

From: [Henkels, Max](#)
To: [Mason, Wendy, EMNRD](#)
Cc: jmaitland@nmda.nmsu.edu; [Goetz, Katie](#); [JWanstall](#)
Subject: [EXTERNAL] Prescribed Burn Manager Certification Program Rule - Comment Letter from NMDA
Date: Monday, December 13, 2021 5:03:38 PM
Attachments: [20211213 EMNRD FD Prescribed Burn Certification Rulemaking.pdf](#)

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Ms. Mason,

Please see these attached comments from the New Mexico Department of Agriculture (NMDA) on the Prescribed Burn Manager Certification Program Rule.

Thanks,

Max Henkels

Natural Resource Policy/Planning Analyst
New Mexico Department of Agriculture
Work Cell: 575.339.5052

Confidentiality Notice: New Mexico has a very broad public records law. Most written communications to or from state employees are public records. Your e-mail communications may therefore be subject to public disclosure. This e-mail, including all attachments is for the sole use of the intended recipients. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act.



New Mexico Department of Agriculture

Agricultural Programs and Resources Division

MSC APR

New Mexico State University

P.O. Box 30005

Las Cruces, NM 88003-8005

575-646-2642, fax: 575-646-1540

December 13, 2021

Wendy Mason
NM Energy Minerals and Natural Resources Division
Forestry Division
1220 South Saint Francis Dr.
Santa Fe, NM 87505

RE: Public Comment on Proposed Rulemaking for Prescribed Burn Manager Certification Program

Dear Ms. Mason:

New Mexico Department of Agriculture (NMDA) submits the following comments in response to the NM Energy Minerals and Natural Resources Forestry Division proposed rulemaking regarding the Prescribed Burn Manager Certification Program.

Part of NMDA's role is to advocate proactively on behalf of New Mexico's agricultural communities and the natural resources that sustain them. The proposed rulemaking could have direct impacts on agricultural producers' abilities to proactively conduct land management activities such as pile burning and/or broadcast burning on lands that they manage. As such, NMDA provides the following comments regarding the proposed rule.

Our concerns center around the completion of the proficiency requirement stated in Paragraph (3) of Subsection A of 19.20.5.9 NMAC. After taking the NWCG S-110 basic wildland fire orientation and passing the nine-element course, the individual is then required to obtain burning experience in the role of pile burn manager and then have a certified pile burn manager, division personnel, or a person with at least a NWCG prescribed burn boss type 3 qualification sign off on their workbook. Based on our experience with private landowners and managers, the logistical effort to complete the proficiency requirement will be enough to discourage many private landowners from participating in the certification program.


NMDA would like to request that the proficiency requirement be removed and that requirements to complete the NWCG S-110 basic wildland fire orientation and pass the nine-element course

be maintained. We believe that this would make the certification reasonably accessible to landowners and increase participation in the program. NMDA notes that the proficiency requirement for pile burning is not required or contemplated anywhere within the Prescribed Burning Act. Removing barriers to certification for low-risk burning better fits the intent of the legislation.

NMDA also suggests that the Forestry Division consider establishing a waiver/exemption for a pile burning certificate within certain parameters. This could include acreage limits, and/or burn pile numbers. Many small acreage private landowners will hire a thinning contractor to complete their forest thinning project but in order to decrease the price will have the contractor create slash piles to be burned by the landowner at a later time when conditions permit. Ideally, this change to the rule would reduce the double damages penalty for pile burns that are completed within the parameters of the waiver/exemption. This would encourage small acreage landowners to participate in much needed, low-risk forestry activities and expand the use of prescribed burning in New Mexico as intended by the Prescribed Burning Act.

Thank you for your consideration of our comments. If you have any questions please contact Mr. Max Henkels at mhenkels@nmda.nmsu.edu or 575-339-5052.

Sincerely,



Julie Maitland
Division Director
JM/mh