
This content is from the eCFR and is authoritative but unofficial.

Title 13 —Business Credit and Assistance

Chapter I —Small Business Administration

Part 123 —Disaster Loan Program

Subpart A —Overview

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 636(d), 657n, and 9009.

Source: 61 FR 3304, Jan. 31, 1996, unless otherwise noted.

§ 123.3 How are disaster declarations made?

- (a) There are seven ways in which disaster declarations are issued which make SBA disaster loans possible:
- (1) The President declares a Major Disaster and authorizes Federal Assistance, including individual assistance (Assistance to Individuals and Households Program).
 - (2) If the President declares a Major Disaster limited to public assistance only, a private nonprofit facility which provides non-critical services under guidelines of the Federal Emergency Management Agency (FEMA) must first apply to SBA for disaster loan assistance for such non-critical services before it could seek grant assistance from FEMA.
 - (3) SBA makes a physical disaster declaration, based on the occurrence of at least a minimum amount of physical damage to buildings, machinery, equipment, inventory, homes and other property. Such damage usually must meet the following tests:
 - (i) In any county or other smaller political subdivision of a State or U.S. territory, at least 25 homes or 25 businesses, or a combination of at least 25 homes, businesses, or other eligible institutions, each sustain uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower; or
 - (ii) In any such political subdivision, at least three businesses each sustain uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower, and, as a direct result of such physical damage, 25 percent or more of the work force in their community would be unemployed for at least 90 days; and
 - (iii) The Governor of the State or the Chief Executive of the Indian Tribal government in which the disaster occurred submits a written request to SBA for a physical disaster declaration by SBA. This request should be delivered to the Disaster Assistance Field Operations Center serving the jurisdiction within 60 days of the date of the disaster.
 - (4) SBA makes an economic injury disaster declaration in response to a determination of a natural disaster by the Secretary of Agriculture.
 - (5) SBA makes an economic injury declaration in reliance on a state certification that at least five small business concerns in a disaster area have suffered substantial economic injury as a result of the disaster and are in need of financial assistance not otherwise available on reasonable terms. The state certification must be signed by the Governor, must specify the county or counties or other political subdivision in which the disaster occurred, and should be delivered (with supporting documentation) to the Disaster Assistance Field Operations Center serving the jurisdiction within

120 days of the disaster occurrence. When a Governor certifies with respect to a drought or to below average water levels, the supporting documentation must include findings which show that conditions during the incident period meet or exceed the U.S. Drought Monitor (USDM) standard of "severe" (Intensity level D-2 to D-4). The USDM may be found at <https://droughtmonitor.unl.edu/>. With respect to below average water levels, the supplementary information accompanying the certification must include findings which establish long-term average water levels based on recorded historical data, show that current water levels are below long-term average levels, and demonstrate that economic injury has occurred as a direct result of the low water levels. Not later than 30 days after SBA receives a certification by a Governor, it shall respond in writing with its decision and its reasons.

- (6) SBA makes a physical disaster declaration in a rural area (rural disaster declaration) upon request from the Governor of the State or the Chief Executive of the Indian Tribal government in which the rural area is located. Rural area means any county or other political subdivision of a State, the District of Columbia, or a territory of the United States that is designated as a rural area by the Bureau of the Census. The following conditions must be met:
 - (i) The President has declared a Major Disaster for the rural area, but has not authorized individual assistance; and
 - (ii) Any home, small business concern, private nonprofit organization, or small agricultural cooperative in the rural area has incurred significant damage. Significant damage means uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower.
- (7) SBA makes an economic injury disaster declaration in response to a determination of an emergency involving Federal primary responsibility by the President.
- (b) SBA publishes notice of any disaster declaration in the FEDERAL REGISTER. The published notice will identify the kinds of assistance available, the date and nature of the disaster, and the deadline and location for filing loan applications. Additionally, SBA will use the local media to inform potential loan applicants where to obtain loan applications and otherwise to assist disaster survivors in applying for disaster loans. SBA will accept applications after the announced deadline only when SBA determines that the late filing resulted from substantial causes beyond the control of the applicant.

[61 FR 3304, Jan. 31, 1996, as amended at 64 FR 13667, Mar. 22, 1999; 67 FR 64518, Oct. 21, 2002; 71 FR 63676, Oct. 31, 2006; 71 FR 75409, Dec. 15, 2006; 73 FR 54675, Sept. 23, 2008; 81 FR 67903, Oct. 3, 2016; 88 FR 24109, Apr. 19, 2023; 89 FR 91538, Nov. 20, 2024]