

**Ban on Open Burning in Designated Areas of Colorado**  
(Executive Order D 2012-015)

Frequently Asked Questions

**1. Does the Governor's Executive Order only apply on state lands?**

Answer: No. The governor's Executive Order establishes a statewide ban on open burning. It defines open burning and sets forth exceptions. In general, local governments and federal land management agencies may have more restrictive requirements.

**2. Does the Executive Order supersede more restrictive local open burning bans?**

Answer: No. The Executive Order specifically states that it "is not intended to supersede more comprehensive or inclusive open burning restrictions that have been or may be established by Colorado counties, municipalities and/or other political subdivisions of the state."

Administering agencies of federal lands located within the state may also impose more restrictive requirements to the extent permitted by law.

**3. If a county does not have "high fire danger", can the county permit open burning?**

Answer: Please see Paragraph D of the Executive Order. An exemption to the opening burning restrictions may be granted by county sheriffs if the proposed burn is deemed by said sheriff to be safe and subject to mitigation. However, should a wildfire occur as the result of the granting of an exemption to this order, the State of Colorado may, and likely would, deny access to state funds to pay for the costs of such a wildfire. Paragraph D is not intended to permit county sheriffs to enact a broad exemption to the statewide fire ban, but rather grant exceptions on a case-by-case basis.

An exemption to the opening burning restrictions may also be granted within federal lands by the administering federal agency if the proposed burn is deemed by said agency to be safe and subject to mitigation.

**4. Does the Governor's Executive Order ban both legal and illegal fireworks, or just illegal fireworks?**

Answer: The Executive Order bans the use of fireworks. Even in times when there is no open burning ban, Colorado law only allows certain types of fireworks to be sold or used in the State. These are called "permissible fireworks" and are defined by CRS 12-28-101 (8) (a). Even in times when there is no open burning ban, the sale and use of fireworks may be subject to local restrictions. The use of "illegal" fireworks in Colorado is never allowed except when they are used as part of an authorized professional fireworks display.

**5. Does the Governor’s Executive Order ban the sale of fireworks?**

Answer: No. The Executive Order bans the use of fireworks. An exception is granted for commercial, professional and municipal fireworks displays where specific written approval has been granted by the sheriff of the county in which the fireworks display is to occur.

**6. Question: Why doesn’t the Governor ban the sale and possession of fireworks?**

Answer: The sale and possession of fireworks are primarily areas of local control. Although not necessarily exclusive, C.R.S. § 30-15-401(1)(n.7) grants counties qualified power over the sale and possession of fireworks:

“(1) In addition to those powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article, the board of county commissioners has the power to adopt ordinances for control or licensing of those matters of purely local concern that are described in the following enumerated powers:

(n.7) To prohibit or restrict the sale, use, and possession of fireworks, including permissible fireworks, as defined in section 12-28-101(3) and (8), C.R.S., for a period no longer than one year within all or any part of the unincorporated areas of the county; except that such an ordinance shall not be in effect between May 31 and July 5 of any year unless the ordinance includes an express finding of high fire danger, based on competent evidence, as defined in paragraph (n.5) of this subsection (1).”

The Governor is confident that counties will act in a responsible and thoughtful manner in exercising this power.

**7. Are fire pits on private property exempted from the ban on open burning?**

Answer: The exception for fire pits reads: “constructed, permanent fire pits or fire grates within developed camp and picnic grounds or recreation sites”. If the fire pit on private property is a “constructed, permanent fire pit or fire grate” and it is not otherwise prohibited by local authorities, it would be exempted from the ban.

**8. Charcoal grills at private residences are exempted from the ban. Are propane and other gas-fueled grills also exempted?**

Answer: Yes, unless they are otherwise prohibited by local authorities.

**9. Question: Why does the ban call on county sheriffs to act and not county commissioners or fire districts?**

Answer: State law requires county sheriffs, assisted by the state forester, to enforce certain provisions including the emergency fire ban provision exercised by the Governor here. Section

23-31-306 of the Colorado Revised Statutes states: “The county sheriff, assisted by the state forester, shall enforce the provisions of this part 3 and all state forest fire laws, and such persons shall not be liable to civil action for trespass committed in the discharge of their duties.” We are confident in our sheriffs’ ability to work with other local agencies and officials in carrying out this important responsibility, particularly in counties where responsibility over fire lies outside the sheriff’s office.

**10. What charges could be filed against a person who violates the statewide fire ban?**

Answer [Provided by Michael Dougherty of the Attorney General’s Office]: I believe that two criminal laws would apply. Please see 18-13-109, Firing woods or Prairie (F-6), and Arson, 18-4-105 (F-4). As to 18-13-109, the Governor’s Order imposing the statewide fire ban would remove the “legal authority” required for an individual to set a fire on any property other than his or her own. Additionally, the arson statute prohibits an individual from setting fire to any property, including his or her own, and the Governor’s Order puts individuals on notice that the setting of a fire could result in physical injury or building damage. Therefore, starting a fire would be a violation of one or both of these criminal statutes and the individual could be arrested. Between those two statutes, I believe the fire ban can be effectively enforced.