SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

RIN 3245–AI08

Disaster Assistance Loan Program Changes to Unsecured Loan Amounts and Credit Elsewhere Criteria

AGENCY: U.S. Small Business Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule amends the U.S. Small Business Administration (SBA or Agency) regulations governing the SBA Disaster Loan Program by revising how it determines whether an applicant has credit elsewhere to modernize and replace the current process. SBA is also increasing the unsecured threshold for physical damage loans under Major Disaster declarations and for Economic Injury Disaster Loans (EIDL) under all disaster declarations.

DATES:

Effective date: This rule is effective September 9, 2024, unless SBA receives a significant adverse comment to this direct final rule. If a timely, significant adverse comment is received, the Agency will publish a notification of withdrawal of the direct final rule in the **Federal Register** before the effective date.

Applicability date: This rule is applicable for disasters declared on or after September 9, 2024.

Comment date: Comments must be received on or before August 23, 2024.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 3245–AI08, through the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments.

SBA will post all comments on *https://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *https://www.regulations.gov,* please submit the information via email to Robert Blocker at *robert.blocker@sba.gov* and highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Robert Blocker, Office of Financial Assistance, Office of Capital Access, Small Business Administration, at *Robert.blocker@sba.gov* or (202) 619–0477.

SUPPLEMENTARY INFORMATION:

I. Background Information

SBA's Disaster Loan Program provides direct assistance to homeowners, renters, businesses, and nonprofits, which is critical to rebuilding communities after a disaster. Pursuant to section 7(b) of the Small Business Act, 15 U.S.C. 636(b) (the Act), SBA is authorized to make direct loans to homeowners, renters, businesses, and non-profit organizations that have been adversely affected by a disaster. The Act authorizes the Administrator to increase the SBA's size limits on unsecured disaster loans for physical damages in Major Disasters and for EIDL loans for all disaster declarations except Military Reservist Economic Injury Disaster Loans (MREIDL). (*See* 15 U.S.C. 636(d)(6)) SBA is further authorized to set a low-interest rate for individuals and businesses that SBA determines are unable to obtain credit elsewhere and to set a market interest rate for the individuals and businesses that can obtain credit elsewhere.

With natural disasters increasing in severity and frequency across the United States and its territories, SBA is increasing the maximum unsecured loan limits for home and business loans declared for Major Disasters and for EIDL loans for all disaster declaration types. SBA is also revising the method used to determine whether an applicant has credit elsewhere.

SBA believes these changes are necessary to:

- Address limits due to inflation.
- Increase efficiencies in the administration and delivery of the program to better achieve mission and improve outcomes for economic recovery.
- Increase the percentage of borrowers utilizing the SBA mitigation program which is designed to prevent future disaster damages and reduce future disaster economic impacts.
- Reduce the burden of collateral and improve access to credit in underserved communities which oftentimes have limited access to other sources of capital and historically have seen higher rates of disasters and lower economic survival rates.

II. Section-by-Section Analysis

Section 123.11 Does SBA require collateral for any of its disaster loans?

Section 123.11 defines the conditions under which SBA will not require collateral for disaster loans. Paragraph (a) provides the dollar thresholds below which collateral generally will not be required for EIDL loans, physical disaster home and business loans, and MREIDL loans. Paragraph (c) defines when SBA will aggregate physical home and business loans and or EIDL loans to the same borrowers and affiliates to determine if collateral is required.

The collateral threshold for major disasters and EIDL across all declaration types, has been at $25,000 since 2014. The collateral threshold for SBA Agency disasters has been $14,000 since 2008, except for a temporary increase to $25,000 in 2015. These amounts have not been updated despite cost and inflationary increases.

SBA is revising paragraphs (a)(1) and (2) to increase the unsecured loan threshold to $50,000 for EIDL loans for all disasters and for physical home and business loans for Major Disaster declarations. SBA believes the current collateral threshold of $25,000 unnecessarily prevents borrowers from receiving adequate funds to completely recover after a disaster. A recent working paper published by the National Bureau of Economic Research (NBER working paper) used SBA disaster loan application and loan performance data to analyze the effect of collateral requirements on borrower behavior and default rates.[1] Using data from 2005 to 2018, the authors determined that 38 percent of all borrowers with losses above the secured threshold tended to borrow less money than they were eligible, because many have first liens (some had second liens), on their property. As a result, there is little to no justification for further leveraging a property with insufficient equity. The study concluded that the median Disaster Loan Program borrower forgoes up to 40 percent of their loan eligibility to minimize additional liens on their property. The result is that borrowers make decisions that may result in insufficient funds to repair their home adequately and replace personal property. The NBER working paper authors estimated that over $1.1 billion in eligible loan funds were not disbursed due to borrowers electing to keep loan amounts below the collateral threshold.

SBA expects the increase in the unsecured loan limit will result in increased use by disaster survivors of additional available funds, which may include funds SBA makes available specifically for mitigation uses that minimize the risk and cost of future disasters. Currently, only two percent of borrowers utilize mitigation funds. By increasing the unsecured threshold, we

[1] The Cost of Consumer Collateral: Evidence from Bunching (*https://www.fdic.gov/analysis/cfr/consumer/2022/papers/collier-paper.pdf*). Collier, Benjamin, et al. *The Cost of Consumer Collateral: Evidence from Bunching,* 2021, *https://doi.org/10.3386/w29527.*

expect more borrowers to fully access the funds available, not only to fully repair and rebuild, but to build resiliency against future risk. This serves as an incentive for borrowers to secure their homes against such impacts to prevent losses and expedite borrowers' recoveries from subsequent disasters. These changes align with SBA's initiative to increase utilization of the mitigation program from two percent to twenty percent.

Historically, home loans make up approximately 80 percent of disaster applications in most disasters. The real estate collateral associated with these loans is primarily the damaged residence of the disaster survivor. Most disaster home borrowers have one or more existing mortgages leaving minimal or no equity value for additional leverage. When SBA requires a lien on those assets, the lien is subordinate to all existing encumbrances and, often does not add recoverable value to SBA's lien position. The subordinate position significantly reduces recovery for SBA in the event of a default and foreclosure. Collateral analysis of SBA loan portfolio from 2018 through 2023, 41 percent of disaster survivors who apply for and receive SBA assistance do not have collateral sufficient to fully secure the loan. Further collateral analysis indicates 13 percent of borrowers do not have adequate equity to secure 20 percent of the loan amount and 7 percent of borrowers have no equity to secure the SBA loan. In practice, the costs of default and foreclosure and the satisfaction of any senior liens on the property significantly diminish SBA's recovery.

This change will expedite disbursement of more funds to borrowers and reduce costs to the Agency for monitoring liens. Most importantly, it will lower costs (lien recording fees, documentary stamps, etc.) to the disaster survivors, while ensuring they have adequate recovery support. Reducing SBA's costs associated with obtaining property reports necessary to secure collateral and preparing security instruments to comply with each state will also reduce the need for both additional disaster contracts and surge staffing to process, disburse, and service secured disaster loans.

Section 123.104 What interest rate will I pay on my home disaster loan?

The current language of § 123.104 requires SBA to determine whether a disaster survivor has credit elsewhere by analyzing their cash flow and disposable assets. SBA is streamlining the process of determining whether an applicant has credit elsewhere by allowing the use of credit score modeling as a basis of this determination. This change would sync the requirement with what is currently utilized by non-Federal sources. As a result of the changes to § 123.104 SBA also is amending § 123.507(c), as it also references analyzing cash flow and disposable assets.

On April 25, 2014, SBA amended its regulations to allow the use of an applicant's credit score as evidence of repayment ability, 79 FR 22859. The intent of the change was to allow SBA to expedite the processing of applications with strong credit by removing the requirement to analyze cash flow for all loans. Although the change allowed SBA to utilize a more efficient process for determining repayment, there was no coinciding change to streamline the determination of credit elsewhere. Because the current regulation states that credit elsewhere is evaluated based on cash flow and disposable assets, a complete financial analysis still must be performed for every applicant even when credit scores are used as a basis for repayment. To review a disaster survivor's disposable assets, SBA requires home loan applicants to submit a list of assets; business principals to submit a personal financial statement; and, in some cases, business and affiliate entities to submit complete copies of their Federal tax returns. The regulation also requires SBA to review the assets to determine what is disposable. This process is time consuming and subjective.

SBA has determined that a high credit score is the best indication of whether a disaster survivor could obtain financing from non-Federal sources at reasonable terms. The lending industry uses credit scoring for determining both whether to approve credit and what interest rate to provide the borrower. Individual credit scores generally range from 300 to 835. According to the Fair Isaacs Corporation (FICO) loan calculator, borrowers with credit scores of 760 and above receive the lowest mortgage interest rates, and interest rates increase by .225 percentage points in each lower credit score tier.[2] In addition, according to Bankrate, credit scores of 720 and above receive the lowest average interest rates on personal loans, with the average interest rates increasing by 2.77–10.7 percentage points in each lower credit score tier.[3]

The current regulation requiring evaluation of cash flow and disposable assets has led to approvals of disaster loans that are not consistent with private sector practices, where credit scores are the primary factor in determining the interest rate. Our analysis of Hurricane Ian business loans shows that the average credit score for loan business principals for loans approved for businesses with credit elsewhere was 775. In comparison, the average credit score for loans approved for businesses without credit elsewhere was comparable, at 776. Additionally, analysis for home loans approved for Hurricane Ian shows the average credit score for homeowners without credit elsewhere was 717. Of those individuals determined to have credit elsewhere, the average credit score was 784. Of that number, 9.4 percent of those had credit scores of 719 or below.

SBA can use FICO Small Business Scoring Service (SBSS) to determine credit available elsewhere for business loan applicants. The SBSS Score ranges from zero to 300 and is calculated based on the business owners' consumer credit bureau data, the business's credit report (*e.g.,* D&B), the business's financial data, and loan application data. Information obtained from *businesscreditreports.com* shows SBSS scores can be divided into ranges as follows: [4]

Poor: 1–160, 16% of applicants score in this range;

Fair: 161–190, 29% of applicants score is this range;

Good: 191–210, 45% of applicants score in this range;

Excellent: 211–300, 10% of applicants score in this range.

SBA disaster lending has not historically used SBSS scores, so there is no comparable data to show average SBSS scores for current disaster market rate loans compared to below market rate loans or to show what percentage of loans would be at market rate based on a specific SBSS score. However, SBA currently utilizes SBSS scoring for other financial assistance programs, specifically as a prescreening process for 7(a) Small Loans, with a minimum SBSS score of 155; and Community Advantage loans, with a minimum SBSS score of 140. The Disaster Loan Program's implementation of SBSS

[2] myFICO (*www.myfico.com/credit-education/calculators/loan-savings-calculator*).

[3] Average Personal Loan Interest Rates | Bankrate (*https://www.bankrate.com/loans/personal-loans/average-personal-loan-rates/*).

[4] BCR—FICO SBSS—Overview.pdf (*businesscreditreports.com*) (*https://businesscreditreports.com/documents/BCR%20-%20FICO%20SBSS%20-%20Overview.pdf*).

scores will bring consistency in prescreening processes across SBA financial programs. The FICO SBSS score is calculated using two main factors: personal finance and business finance. Personal finance includes factors such as on-time payment history, types of loan accounts, and your credit utilization rate. Business finance includes factors like the number of employees, cash flow, time in business, and major complaints and lawsuits against your company.

SBA's rule will streamline the processing of disaster loans by removing the requirement to evaluate cash flow and disposable assets for all loans. However, SBA may still utilize a review of cash flow as part of the credit elsewhere determination in certain situations. For example, when an applicant has a high credit score but large disaster losses, SBA may evaluate cash flow to determine if the cost of obtaining disaster financing from non-Federal sources would present a hardship to the disaster survivor.

The regulatory changes would allow SBA to automate and streamline more loan processes. Utilizing credit scores to determine credit elsewhere also allows SBA to provide greater clarity to disaster survivors regarding interest rate determinations. Furthermore, determining credit elsewhere by using credit scores would make the process easily adaptable. If a score leads to a large increase or decrease in the percentage of disaster survivors showing credit elsewhere, the score can be adjusted, which would directly impact the percentage.

III. Justification for Direct Final Rule

Agencies typically utilize direct final rulemakings for non-controversial regulatory actions that are unlikely to receive adverse comments. In direct final rulemaking, an agency publishes a final rule with a statement that the rule will go into effect unless the agency receives significant adverse comment within a specified period. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. If the agency receives no significant adverse comment in response to the direct final rule, the rule goes into effect. If the agency receives significant adverse comment, the agency withdraws the direct final rule and may instead issue a proposed rulemaking. SBA has determined that the regulatory changes addressed in this direct final rulemaking are non-controversial, and not likely to result in adverse comments.

By permitting the use of credit score modeling, SBA is expending the process of determining whether an applicant has credit elsewhere. This will allow for a quicker approval process because SBA will not be restricted to performing a time-consuming cash flow analysis for each loan. SBA will be able to decrease the time it takes to process all loan applications overall and expedite the processing of applications from victims of disasters. The SBA's disaster loan unsecured loan threshold has not changed in over a decade, even though natural disasters are becoming more severe and frequent across the United States and its territories, as evidenced by more longer hurricane seasons and more frequent wildfires, tornados, floods, and blizzards. All disasters are urgent, necessitating the most efficient and effective path to assistance for survivors. In short, an increase in the SBA's disaster unsecured threshold is necessary to meet the current economic demands of more severe and frequent disasters.

SBA does not anticipate receiving significant adverse comments because the principal effect of these amendments is to reduce delays in loan processing and provide faster assistance. Also, SBA will be able to increase the amount disaster survivors can borrow through the SBA's Disaster Assistance Loan Program while reducing the burdens of pledging collateral to the disaster survivors, such as having to provide the additional documentation required for a secured loan amount and incurring costs associated with lien recording fees, title company fees, etc. Unsecured loans require minimal documentation, such as an executed Note and Loan Authorization and Agreement. Because there is less documentation to collect and review, the SBA can disburse funds below the unsecured loan threshold much more quickly. SBA's disaster loan program offers long-term, low interest, fixed rate loans to disaster survivors, enabling them to replace real or personal property damaged or destroyed in declared disasters. It also offers such loans to affected small businesses and non-profits to help them recover from economic injury caused by such disasters.

The changes in this direct final rule will not require members of the public to adjust their behavior. Rather, the changes will benefit the public by allowing for increased compensation before collateral is required to adequately reflect increases in costs associated with replacing and repairing residential real property and household effects that have been lost or damaged as a result of a disaster, as well as expediting the processing and disbursement of SBA disaster loans. Due to urgent needs for disaster assistance, and the noncontroversial nature of these changes, the SBA concludes immediate action is required to support homeowners, businesses, and their communities as they recover from future disasters.

Compliance With Executive Orders 12866, 12988, 13132, 13175, 13563, 14030, 14094, the Paperwork Reduction Act (44 U.S.C., Ch. 35)),), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Orders 12866, 13563 and 14094

SBA is issuing this direct final rulemaking in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. The Office of Management and Budget has determined that this rule does not constitute a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094.

SBA has developed this rule in a manner consistent with these requirements and thoroughly examined the costs and benefits as well as availability of regulatory alternatives associated with its implementation; therefore, SBA has drafted an analysis for the public's information below.

A. Objectives of the Rule

This rule amends regulations governing the SBA Disaster Loan Program by revising the Credit Elsewhere Test (CET) to allow credit score modeling in order to streamline disaster loan processing. Additionally, the rule increases the unsecured loan threshold from $25,000 to $50,000 for EIDL loans for all disasters and for physical home and business loans for Major Disaster declarations. The revised

CET streamlines loan processing, including interest rate determination, making these Disaster Loan Program practices more consistent with lending sector practices. SBA recognizes the increased severity of financial consequences from disasters and, in response, is increasing the threshold for the collateral requirement. Evidence suggests that the collateral requirement has been an impediment to access of financial resources for disaster recovery for households by limiting disaster loan amounts. SBA expects that lending shortfalls will become greater with increased severity of financial consequences from disasters.

B. Benefits of the Rule

Revision of the Credit Elsewhere Test (CET) and the introduction of the Agency's Unified Lending Platform (ULP), a new processing system, will streamline SBA disaster lending. The benefit of the revised CET for the Agency and borrowers is clarity of evaluation for loan eligibility and interest rate determination, increased program efficiency, and reduction of uncertainty in the process. Revised CET integrated within the ULP will reduce the hiring of temporary personnel in the Disaster Loan Program for each separate disaster lending period. SBA expects the government to benefit from the cost savings enabled by a reduced need for temporary lending personnel with the revised CET within the ULP.

SBA undertook the increase in the collateral threshold in response to evidence that shows an increase in financial well-being for disaster loan borrowers,[5] and also addresses a reluctance to enter into a loan agreement with SBA that would involve a lien on property. The collateral threshold revision increases the availability of the benefits of SBA's disaster lending. Noteworthy is that home loans generally make up 80 percent of disaster loan applicants.

The increased threshold for collateral is consistent with increased ability to work within the Agency's statutory authorization in Section 7(b) of the Small Business Act to make loans to individuals and entities that have been adversely affected by disasters. SBA believes that its current collateral requirements are an impediment to increasingly expensive rebuilding efforts, by increasing the collateral threshold SBA will shorten loan cycle time for approved loans. The Agency has noted that loans without collateral requirements are generally fully funded in a single disbursement while secured loans have usually required multiple disbursements. SBA expects a significant reduction in the time required for full disbursement of loan proceeds for the great majority of disaster borrower by increasing the secured loan limit, along with other program improvements within the ULP, resulting in major benefits to borrowers. A faster disbursement of the loans further enhances the restorative work of these loans to homes and businesses.

The adjustment of the collateral threshold and revision of the CET decreases the burden on borrowers to provide documentation that SBA must verify, resulting in savings in disaster staffing and training. The Agency expects that with the higher collateral threshold, the number of loans requiring collateral at original approval will decrease from 46.4 percent to 31 percent of approved disaster loans. SBA estimates the decrease in loan processing costs with the increased collateral threshold is $20.33 per loan, generating $203,300 in savings to the Agency for every 10,000 approved loans. Another example of cost savings is the reduction in property and vesting reports and other information for recording of liens, for which SBA currently contracts with a third-party vendor. A vesting report costs about $25 per property, so a decrease from 46.4 percent to 31 percent of loans requiring this report reduces this particular expense by $38,500 for every 10,000 approved loans.[6]

C. Costs of the Rule

Assessment of costs in this impact analysis includes those borne by borrowers and by the Agency. Excluding initial procurement costs of the ULP,[7] learning the new application system with ULP is the initial cost for borrowers and for SBA. However, any loan application involves an application and as the revised system is expected to be more streamlined, SBA expects this burden to applicants to be lower than under the system it is to replace. SBA expects the reduction in application processing and portfolio management costs will outweigh costs of familiarization with the new system plus any costs of developing and revising internal policies, procedures, and training.

The largest source of potential costs for SBA may result from the increase in loans without collateral following the increase in the collateral threshold in § 123.11. With this change, SBA estimates from its experience with loans after Hurricane Ian that 70.98 percent of home loans would be unsecured, an increase from the current unsecured home loan portfolio from Hurricane Ian of 55.3 percent. Based on historical data, this increase in unsecured loans may lead to more defaults, necessitating a higher subsidy rate. The Agency notes the cost savings from the new CET will offset at least some of this cost and with the additional cost savings from the ULP, SBA expects a decrease in the overall costs of the disaster loan program. In the event of default, SBA does expect an impact on the recovery rates from reduced collections from collateral liquidations, but this is in part limited even under current regulations because these disaster loans have been and will continue to be subordinated to existing mortgages.

To consider the impact of increased unsecured loan limits, SBA analyzed the activity from Hurricane Ian, a powerful Category 5 hurricane which made landfall on the west coast of Florida on September 28, 2022, and again in the Carolinas on September 30, 2022. Ian was responsible for 155 fatalities in the United States and caused an estimated $113 billion dollars in damages.

SBA's analysis of Hurricane Ian suggests that if the unsecured home loan limit of $50,000 had been in place, 9,286 of the 13,083 home loans from Hurricane Ian could be unsecured compared to the 7,235 that were at the unsecured threshold or less for that disaster. This represents an overall percentage increase of 15.68%. The increase in the unsecured portfolio for Ian home loans would be 35.50% of the dollar value compared to the actual 22.73% value of the active Ian portfolio. A similar percentage increase to the active home loan portfolio would increase the unsecured portion of home disaster loans by $81,466,615, which is small when compared to the $7.2 billion-dollar active home loan portfolio.

At an estimated subsidy rate of 19bps and a five-year average loan amount of $39,300 for loans impacted by the collateral change, the estimated effect on the subsidy for each increase of 10,000 unsecured loans is $746,700.

The following table represents Hurricane Ian home loans Secured vs Unsecured if the unsecured limit was

[5] Collier, Ben and Ben Keys, *SBA-Wharton Partnership: Update on Findings,* March 2023 found a statistically significant reduction in bankruptcies among disaster loan borrowers in the years following a disaster.

[6] $10,000 \times (.464 - .31) \times \$25 = \$38,500$.

[7] SBA's acquisition of ULP is independent of a change in the collateral threshold. The procurement cost is therefore not a cost of CET or the increased threshold. The learning and familiarization costs are not entirely attributable to CET or the increased threshold, as ULP will be the platform for SBA's loan programs.

$50,000 as a percentage of the active home loan portfolio and in dollars.

HURRICANE IAN HOME LOANS

Loan amounts	Number of active loans	Percentage of number of home loans	Total loan value	Percentage of total value of home loans
0–$50,000	9,286	70.98	$226,545,460	35.50
>$50,000	3,797	29.02	411,660,300	64.5
Total	13,083	100	638,205,760	100

HURRICANE IAN BUSINESS LOANS

Loan amounts	Number of active loans	Percentage of number of business loans	Total loan value	Percentage of total value of business loans
0–$50,000	1,099	55.76	$26,308,000	8.93
>$50,000	872	44.24	268,687,200	91.07
Total	1,971	100	294,695,200	100

The table of Hurricane Ian business loans shows that 1,099 of the business loans for Ian would have been unsecured if the limit was $50,000 compared to the 828 approved for $25,000 or less for that disaster. This represents an overall percentage increase of 13.75%. The increase in the total loan amounts in the unsecured portfolio for Ian business loans would be 8.93% compared to the 5.34% for this disaster. The dollar figure of unsecured business loans for Ian would only increase by $10,557,300 or only 3.6% of the Ian business portfolio. A similar comparison to the current active portfolio finds that 3.6% would only be $67,696,547 of the current $1,880,459,649 disaster business loan portfolio.

Based on SBA's analysis, the Agency determined that the changes enhance the efficiency of the administration and delivery of the Disaster Loan Program. For example, SBA anticipates increasing the unsecured threshold will allow SBA to disburse the majority of approved disaster loans within seven days of approval. Moreover, SBA anticipates the changes will have minimal impact on the overall cost of the Disaster Loan Program. Additionally, SBA expects the changes may motivate borrowers to make use of the disaster loan mitigation program, thereby reducing the extent of damages caused by future disasters. Furthermore, the changes aim to ensure fair and equal access to disaster assistance in underserved communities that may lack access to other sources of capital, requiring these borrowers to pledge collateral to SBA rather than forgoing collateral lien and seeking other sources of affordable capital.

D. Alternatives

The rule includes increasing the unsecured loan thresholds for physical and EIDL loans from current levels. The alternative may be to modify the increases at a lower or higher amount. By providing updates and adjustments in unsecured loan amounts, including aggregation of loans to one borrower, the Agency has optimized the disaster survivors' options for recovery on more reasonable and equitable terms. SBA has determined that the increase to $50,000 for unsecured disaster loans and the corresponding changes to the loan aggregation rules for a single borrower is the appropriate action. The Agency did not consider any alternative to the new CET, which brings consistency with general lending practices to the loan program and facilitates the implementation of ULP, which is an Agency priority.

For each 10,000 loans, the rule generates savings to the Agency of $203,300 from reduced processing costs and $38,500 from elimination of the recording of liens, for quantifiable savings of $241,500 on each 10,000 unsecured loans. These quantifiable benefits are balanced against an estimated subsidy impact of $746,700 for each 10,000 unsecured loans. Additionally, SBA expects the changes in the rule to make the disaster loans more widely available, which will generate additional benefits to the borrowers and their communities, further balancing the benefits against the costs.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have preemptive effect or retroactive effect.

Executive Order 13132

This rule does not have federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive order. As such it does not warrant the preparation of a Federalism Assessment.

Executive Order 13175

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Native American Tribal Governments, because it does not have a substantial direct effect on one or more Native American Tribes, on the relationship between the Federal Government and Native American Tribes, or on the distribution of power and responsibilities between the Federal Government and Native American Tribes.

Executive Order 14030

SBA was tasked with developing recommendations for improving how Federal financial management and reporting can incorporate climate-related financial risk, especially as that risk relates to Federal lending programs. The SBA Disaster Loan Program contains eligibility and additional loan funds for mitigation measures that allow physical disaster loan recipients to obtain additional funds to install mitigating measures to protect homes and businesses and reduce future property damage.

Currently, only two percent of borrowers apply for mitigation funds. Increasing the unsecured threshold will encourage borrowers not only to make full use of funds available to complete not just repairs, but to also to access funds to mitigate future loss from subsequent disasters. This increases survivors' recovery and resiliency against future disasters and achieves the Agency's goal to increase the mitigation program utilization from two percent to 20 percent.

Paperwork Reduction Act, 44 U.S.C. Ch. 35

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

Congressional Review Act, 5 U.S.C. Ch. 8

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. SBA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the CRA cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). Therefore, this rule is not subject to the 60-day restriction.

Regulatory Flexibility Act, 5 U.S.C. 601–612

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, such as when—among other exceptions—the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. SBA Office of Advocacy Guide: How to Comply with the Regulatory Flexibility Act, Ch.1. p.9. Since this rule is exempt from notice and comment, SBA is not required to conduct a regulatory flexibility analysis.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs—business, Small businesses.

For the reasons set forth in the preamble, the SBA amends 13 CFR part 123 as follows:

PART 123—DISASTER LOAN PROGRAM

■ 1. The authority citation for part 123 continues to read as follows:

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

■ 2. Amend § 123.11 by revising paragraphs (a)(1) and (2) and (c) to read as follows:

§ 123.11 Does SBA require collateral for any of its disaster loans?

(a) * * *

(1) *Economic injury disaster loans.* SBA generally will not require the borrower to pledge collateral to secure an economic injury disaster loan of $50,000 or less.

(2) *Physical disaster home and physical disaster business loans.* (i) For Major Disasters declared under § 123.3(a)(1) or (2), SBA generally will not require the borrower to pledge collateral to secure a physical disaster home or physical disaster business loan of $50,000 or less.

(ii) For SBA-declared disasters under § 123.3(a)(3) or (6), SBA generally will not require the borrower to pledge collateral to secure a physical disaster home or physical disaster business loan of $14,000 or less.

* * * * *

(c) Sometimes a borrower, including affiliates as defined in part 121 of this title, will have more than one loan after a single disaster. In deciding whether collateral is required, SBA will add up all physical disaster loans to see if they exceed the applicable unsecured threshold outlined in paragraph (a)(2) of this section and all economic injury disaster loans to see if they exceed $50,000.

* * * * *

■ 3. Revise § 123.104 to read as follows:

§ 123.104 What interest rate will I pay on my home disaster loan?

If you can obtain credit elsewhere, your interest rate is set by a statutory formula, but will not exceed eight (8) percent per annum. If you cannot obtain credit elsewhere, your interest rate is one-half the statutory rate, but will not exceed four (4) percent per annum. Generally, credit elsewhere means that SBA believes you could obtain financing from non-Federal sources on reasonable terms subsequent to the declaration of a disaster. SBA may include the use of credit score to make this determination. If you cannot obtain credit elsewhere, you also may be able to borrow from SBA to refinance existing recorded liens against your damaged real property.

■ 4. Amend § 123.507 by revising paragraph (c) to read as follows:

§ 123.507 Under what circumstances will SBA consider waiving the $2 million loan limit?

* * * * *

(c) Your small business has used all reasonably available funds from the small business, its affiliates, its principal owners and all available credit elsewhere (as described in § 123.104) to alleviate the small business' economic injury.

Isabella Casillas Guzman,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–1392; Airspace Docket No. 24–ASW–11]

RIN 2120–AA66

Establishment of Class E Airspace; Brenham, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Brenham, TX. The FAA is taking this action to support new public instrument procedures.

DATES: Effective date 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.