

RESOLUTION NO. 2020-11

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
RIO BLANCO COUNTY, COLORADO PURSUANT TO EXECUTIVE ORDER D 2020-
037 OF THE GOVERNOR OF THE STATE OF COLORADO CONCERNING BANS ON
OPEN FIRES IN THE UNINCORPORATED AREAS
OF RIO BLANCO COUNTY, COLORADO**

WHEREAS, due to the presence of coronavirus disease 2019(Covid-19) in Colorado, the Governor of the State of Colorado executed Executive Order D 2020 037 on April 15, 2020, temporarily suspending C.R.S. § 30-15-401(1)(n.5)(I) which provides, in part that a Board of County Commissioners ("Board") may adopt ordinances to ban open fires to a degree and in a manner that the board deems necessary where the danger of forest or grass fires is found to be high based on competent evidence; and

WHEREAS, the firefighting authorities within the State of Colorado have determined that different levels of restrictions on open fires should be imposed depending upon the severity of current weather conditions and the dryness of vegetation; and

WHEREAS, the Board has determined that the Sheriff of Rio Blanco County, as the County's designated Fire Marshall, should confer with representatives of the United States Forest Service and the Bureau of Land Management from time to time and make the decisions as to the level of fire restrictions throughout Rio Blanco County;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Rio Blanco County, Colorado as follows:

1. A ban on open fires based upon the restriction stages described on Exhibit A attached hereto and incorporated herein by this reference, in the unincorporated areas of Rio Blanco County is hereby imposed. The duration of this ban and the restriction level to be imposed shall be determined by further action of the Board of County Commissioners of Rio Blanco County, Colorado or the Sheriff of Rio Blanco County.

2. The Sheriff of Rio Blanco County is hereby specifically authorized to impose the ban, lift the ban, or increase or decrease the ban from one stage or another, as he determines conditions warrant from the date of this Resolution through the term of his office.

3. The adoption of this Resolution is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, welfare and convenience of the County and the inhabitants thereof.

4. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of County Commissioners of Rio Blanco County, Colorado, declares that it would have

adopted this Resolution and each section, subsection, sentence, clause, phrase, or portion herein, despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.

DULY MOVED, SECONDED, AND PASSED ON A VOTE OF 3 FOR AND 0 AGAINST, THIS 28th DAY OF APRIL, 2020.

(Seal)



Attest:

Dante M. Caspell
Clerk to the Board

The Board of County Commissioners
of Rio Blanco County, Colorado

By: *Jeff Rector*
Jeff Rector, Chairman

By: *Si Woodruff*
Si Woodruff, Commissioner

By: *Gary Moyer*
Gary Moyer, Commissioner

EXHIBIT "A"

Stage I

The first stage occurs when there is an increasing fire danger and/or an increasing preparedness level, and the risks of keeping the forest open to all activities begin to be outweighed by the risks inherent in doing so. Stage I imposes relatively minor restrictions aimed at preventing the start of wildfires, based on human activities that are known to be high risk, specifically smoking and campfires.

Stage II

As the risks increase, the line officer may choose to move to Stage II. This stage intensifies the restrictions from Stage I by focusing on activities that, although normally managed under permit or contract, have a relatively high risk of causing a fire start.

Stage III

Stage III is closure. This state is selected when there are very high risks and the ability to manage those risks using Stage I or Stage II restrictions is no longer viable. The social, economic, and political impacts of implanting a closure at this point are outweighed by the benefits associated with virtually eliminating the potential for human-caused fire starts.

Components of Stages

There are two fire restriction stages: Stage I and Stage II. There is one closure stage: Stage III. To reduce confusion and standardize the restrictions, the following conditions, by stage, should be used in all restriction documents. Additional elements may be added as conditions dictate.

Stage I

The following acts are prohibited:

- Building, maintaining, attending, or using a fire or campfire, except within a developed recreation site, or improved site. 36 CFR 261.52 (a)
- Smoking, except within an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials. 36 CFR 261.52 (d).
- Operating or using any internal or external combustion engine without a spark-arresting device properly installed, maintained, and in effective working order meeting either the USDA Forest Service Standard 5100-1 (a) (as amended), or appropriate Society of Automotive Engineers (SAE) recommended practice J335 (b) and J350 (a) (36 CFR 261.52 (j)).

Stage II

The following acts are prohibited, in addition to the prohibitions of Stage I:

1. Building, maintaining, attending or using a fire or campfire. 36 CFR 261.52 (a)
2. Smoking, except within an enclosed vehicle or building. 36 CFR 261.52 (d)
3. Possessing, discharging, or using any kind of firework or other pyrotechnic device. 36 CFR 261.52 (f)
4. Using an explosive. 36 CFR 261.52 (b)
5. Operating a chainsaw or other equipment powered by an internal combustion engine between 1:00 p.m. to 1:00 a.m. 36 CFR 261.52 (h)
6. Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order meeting either:
 - A. USDA Forest Service Standard 5100-1 (a) (as amended); or
 - B. Appropriate Society of Automotive Engineers (SAE) recommended practice J335 (b) and J350 (a). 36 CFR 261.52 (j) and 43 CFR 9212.1 (h);
7. Welding, or operating an acetylene or other torch with open flame. 36 CFR 261.52 (I)
8. Possess or use a motor vehicle off: Forest System Roads (36 CFR 261.56). Except when parking in an area devoid of vegetation within 10 feet of the roadway; and except for parking overnight in developed campgrounds and at trailheads.

Exemptions Common to Stages I and II

- Persons with a written fire entry and activity permit that specifically authorizes the otherwise prohibited act.
- Persons using a fire fueled solely by liquid petroleum or LPG fuels.
- Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.

- Any federal, state, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty.
- Resident owners and private lessees of land within the restricted area exempt from restriction I above, provided such fires are within a residence.

Stage III

The area is closed to all entry (36 CFR 261.52 (e)) other than as follows:

- Persons with a written fire entry and activity permit that specifically authorizes the otherwise prohibited act. This may include such persons as grazing-permit holders when entry is needed to gather, move, or otherwise manage their permitted livestock, special-use authorization holders when access is needed to maintain emergency or other communications operations, and others.
- Any federal, state, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty.
- Resident owners and lessees of land within the closed areas.



D 2020 037

EXECUTIVE ORDER

Ordering the Temporary Suspension of Statute Concerning Bans on Open Burning Due to the Presence of COVID-19

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.* (Act), I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order temporarily suspending statute concerning bans on open burning due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 2020. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

The response to COVID-19 is straining State, local, and federal resources. Large wildfires require an inter-agency response that relies on local, state, and federal cooperation and coordination. Given the current strain on government resources due to COVID-19, any wildfire response would be diminished, which risks enabling a fire to grow and spread, which in turn requires even more resources for firefighting. Given the State's need to focus on COVID-19 mitigation efforts, it is imperative that the State take every action to reduce the risk of wildfire.

This Executive Order temporarily suspends statute concerning bans on open burning to give boards of county commissioners broader discretion and more flexibility to implement restrictions on open burning that will decrease the risk of fire and enable firefighters and other first responders to participate in the COVID-19 response efforts throughout the State.

II. Directive

- A. I temporarily suspend the provision in C.R.S. § 30-15-401(1)(n.5)(I) that a board of county commissioners (board) may adopt ordinances to ban open fires to a degree and in a manner that the board deems necessary where the danger of forest or grass fires is found to be high based on competent evidence. I urge boards to adopt ordinances banning open fires, including agricultural burning, when the National Weather Service issues a “fire weather watch” or “red flag warning.”

III. Duration

This Executive Order shall expire thirty (30) days from April 15, 2020, unless extended further by Executive Order.



GIVEN under my hand and
the Executive Seal of the
State of Colorado, this
fifteenth day of April, 2020

A handwritten signature in blue ink that reads "Jared Polis".

Jared Polis
Governor