

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Laura McCarthy
Forestry Division Director



2022-02

SMOKING, FIREWORKS USE, CAMPFIRE, OPEN BURNING, OPEN FIRE, AND CERTAIN EQUIPMENT USE RESTRICTIONS FOR NEW MEXICO

Due to widespread drought conditions, extreme fire danger, fire frequency, and fire behavior, fire incidents pose threats to public safety, life, property, and natural resources. These heightened threats require the imposition of additional restrictions.

Pursuant to Section 68-2-16 and other sections of the Forest Conservation Act, NMSA 1978, Section 68-2-1 to 68-2-25, and 19.20.3 NMAC, Restrictions for Fire Prevention, the Energy, Minerals and Natural Resources Department, Forestry Division, State Forester, is updating the previous Fire Restrictions Order # 2022-01 and has placed the following restrictions on smoking, fireworks use, campfires, open fires, open burning, and operation of certain equipment (i.e. chainsaws, cutting torches, welders, grinders, and other similar equipment). Such activities as outlined below are prohibited, unless they are undertaken as outlined below or pursuant to the State Forester's prior written approval, on non-municipal, non-federal, and non-tribal lands statewide. This order supersedes any previous Orders.

SMOKING AND CAMPFIRES ARE PROHIBITED UNLESS THE FOLLOWING CONDITIONS ARE MET AND FIREWORKS USE, OPEN BURNING, OPEN FIRES, AND CERTAIN EQUIPMENT USE ARE PROHIBITED OR RESTRICTED UNLESS THE FOLLOWING CONDITIONS ARE MET OR INDIVIDUAL WRITTEN EXCEPTIONS ARE OBTAINED:

"Open fire" means the use of any cooking, heating or ignition device using natural or artificial fuel that has either an open flame or requires that the heat source be placed physically within the device.

For purposes of the restrictions below, red flag fire danger days (red flag days) will be determined based on forecasts found on the National Weather Service Fire Weather Forecast for New Mexico website: <https://www.weather.gov/abq/forecasts-fireweather>.

Smoking is prohibited except in enclosed buildings, within vehicles equipped with ashtrays, and on paved or surfaced roads, developed recreation sites, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material.

Fireworks use is prohibited on lands covered wholly or in part in timber, brush, grass, grain, or other flammable vegetation. The State Forester is allowing entities seeking to hold public fireworks displays to request a written exception to this ban on fireworks, but only where the applicable local fire department approves the public fireworks display.

Campfires are prohibited, except as provided for herein. The State Forester grants an exception where cooking or heating devices use kerosene, white gas, or propane as a fuel in an improved camping area that is cleared of flammable vegetation for at least 30 feet or has a water source. New Mexico State Parks, State Game Commission lands managed by the Department of Game and Fish, and state trust lands managed by the State Land Office are included in this prohibition. For more information on your New Mexico State Parks, please visit <https://www.emnrd.nm.gov/spd/> or call 1-888-667-2757.

The State Forester is also allowing exceptions for charcoal grills and wood and coal stoves within yards associated with a residence or on the premises of a business (this exception for yards associated with a residence or on the premises of a business does not apply to those located within New Mexico State Parks, State Game Commission lands managed by the Department of Game and Fish, and state trust lands managed by the State Land Office).

Open burning, (i.e., burning of cropland, fields, rangeland, debris burning, slash piles, prescribed burning, or weed burning) is prohibited.

The State Forester may grant an exception to open burning of irrigated croplands, upon written request, if the following conditions are met:

1. the cropland is irrigated (this exception does not apply to non-irrigated croplands, fields, or rangelands);
2. burning is done with adequate planning and the local fire department and county dispatch are notified at least 24 hours in advance of any anticipated burning;
3. adequate personnel are present to monitor and control the burn to assure that it will not become an uncontrolled fire;
4. the burn area is secured from becoming uncontrolled at the end of daily operations; and
5. at the beginning of each day, before ignition, the person responsible for the burn notifies the local fire department responsible for fire protection and follows all local burning guidelines and 20.2.60.111 NMAC, Open Burning of Vegetative Material, related to state air quality.

If the State Forester grants a written request for an exception to open burning of

irrigated croplands the exception shall be contingent upon the burning day not being a red flag day as determined by the National Weather Service and the sustained wind not exceeding 25 miles per hour in the area.

Flaring of gas is prohibited, except as outlined below.

1. Flaring that is needed for safety purposes, emergencies, and/or malfunctions as defined by **19.15.27 NMAC and 19.15.28 NMAC** is not prohibited.
2. **When ALL** the following conditions are met, if flaring for purposes of **19.15.27.8(D) NMAC and 19.15.28.8(D) NMAC**, the State Forester is allowing an exception without prior written approval:
 - the day is not designated a red flag day as determined by the National Weather Service and the sustained wind does not exceed 25 miles per hour in the area; and
 - the operator notifies the local fire department and county dispatch at least 24 hours in advance of anticipated flaring; if flaring is done by an automated system, then the operator shall provide the flaring schedule to the local fire department and county dispatch; and
 - at least one adult is on site with communications equipment adequate to reach county dispatch and the local fire department in the event of a fire; the individual shall also be equipped with a shovel and a water backpack pump or other equipment to deliver water to suppress a fire; and
 - the area is mowed and maintained at a length not to exceed four inches and all other flammable products or debris are cleared in the area by a distance one-and-one-half times the height of the flare stack.
3. If flaring is to take place at an **unmanned facility**, the State Forester may grant an exception, **through written request**, to the prohibition on open fires for the flaring of natural gas for **purposes defined under 19.15.27.8(D) NMAC and 19.15.28.8(B) NMAC** under the following conditions:
 - the day is not designated a red flag day as determined by the National Weather Service and the sustained wind does not exceed 25 miles per hour in the area; and
 - the area around the flare stack is mowed and maintained at a length not to exceed four inches and all other non-facility related flammable products or debris are cleared in the area by a distance three times the height of the flare stack.

Closures and restrictions on equipment use.

Fuelwood cutting, timber harvesting, and thinning activities. All fuelwood cutting, timber harvesting, and thinning activities are prohibited on red flag days. On non-red flag days, fuelwood cutting, timber harvesting, and thinning activities are prohibited

during the most dangerous burning period between 10:00 am to 8:00 pm. The State Forester may grant exceptions on a case-by-case basis provided a written request is submitted for review.

The following requirements must be met and addressed in a submitted exception request for the State Forester to grant an exception request for prohibited or restricted fuelwood cutting, timber harvesting, and thinning activities.

1. At all times, equipment using combustible fuel must have a properly functioning spark arrester and a fire extinguisher and a shovel must be immediately available for each piece of operating equipment.
2. Chainsaws may not be operated between 10:00 am to 8:00 pm, except they may be used until 2:00 pm on landings cleared to mineral soil.
3. Loading is authorized to continue until 2:00 pm on landings cleared to mineral soil.
4. Operations on mineral soil involving road excavation, watering, grading, surfacing, and equipment maintenance may continue between 10:00 am and 8:00 pm.
5. A patrol must be posted on site during operations and for at least two hours after all equipment operations are completed. The patrol must be able to detect within five minutes, fires that may originate at the site of the equipment operation and be able to report a fire to the responsible protection agency within 15 minutes of detection.

Use of equipment for other purposes. Use of equipment that generates or may generate sparks (such as welders, cutting torches, grinders, or power saws), has an open flame, or uses combustible fuel in areas covered by timber, brush, grass, grain, or other flammable vegetation for a purpose other than fuelwood cutting, timber harvesting, or thinning is prohibited on red flag days. For non-red flag days use is prohibited during the most dangerous burning period between 10:00 am to 8:00 pm. unless the area is cleared of flammable vegetation for at least 30 feet and a water source is available on hand.

The State Forester may grant an exception when a written request ensures the following.

1. At all times, equipment using combustible fuel has a properly functioning spark arrester.
2. A fire extinguisher and shovel are immediately available for each piece of operating equipment.

3. A patrol is posted on site during operations and for at least two hours after all equipment operations are completed. The patrol must be able to detect within five minutes fires that may originate at the site of the equipment operation and be able to report a fire to the responsible protection agency within 15 minutes of detection.

Requesting exceptions.

The State Forester may allow exceptions upon receiving a written request and granting subsequent approval in writing. Information on how to request an exception is available at <https://www.emnrd.nm.gov/>.

An exception does not relieve a person from any civil or criminal liability associated with an uncontrolled fire, including costs associated with wildland fire suppression.

These restrictions become effective at 8:00 am, May 19, 2022 and will remain in effect until rescinded.

DONE THIS 19TH DAY OF MAY 2022



**Laura McCarthy, State Forester
Forestry Division**



**Sarah Cottrell Propst, Cabinet Secretary
Energy, Minerals and Natural Resources Department**