

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department  
of Public Health  
and Environment

## **DESIGNATION OF AUTHORIZED AGENCY TO GRAND COUNTY FOR LIMITED PILE BURNING PERMITTING**

Pursuant to the Colorado Air Pollution Prevention and Control Act, § 25-7-111(2)(f), C.R.S., Grand County Commissioners (“Agent”) are hereby designated to be the Agent of the Air Pollution Control Division of the Colorado Department of Public Health and Environment (“Division”) in Grand County for the purpose of carrying out the duties listed herein:

1. The Agent shall issue, monitor, and inspect and investigate planned ignition fire permits<sup>1</sup> for all pile burns located on private property in Grand County, in accordance with applicable sections of Colorado Air Quality Control Commission Regulation 9, especially section V, Planned Ignition Fire Permits, and the factors and emission minimization methods in Regulation 9 section IV. B.1 and B.2.
2. The Division shall continue to permit any planned ignition fires that do not meet the criteria set forth below. Subject to the following terms, the authority to issue permits for planned ignition fire in Grand County is delegated to the Agent for the following projects and permittees:
  - a. Pile burns controlled or directed by all land owners or managers, except governmental agencies.
3. Any planned ignition fire permits for qualified projects issued by the Agent must contain at least the following conditions:
  - a. Only woody debris or unmilled wildland fuels may be burned.
  - b. The Agent shall decide for each day of burning whether meteorological conditions are sufficient to forecast adequate smoke dispersion, and

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<sup>1</sup> Planned ignition fires are a prescribed fire ignited by a specific man-made action intended for the purpose of using the fire for grassland or forest management. See 5 CCR 1001-11, Regulation No. 9, Section II(M). Prescribed fire is fire that is intentionally used for grassland or forest management. See Regulation No. 9, Section II(M). Planned ignition fire and prescribed fire are types of open burning.

ignition may occur only if the decision is affirmative.

4. Before ignition, the Agent shall judge that each permitted pile is reasonably free of included dirt. It is understood that the Agent is not required to inspect every permitted pile. Inspections by the Agent of large projects, projects with more smoke risk to the population, new burners and/or a variety of representative piles is expected although not required. Landowners are encouraged to build piles either by hand or with heavy equipment that does not have a blade. The application form should indicate this expectation clearly to permittees.
5. The Agent shall:
  - a. ensure that the general public receives notice that burning may occur on a given day within the county by maintaining daily website updates detailing burning conditions and times, direct phone line information and periodic postings in the local newspaper ;
  - b. provide a point of contact for all individuals who respond that they have health sensitivities to smoke; and
  - c. require permittees to provide a mutually agreeable fire management practice, consistent with the permit to any residents who suffer health sensitivities as a result of exposure to smoke caused by that permittee's prescribed fire. In the event the permittee and resident are unable to agree to a suitable approach or response, Agent shall so advise the Division. In that case, the Division shall impose, as a condition of any permit, a requirement it deems sufficient, the cost of which will be satisfied by the permittee.
6. The Agent shall, as it deems necessary, inform landowners of the requirement to obtain open burn permits, especially landowners who have burned without a permit in the past. It is recognized that burns conducted for purely agricultural purposes are exempt from permitting under this designation. If a party informs the Agent that a burn needs no permit based on the agricultural exemption, the Agent shall inform the Division of this claim as soon as possible.
7. The Agent shall report to the Division as follows:
  - a. By each Friday at 5:00 p.m., the Agent shall report for that week the total number and volume of piles actually ignited, or that no burning occurred despite plans, and each day's best ventilation adjective.
8. The Agent shall issue or deny planned ignition fire permits on a form approved by the Division. If any changes occur to the original planned ignition fire permit form or standard permit conditions, the Agent shall mail, email or fax its draft permit application form or conditions to the Division for review, consultation and co-approval by Division staff. Division staff shall provide two week turn-around review of proposed changes to standard permit conditions or forms via email or fax. If the Division has not responded within two weeks, the County may implement the new conditions and/or form without Division review.

9. The Agent shall conduct inspections and investigations as generally described in § 25-7-111(2)(c), C.R.S., in the name of and on behalf of the Division. The Division retains all other enforcement duties. The Agent shall report to the Division any compliance issues. Upon request by the Division, the Agent shall provide all documentation, information and evidence supporting any non-compliance issue to the Division for its consideration. The Agent shall attend all meetings and hearings concerning enforcement matters that the Division initiates as a result of the Agent's inspections or investigations.
10. In the event any person violates a Compliance Order issued by Division, the Agent shall immediately notify the Division of such violation.
11. The Agent shall notify the Division concerning air pollution emergencies endangering public health or welfare within Grand County, §§ 25-7-112 and 25-7-113, C.R.S., and will assist the Division in issuing a cease and desist order when directed by the Division.
12. The Division shall directly collect all receipts from penalties or fines issued by the Division to be credited to the general fund of the State of Colorado as set forth in § 25-7-129, C.R.S.
13. Grand County shall directly collect all receipts from penalties or fines issued by the County pursuant to County legal authorities to be credited to the Grand County general fund as recorded in Resolution No. 2007-7-1 and Ordinance No. 8.
14. The Agent shall notify the Division of any matters beyond Agent's jurisdiction requiring action by the Division in a timely manner for the issuance of enforcement notices or orders whenever field inspections demonstrate violations of the specified statutes and regulations.
15. This designation as Agent is strictly limited to the air quality aspects of a planned ignition prescribed fire. Any and all fire safety, transportation safety, and land management concerns and responsibilities are outside the scope of this designation.

The Agent does hereby accept this designation and agrees to perform such activities as are necessary to meet the requirements of the Colorado Air Pollution Prevention and Control Act ("Act"), and regulations promulgated pursuant thereto, regarding the duties and responsibilities specified herein. The Agent agrees to exercise and perform the powers and duties herein in accordance with all applicable written policies of the Division.

This designation as Agent is separate from and in addition to the designation to issue general open burning permits pursuant to the 1996 Delegation of Authority document between Grand County and the Division. The Division shall oversee the Agent's execution of the duties set forth herein and reserves the right to cancel or revoke this designation of agency at any time solely in the discretion of the Division, to be reflected in a letter to the Agent. This designation as Agent in no way relieves the Division of its duties, in the event the Division determines that Agent's performance conflicts with or is

otherwise inconsistent with the Act, Regulation 9, or the Division's policies. The Division may execute any of the duties set forth herein without canceling this designation if the Division deems it necessary to do so in order to ensure compliance with the Act or Regulation 9.

The Agent reserves the right to cancel this designation at any time via certified letter to the Division's Director.

No money will be exchanged between the State and the County in relation to this designation. Division staff is reasonably available to Agent staff for technical assistance, and the Agent is strongly encouraged to avail itself of such assistance. Example subjects include initial development of basic familiarity with managing smoke in relation to pile burning, permit review, inspection, and investigation in support of enforcement action. In order to ensure coordination of efforts and uniform enforcement of air pollution laws, activities conducted pursuant to this designation as Agent shall be recorded and made available to the Division upon request.

In its discretion, the Agent may elect not to issue any requested permit, or to require that the applicant instead obtain a planned ignition fire permit directly from the Colorado Air Pollution Control Division.

The undersigned county representative is duly authorized to sign on behalf of, and commit, the County to act as designated Agent.

This designation as Agent is effective when it has been signed by both parties and shall remain in effect until December 31, 2013 or unless expressly revoked by the Division or cancelled in writing by the Agent.

Signatories:

On behalf of the Colorado Department of Public Health and Environment, Colorado Air Pollution Control Division,

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Paul Tourangeau, Director

Date

On behalf of Grand County,

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Grand County Commissioner Gary Bumgarner, Chair

Date