

§ 166A-19.21. Gubernatorial disaster declaration.

(a) Preliminary Damage Assessment. – When a state of emergency is declared pursuant to G.S. 166A-19.20 or G.S. 166A-19.22, the Secretary shall provide the Governor and the General Assembly with a preliminary damage assessment as soon as the assessment is available.

(b) Declaration of Disaster. – Upon receipt of a preliminary damage assessment, the Governor is authorized to issue a disaster declaration declaring the impact or anticipated impact of the emergency to constitute a disaster of one of the following types:

- (1) Type I disaster. – A Type I disaster may be declared by the Governor prior to, and independently of, any action taken by the Small Business Administration, the Federal Emergency Management Agency, or any other federal agency, if all of the following criteria are met:
 - a. A local state of emergency has been declared pursuant to G.S. 166A-19.22 and a written copy of the declaration has been forwarded to the Governor.
 - b. The preliminary damage assessment meets or exceeds the criteria established for the Small Business Administration Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. 166A-19.41(b)(2)a.
 - c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.
 - (2) Type II disaster. – A Type II disaster may be declared if the President of the United States has issued a major disaster declaration pursuant to the Stafford Act. The Governor may request federal disaster assistance under the Stafford Act without making a Type II disaster declaration.
 - (3) Type III disaster. – A Type III disaster may be declared if the President of the United States has issued a major disaster declaration under the Stafford Act and either of the following is true:
 - a. The preliminary damage assessment indicates that the extent of damage is reasonably expected to meet the threshold established for an increased federal share of disaster assistance under applicable federal law and regulations.
 - b. The preliminary damage assessment prompts the Governor to call a special session of the General Assembly to establish programs to meet the unmet needs of individuals, businesses, or political subdivisions affected by the emergency.
- (c) Expiration of Disaster Declarations. –
- (1) Expiration of Type I disaster declarations. – A Type I disaster declaration shall expire 60 days after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.
 - (2) Expiration of Type II disaster declarations. – A Type II disaster declaration shall expire twelve months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each. A Type II disaster declaration and any renewals of that declaration shall not exceed a total of 24 months. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type II disaster declaration.

- (3) Expiration of Type III disaster declarations. – A Type III disaster declaration shall expire 24 months after its issuance unless renewed by the General Assembly.
- (4) Expiration of disaster declarations declared prior to July 1, 2001. – Any state of disaster declared or proclaimed before July 1, 2001, irrespective of type, shall terminate by a declaration of the Governor or resolution of the General Assembly. A declaration or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary, the Secretary of State, and the clerks of superior court in the area to which it applies.

(d) Effect of Disaster Declaration Expiration. – Expiration of a Type II or III disaster declaration shall not affect the State's obligations under federal-State agreements entered into prior to the expiration of the disaster declaration. (1951, c. 1016, s. 4; 1955, c. 387, s. 4; 1959, c. 284, s. 2; c. 337, s. 4; 1975, c. 734, ss. 11, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2; 1993, c. 321, s. 181(a); 1995, c. 509, s. 125; 2001-214, s. 3; 2011-145, s. 19.1(g); 2011-183, s. 127(c); 2012-12, s. 1(b); 2012-90, ss. 7, 8; 2022-58, s. 4(a).)