



D 2021 127

EXECUTIVE ORDER

Declaring a Disaster Emergency Due to Burn Scar Flooding, Mudslides, and Rockslides in Multiple Counties, Authorizing Employment of the Colorado National Guard, and Temporarily Suspending Certain Procurement Statutes and Hours of Service Regulations for Certain Commercial Drivers

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.*, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order declaring a state of disaster emergency due to burn scar flooding, mudslides, and rockslides in Garfield, Larimer, Eagle, Grand, Routt, Rio Blanco, and Pitkin Counties.

This Executive Order directs State agencies to coordinate and makes resources available for response, consequence management, and recovery efforts. I hereby temporarily suspend certain procurement statutes and hours of service regulations for certain commercial drivers to enable the State to procure goods and services that are reasonably necessary to save lives and mitigate the effects of the disaster emergency.

Further, pursuant to Article IV, Section 5 of the Colorado Constitution and pursuant to C.R.S. § 28-3-104, I hereby authorize employing the Colorado National Guard to assist with traffic control, debris management, and unarmed law enforcement support.

I. Background and Purpose

The Governor is responsible for meeting the dangers to the State and people presented by disasters. C.R.S. § 24-33.5-704(1). The Colorado Disaster Emergency Act defines a disaster as “the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin” C.R.S. § 24-33.5-703(3).

Beginning in late July 2021, a series of storms brought significant rainfall to areas of the State where recent fires left large burn scars. In those areas, lack of vegetative cover allowed substantial runoff of water, soil, rocks, and debris, causing flooding and severe damage to local and State roads, bridges, highways, and other critical infrastructure.

In Larimer County, on July 20, 2021, a storm producing heavy rain on the Cameron Peak burn scar damaged or destroyed six homes and washed thousands of cubic yards of debris into the Poudre River. Three people died, and a fourth person remains missing.

In Garfield and Eagle Counties, a series of daily storms starting on July 30, 2021 produced heavy rain on the Grizzly Creek burn scar. The heavy rainfall from these storms washed mud, rocks, and debris on and over portions of a 46-mile length of Interstate 70 through Glenwood Canyon, causing the indefinite closure of the highway while Colorado Department of Transportation (CDOT) crews clear debris, conduct structural damage assessments, and begin extensive repair work. The rail line through Glenwood Canyon suffered similar damage and remained closed for six days to clear debris and make temporary repairs. As of the date of this Executive Order, only limited rail service during daylight hours has returned.

Interstate 70 is closed through Glenwood Canyon while repairs are underway. Private and commercial vehicles must therefore bypass the highway on mountainous, single-lane roads, which can add three or more hours to routes. Critical deliveries of food and fuel are delayed due to the disruption of rail and regular truck routes, and delays are further compounded by an ongoing national shortage of commercial vehicle drivers and limits on the number of hours a driver is permitted to work per day.

State highways in Grand, Routt, Rio Blanco and Pitkin Counties are among those serving as detours for private and commercial vehicles to bypass the Interstate 70 closure. These roads are not designed for the current volume of traffic. Local law enforcement resources are working at capacity to ensure the safety of the traveling public, and local services, including emergency services and communications systems, are stressed with increased demands, in some cases creating the risk that calls for emergency assistance will not be completed.

On August 3, 2021, at approximately 5:18 PM, I verbally declared a disaster emergency for burn scar flooding, mudslides, and rockslides, and activated the State of Colorado Emergency Operations Plan. My disaster declaration pertains to counties and State agencies impacted by these weather events. At the same time, I verbally authorized deployment of the Colorado National Guard to assist with traffic control, debris management, and unarmed law enforcement support.

CDOT crews are working tirelessly to clear debris and repair the roadway to restore the flow of food, fuel, and other products, provide safe travel conditions for the public, and reduce the economic impact to the affected area, State, and nation. By temporarily suspending certain procurement statutes, the State can facilitate a swift response and recovery effort and restore public safety while minimizing impacts from burn scar flooding, mudslides, and rockslides.

II. Declarations and Directives

- A. Burn scar flooding, mudslides, rockslides, and associated impacts in Garfield, Larimer, Eagle, Grand, Routt, Rio Blanco, and Pitkin Counties constitute a disaster emergency under C.R.S § 24-33.5-701, *et seq.* My verbal order of August 3, 2021, declaring a disaster emergency, is hereby memorialized by this Executive Order and shall have the full force and effect of law as if it were contained within this Executive Order.

- B. Further, pursuant to C.R.S. § 28-3-104, my verbal order of August 3, 2021, authorizing employment and use of the Colorado National Guard to assist with traffic control, debris management, and unarmed law enforcement support is hereby memorialized by this Executive Order and shall have the full force and effect of law as if it were contained within this Executive Order.
- C. The State Emergency Operations Plan is hereby activated. All State departments and agencies shall take whatever actions may be required and requested by the Director or Acting Director of the Office of Emergency Management pursuant to the Emergency Support Function 5 Annex of the State Emergency Operations Plan, including provision of appropriate staff and equipment as necessary.
- D. Pursuant to C.R.S. § 24-33.5-706(4), I find that the funds regularly appropriated to State and local agencies are insufficient to address this disaster emergency. Therefore, I order that five million dollars (\$5,000,000) from the Disaster Emergency Fund (DEF) is encumbered from the available fund balance to pay for the State-level response, recovery, and mitigation efforts related to this disaster emergency.
- E. I direct State agencies to pursue all available federal funding for response and recovery operations, including but not limited to the Federal Highway Administration, the Federal Emergency Management Agency, and the Natural Resources Conservation Service.
- F. Further, pursuant to C.R.S. § 24-33.5-705.4(5), the Director of the Office of Emergency Management is hereby authorized and directed to allocate the funding described in Section II.D to the appropriate government agencies and non-profit organizations and execute awards, purchase orders, or other mechanisms to effect the allocation of the funds. These funds shall remain available for this purpose until thirty-six (36) months from the date of this Executive Order.
- G. I authorize the temporary suspension of the following statutory requirements related to the State's procurement of goods and services that are reasonably necessary to save lives and mitigate the impacts of burn scar flooding, mudslides, and rockslides:
- a. C.R.S. § 24-17-204 (concerning contract submissions and corresponding analyses submitted to the Office of State Planning and Budget);
 - b. C.R.S. § 24-30-1104(1)(h) (concerning the Department of Personnel's performance of certain centralized functions and approval processes for the executive branch);
 - c. C.R.S. § 24-50-503(1)(a)-(c), (f) (concerning certain threshold requirements for contracts for personal services, but maintaining the requirements for non-discrimination provisions and termination by the State for breach);

- d. C.R.S. § 24-106-103(3)(d) (concerning the time frame in which personal services contracts are to be added to the centralized contract management system); and
- e. C.R.S. § 24-106-104 (concerning the types of contracts that may be used to best meet the interests of the State).

H. I authorize a temporary exemption from 8 CCR 1507-1, as adopted by the Colorado State Patrol pursuant to C.R.S. § 42-4-235. This is a temporary exemption from 8 CCR 1507-1, MCS 6, Hours of Service for Drivers under 49 CFR 395 for transport haulers of gasoline, diesel, aviation fuels, propane, natural gas and other home heating fuels, medical supplies, sanitation, food, paper products, other groceries, and supplies or equipment necessary for community safety. All other applicable State and federal regulations shall apply, including but not limited to: Title 49 CFR Part 382, Controlled Substances and Alcohol Use and Testing; and Part 392.3 (ill and fatigued drivers). Carriers will be responsible for monitoring drivers for fatigue. Should it become apparent that a driver's ability or alertness is impaired or is likely to become impaired by fatigue or illness, the driver must not be allowed to drive. In addition, an ill or fatigued driver shall not operate a commercial motor vehicle.

III. Duration

This Executive Order shall expire thirty (30) days from August 3, 2021, unless extended further by Executive Order, except that the funds described in Section II.D of this Executive Order shall remain available for the described purposes for thirty-six (36) months from the date of this Executive Order.



GIVEN under my hand and
the Executive Seal of the
State of Colorado, this sixth
day of August 2021.

A handwritten signature in blue ink, which reads "Jared Polis". The signature is written in a cursive, flowing style.

Jared Polis
Governor