review
Start Form

Notification of Intent to Conduct Archaeological Survey
Start Form

Form Type

Date Submitted From Date
mm/dd/yyyy

Date Submitted To Date
mm/dd/yyyy

Clear Filters

Activity Log

<table>
<thead>
<tr>
<th>Form ID</th>
<th>Form Description</th>
<th>Lease No.</th>
<th>Project Name</th>
<th>Proponent / Signatory</th>
<th>Consultant Report No.</th>
<th>County</th>
<th>Date Submitted</th>
<th>PDF Form &amp; Uploaded Documents</th>
<th>Request Edit</th>
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<td>Notification of Intent to Conduct Archaeological Survey</td>
<td>V82356909</td>
<td>Thelonious Monk Exit to Brooklyn</td>
<td>EOAC Resources</td>
<td>BARC 22-06-09</td>
<td>Grant, Southeast</td>
<td>10/12/2022</td>
<td>Notification of Intent to Conduct Archaeological Survey.pdf</td>
<td>Zip File</td>
</tr>
</tbody>
</table>
Web forms will replace the paper forms you have been emailing or mailing SLO:

- ARMS Inspection/Review
- Notification of Intent to Conduct Archaeological Survey
ARMS Inspection/Review

- Mimics all fields from the paper template
- Fields with *red asterisk are REQUIRED
- Clear instructions on most fields based on testing feedback
Submission of Required Documents contains a link to the updated fillable NMSLO Cultural Resources Cover Sheet

You can upload many documents at the same time

To complete the uploading process, Save as Draft

Once you know all correct data is there, Submit the form
NMSLO Cultural Resources
Cover Sheet

● Updated Format to Conform with the Rule Provisions

● Use the fillable form-It will help us keep track of all the cover sheets

● Submit the fillable Cover Sheet with the ARMS Review on the Web Portal or

● Send the fillable Cover Sheet to CRO at croinfo@slo.state.nm.us after you complete a survey
Results of the ARMS Inspection/Review

**Green Light** (A Memo)
- The entire Area of Potential Effect (APE) has been surveyed
- No Cultural Properties were identified

"If the ARMS inspection demonstrates that the entire area of potential effect has been surveyed, and that no cultural properties are located within the area of potential effect, then the party shall cause a permitted archaeologist to submit the ARMS inspection to the state land office, in which case the required archaeological review is complete."
Yellow Light (B Memo)

- The entire APE has been surveyed
- Cultural Properties were identified
- Avoidance or Mitigation will be required

If the ARMS inspection or survey demonstrates that the entire area of potential effect has been surveyed, and cultural properties are identified within the area of potential effect, the party shall cause a permitted archaeologist to submit the most recent applicable survey(s) to the state land office. If a prior survey is submitted that is more than ten years old, the state land office will determine if the survey conforms to the requirements of 4.10.15 NMAC and if it does not, may require an updated survey.
Red Light  (C Memo)

- The entire APE has not been surveyed
- Survey will be required

If the ARMS inspection demonstrates that the entire area of potential effect has not been surveyed, a complete archaeological survey must be conducted by a permitted archaeologist in accordance with the requirements of 4.10.15 NMAC and submitted to the state land office. The new survey need not include areas already subjected to acceptable surveys. The party shall be subject to the requirements of Subsection D of this section, if cultural properties are identified in the survey.
Notification of Intent to Conduct Archaeological Survey

- Submit at least 15 days before the survey begins
- Form mimics all fields from paper template
- Fields with *red asterisk are REQUIRED
- Clear instructions on most fields based on testing feedback
Notification of Intent to Conduct Archaeological Survey Continued

- You can upload many documents at the same time
- To complete the uploading process, Save as Draft
- Once you know all correct data is there, Submit the form
The Web Portal will go live Nov. 28, 2022

You can use it once it is on the web, but *not* required to be used until December 1, 2022

Once Live, Step-by-step instructional material will be available
Are there any changes to the survey permits for archaeological work on State Land?

19.2.24.8 (F) NMAC

F. Archaeological survey permits and notifications to survey. Individuals with valid archaeological survey permits issued by the New Mexico cultural properties review committee, as provided in 4.10.8 NMAC, are preapproved to access state trust lands for the sole purpose of conducting archaeological surveys pursuant to this rule, without the need for a separate authorization from the commissioner.

The state land office should be notified at least 15 calendar days before an archaeological survey is conducted, except for exigent situations, including but not limited to responses to spills or hazardous conditions, in which case the state land office should be notified as soon as possible and in any event prior to the survey.
What are the new compliance measures?

D. **Compliance measures.** For any application or project where any survey has identified cultural properties within the area of potential effect, the party shall cause a permitted archaeologist to develop and submit to the state land office compliance measures related to project siting, and avoidance and mitigation of damage to cultural properties; those compliance measures may be included within the survey that is submitted to the state land office on behalf of any party, or may be submitted separately. The state land office will review any applicable compliance measures, and determine if those measures are sufficient to protect or mitigate damages to the affected cultural properties, a review that may include consultation with the SHPO and shall include consultation with any impacted tribe. In the best interests of the trust, the state land office may require additional or different compliance measures as a condition to approval of the application or project. This review process will be completed within 60 calendar days of submission of an administratively complete submission (ARMS inspection or survey, and any applicable compliance measures), but that time period may be extended in the commissioner’s discretion for up to an additional 60 calendar days as may be necessary to ensure appropriate review. Upon commissioner approval, the relevant leasing division shall include appropriate compliance measures in the relevant lease, easement, or other instrument, if applicable, consistent with applicable statutes and rules.
What are Acknowledgment-Only Requirements?

19.2.24.9

ACKNOWLEDGMENT-ONLY REQUIREMENTS: The acknowledgement specified in Subsection B of 19.2.24.8 NMAC shall be included with applications for the following, with no ARMS inspection or survey as specified in Subsection C of 19.2.24.8 NMAC or compliance measures as specified in Subsection D of 19.2.24.8 NMAC, unless those additional measures are specifically required by the commissioner for a particular application:

A. renewals or reissues, assignments, conversions, and subleases of existing grants, leases or permits, and agricultural improvement replacements, where no new surface disturbance will occur, or when the area of potential effect of a new project activity is entirely within a previously disturbed area of the same nature and extent of disturbance;

B. applications for new agricultural leases in open acreage or through competitive bid; and

C. applications for non-surface disturbing rights of entry, with the final decision vested with the commissioner about whether or not the relevant activity is surface disturbing.
What are the exemptions to the Cultural Properties Protection Rule?

A. The following activities are exempt from the acknowledgment, ARMS inspection and survey, and compliance measures requirements of this rule. These exemptions do not provide authorization to enter or occupy state trust lands, which must be granted by the commissioner under a valid lease, easement, permit, or other instrument:

1. Law enforcement, emergency response, or natural disaster response (“emergency response”) activities, whether or not undertaken by or in coordination with the state land office, that are necessary to protect immediate threats to public health, safety, or the environment, including but not limited to firefighting, flood management, or for controlling, containing, or capturing releases of hazardous or harmful materials. If the state land office is not already involved in undertaking or coordinating the emergency response, it shall be notified of the response as soon as practicable. Any known cultural property within the area of emergency response should be monitored to the extent practicable so that any adverse effects to the cultural property can be avoided, mitigated, or minimized;

2. Administrative actions performed by the state land office, such as executive orders or rule making activities, and any internal agency processes or decisions that do not create new surface disturbance;

3. Memoranda of understanding or agreements to cooperate executed by the commissioner;

4. Easements, leases, or other instruments granted by the commissioner to any person that do not directly expand current surface uses or create new surface disturbance;

5. Recreational access permits and educational access permits, applications for such permits, non-surface disturbing natural resource authorizations, or activities that already require the presence of an archaeological monitor such as special use agreements;

6. Projects analyzed under the National Environmental Policy Act of 1969, 42 U.S.C. Section 4321 et seq. and the National Historic Preservation Act of 1966, 16 U.S.C. Section 470 et seq., and their implementing regulations, so long as such analysis includes impacted state trust lands. For such projects, the party shall submit a copy to the state land office of the survey or portions thereof pertaining to impacted state trust lands;

7. Acquisition or disposition of lands through exchange or sale; and

8. Plugging, restoration, remediation, or reclamation activities that do not involve new surface disturbing activity outside the authorized boundaries of any existing roads, rights of way, well pads, associated oil and gas facilities or other structures.

B. Parties or other persons engaged in the activities exempted in Subsection A of 19.2.24.10 NMAC remain subject to the requirements of the Cultural Properties Act, the Cultural Properties Protection Act, and 19.2.24.13 NMAC.

C. Notwithstanding any other provision of this part, the commissioner may require an ARMS inspection or survey for any project when determined to be in the best interest of the trust.

[19.2.24.10 NMAC - N, 12/01/2022]
Is the Cultural Properties Protection Rule included in Section 106?

19.2.24 NMAC

The CPP Rule is **NOT** Part of Section 106

- BLM and other Federal Agencies are required to follow Section 106
- When on State Land, the CPP Rule is the Rule to follow, along with all other NMAC Rules
Submitting Archaeological Reports to SLO

Any questions?
croinfo@slo.state.nm.us

• No More Hard Copies Mailed to SLO
• Digital Copies Only
  ▪ Upload all relevant documentation to NMCRIS
  ▪ If this is not possible for any reason, or if we have requested you to send us a full copy of the report, email it to: croinfo@slo.state.nm.us with the NMCRIS number included on the Subject Line.

Once you complete a survey, complete also the fillable NMSLO Cultural Resources Cover Sheet and email it to us at croinfo@slo.state.nm.us
The Cultural Resources Office Website

Information on the NMSLO website:

- Links to the Cultural Resources Office Web Page
- Links to the Cultural Properties Protection Rule web page
- Links to the Cultural Compliance Portal
- Links to Training material

Documents that will be Available

- NMSLO Cultural Resources Cover Sheet
- Instructions for the Web Portal in pdf for each of the four web forms
- Instructions for Compliance
- Training material
- Upon Request any other forms the Cultural Resources Office is using
The Cultural Resources Office Website

nmstatelands.org/divisions/cultural-resources-office

CULTURAL RESOURCES OFFICE

Cultural Resources Office

The Cultural Resources Office (CRO) was created by Commissioner Garcia Richard in 2021 to improve the stewardship of cultural resources on the 9 million surface acres of trust land. The office reviews lease and improvement applications, conducts cultural resource surveys, assists leasing divisions with cultural compliance for land maintenance projects, and consults with governmental agencies and descendant communities. To date, over 600,000 (6.7%) acres of trust land have been surveyed for cultural resources and over 11,000 cultural properties have been identified and documented. Indigenous hunting sites that are more than 13,000 years old. Surveys continue almost every day, and are constantly adding to these totals.

STONE SPEAR POINT
Late Paleoindian Stone Spear Point Over 7,000 Years Old

NAVAJO PUEBLITO
Stone Defensive and habitation Structure Over 300 Years

VINTAGE 7UP BOTTLE
Glass 7Up Bottle Dated to the 1960s from Southern NM
The Cultural Resources Office Website

nmstatelands.org/resources/forms-and-applications

FORMS & APPLICATIONS

State Land Office Forms

NOTE: Please clear your internet browsing history first to make these forms fillable online.

- **Agricultural Leasing Forms**
- **Business Leasing Forms**
- **Cultural Resources Forms**
  - Documents updated for the new Cultural Properties Protection Rule will be added in November 2022.
Thank you for helping to protect Cultural Properties on New Mexico Trust Land!

Cultural Resources Office
CROINFO@slo.state.nm.us
nmstatelands.org/divisions/cultural-resources-office