

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 21

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

AN ACT

RELATING TO PRESCRIBED BURNING; PROHIBITING THE USE OF  
PRESCRIBED BURNING DURING THE SPRING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 68-5-3 NMSA 1978 (being Laws 2021,  
Chapter 13, Section 3) is amended to read:

"68-5-3. PRESCRIBED BURN USE.--

A. Prescribed burning is considered in the public  
interest and not a public or private nuisance.

B. Except as limited in Subsection C of this  
section, a private landowner or a private landowner's agent,  
contractor or legally authorized designee shall have a right to  
conduct a prescribed burn on the landowner's property, except  
when the state forester or a county or municipality issues  
restrictions prohibiting a prescribed burn because of drought

.224479.1

underscored material = new  
[bracketed material] = delete

1 conditions; provided that the prescribed burn is conducted with  
2 appropriate precautionary measures, including: the use of  
3 sufficient personnel and equipment; the prior notification of  
4 local fire officials; burn and contingency planning; and the  
5 use of appropriate prescribed burn techniques that cause the  
6 fire to be confined to a predetermined area.

7 C. A prescribed burn shall not be conducted on any  
8 day between March 1 and May 31 of any year when the national  
9 weather service has issued a red flag warning for that day for  
10 the area where the prescribed burn is planned to take place."