



Colorado Legislative Council Staff

Room 029 State Capitol, Denver, CO 80203-1784
(303) 866-3521 • FAX: 866-3855 • TDD: 866-3472
www.colorado.gov/lcs
E-mail: lcs.ga@state.co.us

MEMORANDUM

October 31, 2013

TO: Members of the Flood Disaster Study Committee
FROM: Julia Jackson, Senior Research Analyst, 303-866-4788
SUBJECT: Colorado Law Addressing Flood Disasters

Summary

This memorandum provides an overview of existing state law and resources addressing flood disasters. It explains the state government's actions after a disaster emergency is declared, particularly those taken in response to the September 2013 flood disaster, and it summarizes state law regarding floods. It also describes the process of federal disaster emergency response and discusses the federal flood insurance program.

State Disaster Emergency Response

State government action in the immediate aftermath of a disaster begins with a declaration of a disaster emergency by the Governor, pursuant to the Colorado Disaster Emergency Act. Such a declaration, which can be made verbally or formalized in an executive order, sets into motion a variety of state actions in the locations specified in the declaration. In response to the September 2013 floods, the Governor issued three executive orders: D-2013-026 (Attachment A), D-2013-027 (Attachment B), D-2013-028 (Attachment C). The directives from these three executive orders are summarized below.

Emergency Operations Plan. The Governor activated the state Emergency Operations Plan (SEOP). The SEOP is maintained by the Division of Homeland Security and Emergency Management, which explains:

"The SEOP provides direction to State agencies and some volunteer agencies in responding to emergencies or disasters. It delineates emergency response procedures, responsibilities, lines of authority, and continuity of Government. The format is compatible to the National Response Framework by using a functional approach to providing assistance. In this functional approach, emergency support functions, i.e., transportation, communications, information and planning, etc., have been assigned to a lead State agency with other departments in supporting roles. The lead department is responsible for developing and maintaining the appropriate annex and for seeing that tasks are completed during emergency operations."

The SEOP is updated annually, and the current SEOP is available online at <http://dhsem.state.co.us/emergency-management/operations/state-emergency-operations-plan>.

Funds. The Governor directed additional moneys to be transferred from the General Fund to the Disaster Emergency Fund. Over the three executive orders, a total of \$91.5 million was transferred to the Disaster Emergency Fund. The Governor authorized the Director of the Office of Emergency Management (OEM) to allocate the funding to government agencies and nonprofit organizations. The OEM director was further authorized to allocate up to \$20.0 million of these funds to be used as short-term, no-interest loans to any political subdivision of the state. The OEM director was also designated to enter into all necessary cost-sharing agreements with the federal government to make financial assistance available.

The Division of Homeland Security was directed to coordinate application to the federal government for funds available for reimbursement, and to coordinate application for any other disaster emergency funds available.

The Department of Transportation was directed to pursue federal transportation emergency relief funds, as well as to coordinate application of any other funds available to address the provision of safe and reliable transportation. This required the concurrence of the Federal Highway Administration Colorado Division Administrator in the emergency declaration.

National Guard. The Governor activated the Colorado National Guard and authorized the use of National Guard assets for law enforcement and flood-related missions.

Other state agencies. The Governor authorized the Division of Parks and Wildlife to suspend recreational boating in state public recreation areas in the affected counties. Local sheriffs and police departments were also authorized to suspend recreational boating in the affected counties as appropriate.

Executive directors of all executive agencies except the Department of Education were authorized to suspend the provisions of any laws or rules that would prevent, hinder, or delay necessary emergency response. Such suspension was subject to the approval of the Chief Recovery Officer, a position created and filled by the Governor.

Federal Disaster Emergency Response

Declaration. Federal disaster emergency response is governed by the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act,¹ known as the Stafford Act. The process begins with presidential disaster declarations, managed by the Federal Emergency Management Agency (FEMA). The Governor must request such declarations, and before federal assistance can commence, the state must have taken appropriate response action under state law and the Governor must have executed the state's emergency plan. FEMA makes two types of disaster declarations: emergency declarations and major disaster declarations. Emergency declarations are generally made when a threat is recognized, and are intended to supplement and coordinate local and state efforts prior to the disaster emergency, such as evacuations. An emergency declaration regarding Colorado flooding (EM-3365) was issued on September 12, 2013. Major disaster declarations are made after a disaster occurs and represent broader federal authority to help states, local communities, and individuals recover from damage caused by the disaster. A major disaster declaration regarding Colorado flooding (DR-4145) was issued on September 14, 2013.

¹P.L. 93-288, as amended, 42 U.S.C. §§ 5121-5208.

Assessment. FEMA also coordinates a Preliminary Disaster Assessment (PDA) to determine the magnitude and impact of a disaster's damage. A PDA team — traditionally including a state official, representatives from the appropriate FEMA regional office, a local official familiar with the area and, in some instances, representatives from the American Red Cross and/or the Small Business Administration — is assembled to make this assessment.

Assistance. Once a disaster is assessed and declared, FEMA can provide federal disaster assistance. Under the Stafford Act, there are three primary forms of federal financial assistance: public assistance generally provides repairs to public infrastructure; individual assistance generally involves temporary housing; and hazard mitigation assistance provides additional funding to states to accomplish projects that can reduce future disaster damage. Some of these programs require a cost share on a 75 percent federal, 25 percent state/local basis.

A number of additional federal disaster assistance programs, not administered by FEMA, are also available. The Small Business Administration provides federally subsidized loans to repair or replace personal property or businesses that sustained damages not covered by insurance. Community Development Block Grants from the Department of Housing and Urban Development can be used to meet various disaster needs. Multiple programs from the Department of Agriculture can provide food, housing, and financial assistance, primarily to agricultural and rural communities.

Federal assistance programs made available in Colorado after the September 2013 floods, excluding highway programs, are summarized in a fact sheet prepared by FEMA and included as Attachment D.

The U.S. Department of Transportation's Federal-Aid Highway Emergency Relief (ER) Program provides grant funds for the repair and reconstruction of roads on the federal-aid highway system. ER funds are provided by the Federal Highway Administration but administered through state departments of transportation. Emergency repairs accomplished within the first 180 days after a disaster to restore essential travel, minimize the extent of damage, or protect remaining facilities are fully reimbursed by the ER program. Permanent repair projects are reimbursed at normal federal shares, which are 90 percent for interstate system highways and 80 percent for most other highways. The amount provided for each natural disaster is limited to \$100 million, but in the case of Colorado's flooding, the U.S. Congress approved raising the cap to \$450 million.

National Flood Insurance Program

Federal law requires the purchase of flood insurance for properties in high-risk flood areas.² If a property is in a moderate-to-low risk area, federal law does not require flood insurance; however, a lender may require it. FEMA administers flood insurance through the National Flood Insurance Program (NFIP), which is a federally subsidized program based on an agreement between local communities and the federal government. The agreement states that if a community implements measures to reduce future flood risks to new construction or reconstruction, the federal government will make flood insurance available within the community as financial protection against flood losses that occur. According to FEMA, there are a total of 246 Colorado communities participating in the NFIP. Under the Write Your Own Program, participating property and casualty insurance companies are allowed to write and service federal flood insurance in their own names. The companies receive an expense allowance for policies written and claims processed, while the federal government retains the responsibility for underwriting losses.³ Additional information about the NFIP can be found at www.fema.gov/national-flood-insurance-program and www.floodsmart.gov.

²42 U.S.C. § 4012a.

³*National Flood Insurance Program Flood Insurance Manual*, effective October 1, 2013.

State Law Regarding Emergency Management

Colorado Disaster Emergency Act. The Colorado Disaster Emergency Act (CDEA), recreated and reenacted in 2012, is located in Section 7 of Article 33.5 of Title 24, C.R.S. This law governs state action in disaster prevention, preparedness, response, and recovery. It specifies floods within its definition of disaster. Under the Colorado Disaster Emergency Act, the Governor is given the authority to issue executive orders, proclamations, and regulations in response to disasters, including declaring disaster emergencies. Once a disaster emergency has been declared, disaster response and recovery aspects of any applicable state, local, and interjurisdictional disaster emergency plans are activated.

Under the CDEA, the Governor is entitled by law to certain additional authority during a disaster emergency. Governor Hickenlooper used some of this authority following the September 2013 floods. His actions pursuant to the CDEA were detailed in his executive orders, summarized above.

The CDEA also establishes the Office of Emergency Management in the Department of Public Safety. The office is responsible for preparing and maintaining a state disaster plan, and for assisting in the development and revision of local and interjurisdictional disaster plans. The office is required to develop and maintain a centralized computer database of the all-hazards response resources in the state and make this database available to other emergency response agencies. It is also responsible for the state's tactical and long-term interoperable communications plans, as well as the state's all-hazards resource mobilization system.

Other aspects of the CDEA related to flood disaster response include creating the Disaster Emergency Fund and specifying how it is to be expended, laying out guidelines for local and interjurisdictional disaster agencies, and directing emergency managers to study and make recommendations concerning disaster prevention. It also discusses compensation for services or for the taking or use of property in certain cases during disasters, limitations on weather modification, and maintenance of telecommunications systems.

Colorado National Guard. The Governor is the commander in chief of the Colorado National Guard and may employ them in natural disasters.⁴ Additionally, members of the National Guard may serve as peace officers during a national disaster when so ordered by the Governor.⁵

Additional State Laws Concerning Flooding

Planning and zoning. Article 23 of Title 31, C.R.S., addresses municipal government planning and zoning. Provisions addressing flood control and prevention include a statement that zoning regulations should address safety from flood waters, and the inclusion of flood safety in the list of items that should be considered during the preparation of a master plan by a planning commission. Local governments, namely the "governing body of each municipality," are granted the authority to regulate land use along storm or floodwater channels and basins in order to minimize damage and prevent hazardous conditions that may result from flooding. Similar authority is granted to county governments and regional planning commissions in Article 28 of Title 30, C.R.S. Additionally, disaster areas, including those damaged by flood, may be declared blighted for purposes of urban renewal planning and projects.⁶

⁴Section 28-3-104, C.R.S.

⁵Section 16-2.5-144, C.R.S.

⁶Section 31-25-108, C.R.S.

Urban drainage and flood control. The Urban Drainage and Flood Control District, a special district under state law,⁷ includes the City and County of Denver and parts of six surrounding counties — Adams, Arapahoe, Boulder, Broomfield, Douglas, and Jefferson. The district assists the included local governments with multi-jurisdictional drainage and flood control problems. It is governed by a board of directors consisting primarily of locally elected officials, and its funds come from four different mill levies, used to operate four programs: master planning; design, construction, and maintenance; floodplain management; and information services and flood warning. More information about the Urban Drainage and Flood Control District can be found at <http://www.udfcd.org/>.

Colorado Water Conservation Board. The board is a state agency created in law⁸ to aid in the protection and development of the state's waters. Its duties include the prevention of floods, particularly through designating and approving storm or floodwater runoff channels or basins, studying and making recommendations concerning flood prevention, and cooperating with federal and state governments in flood control efforts. The board also has authority over the Flood and Drought Response Fund, to be used for flood and drought response purposes, including aerial photography of flooded areas, documentation and identification of specific hazards, evaluation and revisions of floodplain designations, forecasting and preparation, and development of disaster and recovery mitigation plans. More information about the board's flood programs can be found at <http://cwcb.state.co.us/water-management/flood/Pages/main.aspx>.

⁷Section 32-11-101, *et seq.*, C.R.S.

⁸Section 37-60-101, *et seq.*, C.R.S.

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol Building
Denver, Colorado 80203
Phone (303) 866 - 2471
Fax (303) 866 - 2003



John W. Hickenlooper
Governor

D 2013-026

EXECUTIVE ORDER

Declaring a Disaster Emergency Due to the Flooding in Adams, Arapahoe, Broomfield, Boulder, Denver, El Paso, Fremont, Jefferson, Larimer, Logan, Morgan, Pueblo, Washington, and Weld Counties (Front Range Flooding)

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant relevant portions of C.R.S. § 28-3-104 and relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order declaring a state of disaster emergency due to the flooding in Adams, Arapahoe, Broomfield, Boulder, Denver, El Paso, Fremont, Jefferson, Larimer, Logan, Morgan, Pueblo, Washington, and Weld Counties, Colorado, and making resources available to search for flood victims, assist flood survivors, remove the flood debris, provide flood emergency protective measures, address the disaster emergency, and assist with flood recovery.

I. Background and Purpose

The Governor is responsible for meeting the dangers to the state and people presented by disasters. The Colorado Disaster Emergency Act defines a disaster as “the occurrence or imminent threat of widespread or severe damages, injury or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to . . . flood.” C.R.S. § 24-33.5-703(3).

Beginning on September 11, 2013, heavy rainfall fell west of Interstate 25 from south of Colorado Springs to the Wyoming border. The greatest impact was in Boulder County, where up to eight inches of rain fell by 0700 hours on September 12, 2013. Rainfall continues with the National Weather Service predicting another 2 – 4 inches by 0700 hours on September 13, 2013. While authorities cannot conduct damage assessments until the rainfall subsides and the flooding recedes; known consequences are three fatalities, three injuries, damage to a natural gas distribution pipeline, power outages, at least two structures destroyed, water damage to

approximately 40 building on the University of Colorado – Boulder campus, isolation of the towns of Estes Park, Jamestown, Lyons, and Nederland, damage to U.S. Highway 34 near Drake, Dillon Road in Boulder County, closure of numerous roads in local jurisdictions, and damage to the Town of Lyons wastewater treatment system.

On September 12, 2013, Boulder County requested state assistance of the Colorado National Guard for helicopter search and rescue missions at daylight. At approximately 0045 hours, I verbally approved this request. At approximately 0235 hours, Boulder County upgraded the request to utilize National Guard assets immediately. I approved this request and authorized use of the Colorado National Guard for this or any other flood related mission in any affected counties. Further, this Executive Order authorizes the Colorado National Guard to enforce the laws of the State of Colorado upon request from any local jurisdiction affected by the flooding.

At approximately 0700 hours, I verbally declared a disaster emergency for the flooding in Boulder and Larimer Counties and activated the State Emergency Operations Plan. This declaration adds additional counties affected by the continuing flooding.

II. Declaration and Directives

- A. The flooding along the Front Range constitutes a disaster emergency under C.R.S. § 24-33.5-701, 705. My verbal order of September 12, 2013, 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. 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, including provision of appropriate staff and equipment as necessary.
- C. Pursuant to C.R.S. § 24-33.5-706(4) the funds in the Disaster Emergency Fund are found to be insufficient to pay for the flood response and recovery. Therefore, it is ordered that \$6,000,000 be transferred into the Disaster Emergency Fund from the General Fund appropriation in Fiscal Year 2013-14 to the Controlled Maintenance Trust Fund. It is further ordered that this \$6,000,000 from the Disaster Emergency Fund is encumbered to pay for the flood response and recovery. Included in the specified amount is \$1,000,000 for recovery related to this disaster. The Director of the Office of Emergency Management is hereby authorized and directed to allocate the funding 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 for eighteen months from the date of this Executive Order, and any unexpended funds shall remain in the Disaster Emergency Fund.

- D. The Division of Homeland Security and Emergency Management is authorized and directed to coordinate application to the federal government for funds available for reimbursement and to coordinate application for any other funds available related to this disaster emergency.
- E. My verbal orders of September 12, 2013, activating the National Guard, authorizing the utilization of National Guard assets for any flood related missions, and enforcing the laws of the State of Colorado as provided in C.R.S. § 16-2.5-144 are hereby memorialized by this Executive Order and shall have the full force and effect of law as if they were contained within this Executive Order.
- F. Under the provisions of C.R.S. § 24-33.5-704 (7) (a), (e), & (g) and in the interest of public safety, I hereby authorize and local sheriff and police departments to suspend recreational boating in the affected counties as appropriate and the Division of Parks and Wildlife to do the same for state public recreation areas in the affected counties for the duration of this Executive Order.
- G. For the purposes of sections 125 and 120(e) of Title 23 of the United States Code, I hereby find that the damage to the affected counties as a result of the flooding constitutes an emergency. The immediate repair to highways in these counties is vital to ensuring that necessary improvements are made to mitigate future similar incidents and provide for safe and reliable transportation for area residents. The Federal Highway Administration Colorado Division Administrator is requested to concur in the declaration of this emergency. This declaration shall permit the Colorado Department of Transportation to pursue federal transportation emergency relief funds, as is provided under the United States Code. The Executive Director of the Colorado Department of Transportation is authorized and directed to coordinate application to the federal government for funds available for reimbursement and to coordinate application for any other funds available related to this disaster emergency.

III. Duration

This Executive Order shall expire thirty days from September 12, 2013 unless extended further by Executive Order, except that the funds described in paragraph II (C) above shall remain available for the described purposes for eighteen months from the date of this Executive Order.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this thirteenth day of
September, 2013.

A handwritten signature in blue ink, reading "John W. Hickenlooper".

John W. Hickenlooper
Governor

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol Building
Denver, Colorado 80203
Phone (303) 866 - 2471
Fax (303) 866 - 2003



John W. Hickenlooper
Governor

D 2013-027

EXECUTIVE ORDER

Amending the Declaration of Disaster Emergency Due to the Flooding in Adams, Arapahoe, Broomfield, Boulder, Denver, El Paso, Fremont, Jefferson, Larimer, Logan, Morgan, Pueblo, Washington, and Weld Counties (Front Range Flooding)

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to relevant portions of C.R.S. § 28-3-104 and relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order amending Executive Order D 2013-026 declaring a disaster emergency due to the flooding in Adams, Arapahoe, Broomfield, Boulder, Denver, El Paso, Fremont, Jefferson, Larimer, Logan, Morgan, Pueblo, Washington, and Weld Counties, Colorado.

I. Background and Purpose

The Governor is responsible for meeting the dangers to the state and people presented by disasters. The Colorado Disaster Emergency Act defines a disaster as “the occurrence or imminent threat of widespread or severe damages, injury or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to . . . flood.” C.R.S. § 24-33.5-703(3).

On September 13, 2013, I issued Executive Order D 2013-26 declaring a Disaster Emergency in 14 counties on account of flooding. Since that time, the affected areas received extensive additional rainfall. As of September 18, 2013, the National Weather Service reported that 7-day rain totals have reached as high as 18.1 inches in Boulder County, 12.4 inches in Larimer County, 15.6 inches in Adams County, and 11.6 inches in El Paso County. Initial estimates of the casualties and property damage are as follows: six persons are deceased, 17,648 structures have been damaged, which includes 4,047 structures that have been destroyed, 30 bridges have been destroyed, and 20 others have been seriously damaged. As of 1100 on September

18, 2013, a total of 754 troops, 19 helicopters, 20 ground search-and-rescue teams, and 67 traffic-control points were operational.

After the Executive Order was issued on September 13, 2013, I verbally declared a disaster emergency and activated the State Emergency Operations Plan in two additional counties, Clear Creek and Sedgwick, because of significant rainfall to that area.

In Executive Order D 2013-26, I ordered that \$6,000,000 be transferred into the Disaster Emergency Fund. The estimated cost of disaster relief so far has been approximately \$ 3.5 million per day, and the Acting Director of the Office of Emergency Management estimates that 75% of the funds originally ordered had been expended as of September 16, 2013. As extensive relief efforts continue, I find that the \$6,000,000 that was originally ordered is insufficient to pay for the flood response and recovery.

As a result of the recent flooding, Colorado's transportation infrastructure has been significantly compromised, limiting the ability of the citizens of Colorado to access their homes, businesses and farms and negatively impacting our ability to provide necessary goods and services to the hardest hit counties. The severity of the damage to the transportation infrastructure, taken together with the brevity of time before winter weather conditions set in, requires extraordinary measures to assist in the reconstruction and repair of Colorado's transportation infrastructure.

The flooding has also damaged businesses and hindered their ability to provide their communities with essential goods and services including food and other daily necessities. Extraordinary measures are necessary to reopen food service businesses promptly in a manner that does not compromise food safety but also recognizes that the rules and regulations in normal times might be unduly burdensome under the circumstances.

II. Declaration and Directives

In addition to the declarations and directives contained in Executive Order D 2013-26, I declare and direct that paragraph II(C) of Executive Order D 2013-026 is hereby amended as follows and paragraphs II(H), II(I), and II(J) are hereby added as follows:

- C. Pursuant to C.R.S. § 24-33.5-706(4) the funds in the Disaster Emergency Fund are found to be insufficient to pay for the flood response and recovery. Therefore, it is ordered that \$26,000,000 be transferred into the Disaster Emergency Fund from the General Fund appropriation in Fiscal Year 2013-14 to the Controlled Maintenance Trust Fund. This

amount shall include the funds transferred by written executive order dated September 13, 2013. It is further ordered that this \$26,000,000 from the Disaster Emergency Fund is encumbered to pay for the flood response and recovery. The Director of the Office of Emergency Management is hereby authorized and directed to allocate the funding 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 for eighteen months from the date of this Executive Order, and any unexpended funds shall remain in the Disaster Emergency Fund.

- H. My verbal order declaring a disaster emergency for Clear Creek County and Sedgwick County as additional counties affected by the continued flooding is hereby memorialized and shall have full force and effect as if these counties were contained in the original Executive Order.
- I. As provided in C.R.S. § 24-33.5-704(7)(a), I hereby authorize the following department Executive Directors, upon approval of the Governor's Chief Recovery Officer, or his/her designee as described below, to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency: Department of Higher Education, Department of Revenue, Department of Public Health and Environment, Department of Labor and Employment, Department of Regulatory Agencies, Department of Agriculture, Department of Natural Resources, Department of Local Affairs, Department of Military and Veterans Affairs, Department of Personnel, Department of Corrections, Department of Public Safety, Department of Transportation, Department of Human Services, and Department of Health Care Policy and Financing. Prior to the suspension of any statute, order, rule or regulation, the Governor's Chief Recovery Officer must find that strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.
- J. I hereby authorize the Director of the Office of Emergency Management or his designee to enter into all necessary cost-sharing agreements with the federal government for the purpose of making available financial assistance pursuant to 42 U.S.C. § 5174. The Director of the Office of Emergency Management or his designee is directed to work with local government partners in the affected counties to reach an equitable method for paying the non-federal share of the costs.

III. Duration

This Executive Order shall expire thirty days from September 13, 2013, unless extended further by Executive Order, except that the funds described in paragraph II(C) above shall remain available for the described purposes for eighteen months from the date of this Executive Order.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this nineteenth day of
September, 2013.

A handwritten signature in blue ink, which appears to read "John W. Hickenlooper". The signature is fluid and cursive, written over the printed name and title.

John W. Hickenlooper
Governor

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol Building
Denver, Colorado 80203
Phone (303) 866 - 2471
Fax (303) 866 - 2003



John W. Hickenlooper
Governor

D 2013-028

EXECUTIVE ORDER

Making Available Additional Resources and Extending the Declaration of Disaster Emergency Due to the Flooding in Adams, Arapahoe, Broomfield, Boulder, Clear Creek, Denver, El Paso, Fremont, Jefferson, Larimer, Logan, Morgan, Pueblo, Sedgwick, Washington, and Weld Counties.

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to relevant portions of C.R.S. § 28-3-104 and relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order making available additional resources and extending the declaration of disaster emergency due to the flooding in Adams, Arapahoe, Broomfield, Boulder, Clear Creek, Denver, El Paso, Fremont, Jefferson, Larimer, Logan, Morgan, Pueblo, Sedgwick, Washington, and Weld Counties.

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. The Colorado Disaster Emergency Act defines a disaster as "the occurrence or imminent threat of widespread or severe damages, injury or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to . . . flood." C.R.S. § 24-33.5-703(3).

As a result of the historic flooding this September, eight people were killed, 218 people were injured, and nearly 6,000 people were forced to leave their homes. Damage to property has been extensive: 1,882 homes have been destroyed and over 16,101 homes have been damaged.

Colorado's transportation infrastructure has been significantly compromised, limiting the ability of the citizens of Colorado to access their homes, businesses and farms and negatively impacting our ability to provide necessary goods and services to the hardest hit counties. The severity of the damage to the transportation infrastructure, taken together with the brevity of

time before winter weather conditions set in, requires extraordinary measures to assist in the reconstruction and repair of Colorado's transportation infrastructure.

On September 13, 2013, I issued Executive Order D 2013-26 declaring a Disaster Emergency due to the flooding and ordered that \$6,000,000 be transferred into the Disaster Emergency Fund. On September 19, 2013, in Executive Order D 2013-027, I ordered that an additional \$20,000,000 be transferred into the Disaster Emergency Fund. Based on initial damage estimates, these funds are insufficient for the extensive recovery efforts that must be undertaken. Pursuant to C.R.S. § 24-33.5-706(4)(b), the Governor may transfer and expend monies appropriated for other purposes if the monies in the Disaster Emergency Fund are deemed insufficient.

II. Declaration and Directives

- A. The flooding along the Front Range continues to constitute a disaster emergency under C.R.S. § 24-33.5-701, 705. The declarations and directives found in Executive Order D 2013-026, and Executive Order D 2013-027 are hereby extended an additional 30 days from the date of this Executive Order.
- B. Pursuant to C.R.S. § 24-33.5-706(4), I find the funds in the Disaster Emergency Fund to be insufficient to pay for the flood response and recovery. Therefore, it is ordered that \$15,500,000 be transferred into the Disaster Emergency Fund from the General Fund appropriation in Fiscal Year 2013-14 to the Controlled Maintenance Trust Fund established in C.R.S. § 24-75-302.5; and \$50,000,000 be transferred into the Disaster Emergency Fund from General Fund appropriation in Fiscal Year 2013-14 to the Department of Health Care Policy and Financing Medical Services Premiums line item. It is further ordered that this \$65,500,000 from the Disaster Emergency Fund is encumbered to pay for the flood response and recovery. The Director of the Office of Emergency Management is hereby authorized and directed to allocate the funding to the appropriate government agencies and non-profit organizations and execute awards, purchase orders, or other mechanisms to effect the allocation of the funds. The Director of the Office of Emergency Management is also authorized to allocate up to \$20,000,000 to be used as short-term, no-interest loans in order to provide any political subdivision of the state with short-term capital needed for flood response and recovery. These funds shall remain available for this purpose for eighteen months from the date of this Executive Order, and any unexpended funds shall remain in the Disaster Emergency Fund.

III. Duration

This Executive Order shall expire thirty days from September 26, 2013, unless extended further by Executive Order, except that the funds described in paragraph II(B) above shall remain available for the described purposes for eighteen months from the date of this Executive Order.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this twenty-sixth day of
September, 2013.

A handwritten signature in black ink, appearing to read "John W. Hickenlooper".

John W. Hickenlooper
Governor



Federal Aid Programs for State of Colorado Disaster Recovery

Release date: SEPTEMBER 15, 2013

Release Number: HQ-13-101 Factsheet

Following is a summary of key federal disaster aid programs that can be made available *as needed and warranted* under President Obama's major disaster declaration issued for Colorado.

Assistance for Affected Individuals and Families Can Include as Required:

- Rental payments for temporary housing for those whose homes are unlivable. Initial assistance may be provided for up to three months for homeowners and at least one month for renters. Assistance may be extended if requested after the initial period based on a review of individual applicant requirements. *(Source: FEMA funded and administered.)*
- Grants for home repairs and replacement of essential household items not covered by insurance to make damaged dwellings safe, sanitary and functional. *(Source: FEMA funded and administered.)*
- Grants to replace personal property and help meet medical, dental, funeral, transportation and other serious disaster-related needs not covered by insurance or other federal, state and charitable aid programs. *(Source: FEMA funded at 75 percent of total eligible costs; 25 percent funded by the state.)*
- Unemployment payments up to 26 weeks for workers who temporarily lost jobs because of the disaster and who do not qualify for state benefits, such as self-employed individuals. *(Source: FEMA funded; state administered.)*
- Low-interest loans to cover residential losses not fully compensated by insurance. Loans available up to \$200,000 for primary residence; \$40,000 for personal property, including renter losses. Loans available up to \$2 million for business property losses not fully compensated by insurance. *(Source: U.S. Small Business Administration.)*
- Loans up to \$2 million for small businesses, small agricultural cooperatives and most private, non-profit organizations of all sizes that have suffered disaster-related cash flow problems and need funds for working capital to recover from the disaster's adverse economic impact. This loan in combination with a property loss loan cannot exceed a total of \$2 million. *(Source: U.S. Small Business Administration.)*
- Loans up to \$500,000 for farmers, ranchers and aquaculture operators to cover production and property losses, excluding primary residence. *(Source: Farm Service Agency, U.S. Dept. of Agriculture.)*
- Other relief programs: Crisis counseling for those traumatized by the disaster; income tax assistance for filing casualty losses; advisory assistance for legal, veterans' benefits and social security matters.

Assistance for the State and Affected Local Governments Can Include as Required:

- Payment of not less than 75 percent of the eligible costs for removing debris from public areas and for emergency measures taken to save lives and protect property and public health, including direct federal assistance, under the Public Assistance program. *(Source: FEMA funded, state administered.)*



How to Apply for Assistance:

- Those in the area designated for assistance to affected individuals and business owners can begin the disaster application process by registering online at www.DisasterAssistance.gov or by calling 1-800-621-FEMA (3362) or by web enabled mobile device at m.fema.gov. Disaster assistance applicants, who have a speech disability or hearing loss and use TTY, should call 1-800-462-7585 directly; for those who use 711 or Video Relay Service (VRS), call 1-800-621-3362. The toll-free telephone numbers will operate from 7 a.m. to 10 p.m. (local time) seven days a week until further notice. Applicants registering for aid should be prepared to provide basic information about themselves (name, permanent address, phone number), insurance coverage and any other information to help substantiate losses.
- Application procedures for local governments will be explained at a series of federal/state applicant briefings with locations to be announced in the affected area by recovery officials. Approved public repair projects are paid through the state from funding provided by FEMA and other participating federal agencies.

FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.

Follow FEMA online at <http://blog.fema.gov>, www.twitter.com/fema, www.facebook.com/fema, and www.youtube.com/fema. Also, follow Administrator Craig Fugate's activities at www.twitter.com/craigatfema. The social media links provided are for reference only. FEMA does not endorse any non-government websites, companies or applications.

###

Related Content:

[President Declares Disaster for Colorado](#)

Last Updated: September 15, 2013 - 01:48

State/Tribal Government or Region: [Colorado](#)

Related Disaster: [Colorado Severe Storms, Flooding, Landslides, and Mudslides](#)