Cultural Properties
Protection Rule

General Lessee Training

Cultural Resources Office

CROINFO@slo.state.nm.us
nmstatelands.org/divisions/cultural-resources-office
What are Cultural Properties?

A structure, place, site, object, or resource having historic, archaeological, scientific, architectural, or other cultural significance. They include properties listed or eligible for inclusion on either the New Mexico Register of Cultural Properties or the National Register of Historic Places.

Traces of our past are all around us, laying on the ground or buried just beneath the surface.
“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.”
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
Cultural Resources Office Team

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Input from Stakeholders

Beginning in August 2021, we accepted input during an extensive public comment period. In all, around 35 individual written comments were submitted, overwhelmingly in favor of the proposed rule.

Addressing Concerns

The Cultural Resources will facilitate surveys in-house or in partnership with contractors the Cultural Survey Support Program, which will help lessees that may be unable to afford the cost of a survey for a smaller project.
High-Level Process Overview

Cultural Consultant Process
- Submit Notification of Intent to Survey

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

NMSLO Project Process
- Conduct Fieldwork
- Upload, NIAF, Site/HCPI Forms, and GIS files to NMCRIS

Work with NMSLO CRO to implement requests if needed

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

Approve or Reject in the Land Information Management System
- Lease progresses to issue or rejection
What is Required?

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.

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?

The Cultural Properties Protection Acknowledgment Form

CULTURAL PROPERTIES PROTECTION ACKNOWLEDGMENT FORM

All lessees, operators, grantees, permittees, and/or applicants (collectively, “Parties”) requesting any authorization from the Commissioner of Public Lands, or conducting any project or activity on state trust land, are expected to review and abide by all applicable laws and rules related to the protection of cultural properties on state land, including the New Mexico State Land Office’s (“NMSLO”) Cultural Properties Protection Rule, 19.2.24 NMAC. The Cultural Properties Protection Rule can be viewed at https://www.nmslo.org/culturalproperties.

Parties conducting surface-disturbing activity on state trust land must follow the procedures and timelines outlined in 19.2.24.8 NMAC. To minimize processing delays, Parties are strongly encouraged to supply NMSLO with appropriate documentation as early as possible pursuant to 19.2.24.8(C), (D), (E), and (F) NMAC. Parties are advised to always exercise due caution to ensure that cultural properties on state trust land are not inadvertently excavated, disturbed, dislodged, damaged, destroyed, or removed by any person, pursuant to the Cultural Properties Protection Rule, 19.2.24.8(A) NMAC and Section 18-6-9 (A) and (B), NMSA 1978.

By signing this acknowledgment form, Parties affirm that they have read this document, including the accompanying Instructions for Compliance, and have reviewed and agree to comply with NMSLO’s Cultural Properties Protection Rule. If a Party is other than a natural person, the individual signing below attests that they have the authority to execute this acknowledgment on behalf of and bind that Party.

Type and Number of Instrument (Lease Number):
(Restricted for Oil & Gas LeaseRoy.- YH0020000), include if available for other leases: District, Renewals, Minerals, Water Rights, BCFW, or Agricultural leases-(B20020301), GR2023, R00295, SW5/32, HA(102)

Name of Party (Company Name, if applicable):

Name of Signatory (Person Signing):

Relationship to Party (Title position):
(QP, lessee, operator, grantee, applicant, self or others)

Phone Number: Email Address:

Signature: Date:
What is Required?

The Instructions for Compliance

3 pages of “how-to” information

INSTRUCTIONS FOR COMPLIANCE
Cultural Properties Protection Rule (15.2.24 NMAC)

The following instructions apply to all lessees, operators, grantors, permittees, and/or applicants (collectively, “Parties”) that intend to conduct new surface disturbing activities on state trust lands. The instructions provide additional guidance for fulfilling the requirements of NMSLO’s Cultural Properties Protection Rule. A copy of the Cultural Properties Protection Rule can be found at https://www.nmslo.state.nm.us/culturalproperties.

We thank you in advance for your commitment to protecting New Mexico’s past and living history. NMSLO encourages all Parties to provide current and accurate documentation as early as possible to minimize processing delays.

Please do not hesitate to reach out to the Cultural Resources Office at cnmolo@do.state.nm.us should you have any questions after reviewing these instructions or with NMSLO’s cultural properties review process.

Part I: Archeological Records Management Section (ARMIS) Inspection (Records Review)

1. The ARMIS inspection is a record review and should comply with the pre-field requirements of 4.10.13.0 NMAC. An ARMIS inspection must be conducted prior to any new surface disturbing activities, in compliance with 19.2.24.4 (C) NMAC. The specific timing of when an ARMIS inspection is required depends on the category of activity, as described in 19.2.24.8 (F) NMAC. The Cultural Properties Protection Rule provides exceptions for certain categories of activity that do not require an ARMIS inspection or survey; see 19.2.24.9 NMAC and 19.2.24.10 NMAC.

2. Parties are expected to engage a permitted archaeologist to conduct the initial ARMIS inspection. Permitted archaeologists are referred to in these Instructions as “archaeological consultants.” Only ARMIS inspections from archaeological consultants will be accepted. The list of archaeological consultants in New Mexico is available at http://www.nmslo.state.nm.us/documents/consultants.html. Scroll down past the headings for “Archaeological Permit” and “Archaeological Consultant” to “Preservation Consultants.” Click on the pdf document titled “Cultural Resource Consultants.” The list is updated regularly and arranged by county of location. Because costs vary, the NMSLO encourages Parties to contact more than one archaeological consultant.

3. The Party must provide the archaeological consultant with all relevant supporting documentation. This may include a description of the project, cultural sites, and location information in digital format (ARC/INFO shape files, tab delimited format, GES coordinates, CAD drawings, plans, or accurate depictions on USGS 1:24000 quadrangles).

4. The archaeological consultant will conduct an ARMIS inspection of the entire area of potential effect (APE). Based on the ARMIS inspection, the findings will be summarized into one of three results as indicated on the NMSLO Cultural Resources Cover Sheet (“Cover Sheet”). The Cover Sheet is a fillable PDF form (available from the Web Portal) and also from NMSLO’s website and Cultural Resources Office:

(A) ___ The entire area of potential effect or project area has been previously surveyed to current standards and no cultural properties were found within the survey area.

(B) ___ The entire area of potential effect or project area has been previously surveyed to current standards and cultural properties were found within the survey area.

(C) ___ The entire area of potential effect or project area has not been previously surveyed or has not been surveyed to current standards. A complete archaeological survey must be conducted and submitted for review.

5. If the ARMIS inspection indicates that the entire APE has been previously surveyed and no cultural properties were located (result A above), NMSLO’s Cultural Resources Office and the relevant leasing
Instructions for Compliance

Pages 2 & 3

Division (e.g. Water Bureau, Minerals, Agricultural Leasing, Business Leasing, Renewable Energy, Highway-Department, etc.) will complete the process of review and approval. In the case of oil and gas lease projects, once the Cultural Resources/Office reviews and approves the ARMS inspection results, no further archaeological review is required and the project may proceed.

6. For the ARMS Review (result A) above, the archaeological consultant will complete and submit the ARMS Inspection/Desk Review form on the Cultural Compliance Web Portal (Web Portal), available at http://cultural.compliance.mntatlantastate.org. NMSL’s Cultural Resources Office will have immediate access to the submitted form and accompanying documentation.

7. If the ARMS inspection result indicates a previous survey showing the presence of cultural properties within the APE (result B above), the Party must propose avoidance and protection measures for the project as designed in collaboration with their archaeological consultant.

8. If the ARMS inspection shows that the entire APE has not been subject to archaeological survey or to a current standards survey (result C above), a complete archaeological survey must be conducted. The new survey need not include areas already subjected to acceptable surveys. See continued instructions below. Part III.

9. Because specific locational information of cultural properties that may be contained in an ARMS inspection or archaeological survey is confidential under New Mexico law (see Cultural Properties Act, Section 18-6-11.1, NMSA 1978, and Section 19-1-2, NMSA 1978), Parties should expect to receive a copy only of the Cover Sheet from their archaeological consultant, and should forward the Cover Sheet to the appropriate NMSL leasing division with their application.

10. Parties conducting project activities on state land under oil and gas leases, like other Parties, will receive a copy of the Cover Sheet from their archaeological consultant. To provide information on their preceding projects on state land, Parties will then fill in the Oil and Gas Project Description Web Form at http://cultural.compliance.mntatlantastate.org and will submit, along with the Cover Sheet, any necessary documentation for cultural compliance review pursuant 19.2.24.8(E)(3) NMSL. Only on-lease oil and gas projects with activities that are not included in any other lease application at NMSL (e.g., Business or Right of Way) should utilize the Web Portal.

Part III: Archaeological Surveys and Compliance Measures

1. If the ARMS inspection, in compliance with 19.2.24.8 NMSL, indicates that the entire APE has not been subject to archaeological survey (see Part I, Para. 4, result C), a complete archaeological survey must be conducted to current standards in compliance with 4.18.15 NMSL. The new survey need not include areas already subjected to acceptable surveys.

2. In compliance with 19.2.24.8 (F) NMSL, at least 15 calendar days prior to any survey activities, the archaeological consultant should fill in and submit a Notification of Intent to Conduct an Archaeological Survey through the Web Portal at http://cultural.compliance.mntatlantastate.org.

3. Only archaeological surveys from archaeological consultants will be accepted and must be conducted under current standards in compliance with 4.18.15 NMSL. Information on how to access the list of archaeological consultants is listed in Part I, Para. 2 above. NMSL encourages Parties to contact more than one archaeological consultant in your location as proximity will be a factor in estimated costs of an archaeological survey.

4. Parties will be expected to design their project to avoid any cultural properties identified within the APE (as recorded on the Cover Sheet in Part I, Para. 4, result B) by the archaeological survey obtained in consultation with a project or by pre-existing surveys, or provide other mitigation measures in collaboration with their archaeological consultant. Parties are encouraged to provide NMSL with appropriate current and accurate documentation of the proposed activity as early as possible (preferably at least sixty calendar days prior to any surface disturbing activity) to minimize processing delays and ensure implementation of avoidance and protection measures.

a. Pursuant to the Cultural Properties Protection Rule, 19.2.24.12 (A) NMSL, if any Party becomes aware of actual or imminent damage to cultural properties on state trust land where that Party is conducting activities, that Party shall immediately notify NMSL and suspend project activities in the immediate area of the damage or the threatened cultural property. Activities shall remain suspended until the State Historic Preservation Officer and NMSL approve resumption of activities.

b. A Party that damages cultural properties on state trust land is responsible for the cost of any archaeological damage assessment through evaluation of the affected cultural property as determined by that damage assessment. In addition, the Commissioner of Public Lands may file an action to recover an amount equal to twice the cost of restoration, stabilization, and interpretation of the damaged cultural property, in accordance with the Cultural Properties Act, Section 18-6-11.1(C), NMSA 1978.

5. The archaeological consultant, upon completion of the survey report, should submit the fillable, completed Cover Sheet to cmmgeo@state.nm.us, or with any relevant questions.

Pursuant to the requirements of 4.18.8.18 NMSL, the Cultural Resources Office will review a complete copy of the survey report, its findings and any required compliance (avoidance or mitigation) measures and recommend revisions, if applicable. The Cultural Resources Office will provide further guidance on how archaeological consultants should complete survey reports and any required compliance measures for review.

The Cultural Resources Office additionally may request electronic files of survey report(s), sites, location of findings, or survey areas in order to complete its review, all of which should be sent to cmmgeo@state.nm.us.

6. The complete results of an archaeological survey are confidential under New Mexico law (see Cultural Properties Act, Section 18-6-11.1, NMSA 1978, and Section 19-1-2, NMSA 1978).

a. Upon approval of the final archaeological survey report and its findings/recommendations, the archaeological consultant will upload the final archaeological report along with all supporting documentation to the New Mexico Cultural Resources Information System (NMCRIS). Parties should expect to receive a copy of the Cover Sheet from their archaeological consultant, and should forward it to the appropriate leasing division with their application.

b. In the case of oil and gas leases only, Parties themselves will upload the Cover Sheet along with their Project Description Web Form documentation submitted via the Web Portal at http://cultural.compliance.mntatlantastate.org.

7. The website http://mntatlantastate.org/cultural-resources-office/ contains a list of State Trust Land Archaeologists within NMSL’s Cultural Resources Office (along with related contact info) to whom questions can be addressed.

8. Below is a list of useful links, emails, and phone numbers:


   b. Cultural Resources Office Website: http://www.mntatlantastate.org/cultural-resources-office

   c. Cultural Properties Protection Rule and FAQs: http://www.mntatlantastate.org/cultural-properties


   e. Inquiries to the Cultural Resources Officer: cmmgeo@state.nm.us

   f. New Mexico State Land Office phone number: 505-827-5760
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.
NMSLO Cultural Resources
Cover Sheet

- Updated Format to Conform with the Rule Provisions
- You will receive it, completed and filled in, from your Archaeological Consultant
- Include it with your application packet
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.
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.
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. For other
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?

EXEMPTIONS:

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]
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
- Training material
- Upon Request any other forms the Cultural Resources Office is using
Cultural Resources Office

The Cultural Resources Office (CRO) was created by Commissioner Garcia Richard in 2011 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.
The Cultural Resources Forms

nmstatelands.org/resources/forms-and-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