



D 2023 003

EXECUTIVE ORDER

Declaring a Disaster Emergency Due to the Fuel Supply Chain Risk in Colorado

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 the fuel supply chain risk in Colorado, enabling State agencies to coordinate for response and mitigation efforts.

Further, pursuant to Article IV, Section 5 of the Colorado Constitution and pursuant to C.R.S. § 28-3-104, I hereby authorize deploying the Colorado National Guard in an unarmed capacity for the purpose of assisting with planning and logistics related to the fuel supply chain risk in Colorado.

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).

Suncor’s Commerce City refinery processes approximately 98,000 barrels of oil per day, and contributes \$2.5 billion to Colorado’s economy annually. Approximately 95% of Suncor’s products are sold within Colorado, accounting for roughly 25% of statewide gasoline consumption, 50% of statewide diesel consumption, and one third of jet fuel consumption at the Denver International Airport.

Coinciding with extreme and record-setting cold weather impacting Colorado in December 2022, Suncor’s Commerce City refinery experienced equipment damage and has been shut down to enable inspection and repair of damaged equipment. Suncor estimates resuming production in six to twelve weeks. The shutdown will result in significant fuel supply challenges throughout Colorado.

On December 31, 2022, at approximately 4:35 PM, I verbally declared a disaster emergency for the State of Colorado due to fuel supply chain risk, activating the State Emergency Operations Plan and directing the Office of Emergency Management (OEM) to take all necessary and appropriate State actions to assist the State with its response and mitigation efforts.

I further verbally authorized deployment and use of the Colorado National Guard in an unarmed capacity for the purpose of assisting with planning and logistics related to the fuel supply chain risk in Colorado.

I have contacted refineries and fuel transportation companies in other parts of the country to minimize any disruption and to maximize distribution of fuel to Coloradans. My fellow Governors in neighboring states are helping coordinate additional deliveries to Colorado. My administration is pursuing every avenue to mitigate the impacts of Suncor's temporary shutdown, including temporarily suspending statute and making temporary regulatory exemptions to facilitate the expeditious delivery of fuel around the State. State agencies are proactively reviewing additional tools available to ensure that adequate fuel supply can reach distributors throughout the State.

II. Declarations and Directives

- A. The shutdown of Suncor's Commerce City refinery for six to twelve weeks poses a fuel supply chain risk in Colorado which constitutes a disaster emergency under C.R.S. § 24-33.5-701, *et seq.* My verbal order of December 31, 2022, 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 December 31, 2022, authorizing deployment and use of the National Guard in an unarmed capacity for the purpose of assisting with planning and logistics related to the fuel supply chain risk in Colorado 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. My verbal order of December 31, 2022, activated the State Emergency Operations Plan. All State departments and agencies were authorized to take whatever actions may be required and requested by the Director or his delegate 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. I direct the Colorado Department of Transportation to issue non-interstate overweight indivisible permits pursuant to C.R.S. § 42-4-510 to motor carriers involved in gasoline and fuel transportation to travel on state highways with heavier loads to increase the volume of fuel delivered and reduce the total number of trucks required to deliver that fuel.
- E. I direct the Colorado State Patrol (CSP) to temporarily suspend certain provisions of C.R.S. § 42-4-235, as outlined by CSP, to the extent that they prevent the delivery of necessary fuel to distribution points within Colorado, subject to the following conditions:

- i. This Executive Order notwithstanding, all drivers, companies, and entities involved in the transportation and delivery of fuel shall prioritize safe practices in all phases of transportation and delivery of fuel. Further, this exception shall not be construed as an exemption from C.R.S. Title 42, Traffic Code, as it relates to general motor vehicle safety, state and federal financial responsibility requirements, commercial driver's license requirements, size and weight regulations, or any federal motor carrier safety regulations not specifically identified herein.
- ii. This exception shall also not be construed as an exemption from 49 C.F.R. § 392.3 which prohibits ill or fatigued drivers from operating a motor vehicle.
- iii. Motor carriers or drivers currently subject to an out-of-service order issued by the Federal Motor Carrier Safety Administration are not eligible for the exception until that order expires or the conditions of the order have been met.

F. I urge the Attorney General's Office to pursue any violations of the Colorado Consumer Protection Act, C.R.S. § 6-1-730 *et seq.*, relating to the price of fuel, including charging excessive prices and engaging in price gouging.

III. Duration

This Executive Order shall expire thirty (30) days from December 31, 2022, unless extended further by Executive Order.



GIVEN under my hand and the Executive Seal of the State of Colorado, this twenty-seventh day of January, 2023.

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

Jared Polis
Governor