

Subpart I—Interaction With Non-Federal Requirements

Source: [91 FR 3817](#), Jan. 29, 2026, unless otherwise noted.

§ 123.800 Purpose.

(a) **Purpose.** The purpose of this subpart is to ensure SBA Disaster Loans issued pursuant to [15 U.S.C. 636\(b\)](#) achieve their Congressionally intended goal of rapid repair, rehabilitation and replacement of disaster-damaged real property financed through such loans; to prevent State or Local Requirements (hereafter defined) from delaying and thus frustrating the SBA Disaster Loan program's objective of timely, rapid assistance to and recovery for disaster victims; and to clarify the applicability of certain non-federal laws, codes, ordinances, regulations, permitting requirements, and other administrative practices to federally authorized disaster assistance.

§ 123.801 Definitions.

(a) **Disaster-Related Activities** are any real property repairs, rehabilitations, replacements, or any associated activities financed in whole or in part by an approved SBA Disaster Loan.

(b) **SBA Disaster Loan** is a loan authorized under [15 U.S.C. 636\(b\)](#) pursuant to a major disaster declaration under [15 U.S.C. 636\(b\)\(2\)\(A\)](#).

(c) **State or Local Requirement** is any provision of any state or local law, regulation, ordinance, code, or administrative practice that imposes a requirement to have a permit or imposes another approval requirement as a condition precedent to conducting Disaster-Related Activities, but does not include, for the avoidance of doubt, any substantive underlying requirements that would form the basis of the permit or approval.

§ 123.802 Scope and applicability.

This subpart applies to Disaster-Related Activities and all SBA Disaster Loan borrowers, including any contractors, subcontractors, and agents of such borrowers conducting Disaster-Related Activities.

§ 123.803 Federal preemption.

Preemption. Any State or Local Requirement shall be preempted where it is the but-for cause of a delay in conducting Disaster-Related Activities that lasts more than sixty (60) days following the date of the borrower's, or any contractor, subcontractor, or agent of such borrower's, submission of all applicable complete applications or requests for approval to the applicable State or local authorities to proceed with Disaster-Related Activities.

§ 123.804 Supersession of State or Local Requirements.

(a) For Disaster-Related Activities, compliance with State or Local Requirements shall not be required to the extent that such State or Local Requirement creates the condition identified by [§ 123.803](#).

(b) Compliance with this subpart and other applicable federal requirements, including the certification under [§ 123.805](#), shall be deemed sufficient authorization to proceed with Disaster-Related Activities and the borrower, contractor, subcontractor, or agent of such borrower may proceed with such Disaster-Related Activities without obtaining or complying with the preempted State or Local Requirement.

(c) State and local governments may not enforce stop-work orders, penalties, or enforcement actions against a borrower of an SBA Disaster Loan or any contractor, subcontractor, or agent of such borrower based on failing to meet a preempted State or Local Requirement.

§ 123.805 Certifications as to State and Local Compliance.

An SBA Disaster Loan borrower and any contractors, subcontractors, or agents of such borrower, who seek to engage in Disaster-Related Activities without complying with a State or Local Requirement preempted under [§ 123.803](#) may only do so where the SBA Disaster Loan borrower has provided to SBA, prior to commencement of Disaster-Related Activities, through loan closing documentation modifications or other documents provided to the borrower by SBA, a certification by the borrower's builder(s) that the builder has so far, and will in the future, comply with and adhere to any applicable state and local rules and regulations not preempted under [§ 123.803](#). Such non-preempted rules and regulations include, but are not limited to, building codes, health and safety requirements, inspection requirements (which may be conducted by local government inspectors or qualified, independent third-party inspectors), and any other processes required to obtain a certificate of occupancy at the completion of Disaster-Related Activities. A borrower relying on preemption under this subpart shall be considered to be in default of the borrower's SBA Disaster Loan if the borrower fails to comply with the provisions of [§ 123.805](#) and shall be considered a violation of [§ 123.9](#).

§ 123.806 Interference with SBA Disaster Loan Usage.

(a) State or local government officials must not unlawfully interfere with, impede, or disrupt the otherwise lawful use of SBA Disaster Loan proceeds under this Part in the name of enforcing a preempted State or Local Requirement.

(b) State or Local Requirements are preempted only to the extent that they result in a condition identified by [§ 123.803](#).

§ 123.807 Severability.

If any provision of this subpart is held invalid, the remainder of the subpart shall not be affected.

§ 123.808 Applicability date.

This rule applies to disaster loans approved on or after January 1, 2025.