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SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

RIN 3245–AH91

Disaster Assistance Loan Program Changes to Maximum Loan Amounts and Miscellaneous Updates

AGENCY: U.S. Small Business Administration.

ACTION: Direct final rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is amending various regulations governing SBA's Disaster Loan Program in order to expand options for disaster loan recipients as well as reflect the impact of inflationary increases over time that result in higher costs. These changes, including the increase to the home loan lending limits, the extension of the deferment period and the expansion of mitigation options, are intended to increase disaster survivors' access to obtain needed disaster loan funds for the repair or replacement of a damaged property. The changes are overdue and necessary due to increased costs related to construction and labor, as well as increases in property valuations that have occurred over time.

DATES:

Effective date: This rule is effective July 31, 2023, unless SBA receives a significant adverse comment to this direct final rule by July 17, 2023 that explains why it is inappropriate, for example by persuasively challenging the rule's underlying premise or approach or explaining why the rule will be ineffective or unacceptable without a change. 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. Such a notification might withdraw the direct final rule in whole or in part.

Applicability date: This rule is applicable for disasters declared on or after July 31, 2023.

Comment Date: Comments must be received on or before July 17, 2023.

ADDRESSES: You may submit comments, identified by number 2023–0002, through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

SBA will post all comments on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://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 at *robert.blocker@sba.gov* or (202) 619–0477. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background Information

The SBA's Disaster Loan Program provides direct assistance to homeowners, renters, businesses and nonprofits and is critical to rebuilding communities after a disaster. Pursuant to section 7(b)(1) of the Small Business Act, 15 U.S.C. 636(b)(1), SBA is authorized to make disaster loans available to repair, rehabilitate or replace real or personal property damaged or destroyed as a result of disasters. These long-term, low-interest loans support those needing to repair or replace their damaged primary residence and personal effects. In this direct final rule, SBA is increasing the lending limits applicable to home loans, including the limits on amounts for repair and replacement of disaster damaged real and personal property, for refinancing, for mitigation, and for contractor malfeasance. These changes are necessary as current home loan lending limitations have not been adjusted since 1994 and are insufficient to meet the needs of many homeowners and renters. SBA has determined that these increases are necessary due to inflation and higher costs for real and personal property repairs. These increases address the need for periodic adjustments in loan limits based on increases in home costs, the cost and availability of construction materials, and significant changes in labor costs. The current limits, established in 1994, are inadequate to compensate many disaster survivors for the costs associated with rebuilding, replacing and repairing their homes and household effects which have been lost or damaged as a result of a disaster. Housing prices have risen significantly over the past 25 years. The median price of a single-family house sold in the first quarter of 1994 was only $130,000. By the end of 2021, the median price of a home had risen to over $400,000.[1] More recent increases have also been noted. According to the latest Producer Price Index (PPI) report released by the Bureau of Labor Statistics,[2] the prices of goods used in construction climbed each month during 2022 resulting in a 19% jump in producer prices for construction for a 12-month period ending November 2022. Additionally, the National Association of Home Builders (NAHB) price index of services inputs to residential construction registered even steeper increases. As a result, the price index of services used in home building (including trade services, transportation and warehousing) went up 15.2% since the start of 2022. The index increased 18.5% year over year. Since the start of the pandemic, services prices are now 39% higher. In addition, building materials prices increased 20.4% year over year and have risen 33% since the start of the pandemic.[3] From 2018 through 2022, approximately 8.5% of borrowers have been unable to fully restore their real estate and replace their personal property due to the current home loan lending limits. Most recently, 64.2% of recipients of home loans for damage caused by the 2021 Colorado Wildfires, and 17.6% of such borrowers from Hurricanes Fiona and Ian, were unable to fully restore their real estate

[1] Data obtained from U.S. Census Bureau and U.S. Department of Housing and Urban Development, Median Sales Price of Houses Sold for the United States. *www.census.gov/construction/nrs/current/index.html.*

[2] *www.bls.gov/opub/ted/2022/producer-prices-for-final-demand-rose-7-4-percent-over-the-year-ended-november-2022.htm.*

[3] National Association of Home Builders published Apr 15, 2022 *www.nahb.org/blog/2022/04/building-materials-prices-start-2022-with-8-percent-increase and* Producer Price Index News Release—*www.bls.gov/news.release/archives/ppi_05122022.htm.*

and replace personal property; this level of shortfall is expected to continue to increase and impact greater numbers of disaster survivors in other regions. Historically, in the aftermath of disasters, especially large catastrophes, construction costs increase sharply as demand increases and supply decreases. Therefore, SBA, based on statutory authority and additional analyses cited above, has determined that it is appropriate and necessary at this time to increase home loan lending limits.

SBA is also increasing the initial deferment period from 5 months to 12 months, which reduces the immediate financial burden for disaster survivors. Repair and replacement timelines often extend beyond the existing 5 months permitted for deferment. This creates the responsibility and burden for a disaster survivor to begin making payments before their property is completely restored and all-in costs accounted for. Further, SBA is revising its regulations to allow the SBA Administrator to increase the maximum loan amounts to homeowners and renters under a specific disaster declaration based on appropriate economic indicators, such as current building costs, regional median home prices, and the Consumer Price Index (CPI) and the Producer Price Index (PPI) for the region(s). These disaster-specific increases will be published in the **Federal Register**.

Finally, SBA is making other revisions that will increase access to disaster loans and that clarify existing requirements, as further described below in the section-by-section analysis.

II. Section-by-Section Analysis

Section 123.7 Are there restrictions on how disaster loans can be used?

Current section 123.7 allows loan funds to be used to protect damaged or destroyed real property from possible future similar disasters. SBA is eliminating the word ''similar,'' which allows a disaster loan recipient to use loan funds allocated for mitigation to implement mitigation measures to protect against any type of disaster. The elimination of ''similar'' allows disaster loan recipients more flexibility to better protect their property from future disasters. For example, under current section 123.7, a homeowner that suffered damage from a fire would not be allowed to use mitigation funds to prevent earthquake damage, since the damage to the home was not caused by an earthquake. This change provides disaster borrowers with more options to mitigate future damage from all types of disasters, reducing the need for future financial assistance.

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

Section 123.11 defines when SBA requires collateral for disaster loans. Paragraph (b) lists examples of available collateral that may be required to secure a disaster loan, such as a lien on the damaged or replacement property, a security interest in personal/business property, or both. SBA is revising paragraph (b) to provide SBA more discretion to determine the collateral that will be required for disaster loans. This increased flexibility will allow SBA to tailor this collateral requirement to the disaster survivor's circumstances. For example, requiring liens on property with no liquidation value may increase the cost burden to the borrower without providing meaningful liquidated recovery for SBA in the event of a default. SBA will further define ''available collateral'' in its Standard Operating Procedures (SOP). SBA will clarify in the Disaster Assistance Program SOP 50 30 the circumstances under which blanket liens on all business assets will not be required.

Section 123.13 What happens if my loan application is denied?

Section 123.13 addresses declined applications and procedures for reconsideration. Current subsection (d) refers to documentation required to overcome SBA's denial of the original loan application and includes an additional requirement for business loan application reconsideration requests to include current business financial statements. SBA is removing this requirement to submit current business financial statements with every business loan reconsideration request. In instances where SBA declines a loan based on lack of repayment ability, current business financial statements would be required. However, other reconsiderations not based on repayment ability may not require this information.

Section 123.105 How much can I borrow with a home disaster loan and what limits apply on use of funds and repayment terms?

SBA is amending this regulation by increasing the stated threshold limits within each subparagraph of § 123.105(a). Specifically, SBA is replacing ''$40,000'' with ''$100,000'' as the limit for repair and replacement of household and personal effects. SBA is also replacing ''$200,000'' with ''$500,000'' as the limit for repair and replacement of a primary residence. These changes will allow for many eligible disaster survivors to obtain full recovery for their disaster losses and align with increases in inflation, construction costs and home prices. In addition, SBA is removing the limit on landscaping and other improvements to grounds, currently capped at $5,000, to allow disaster borrowers to obtain the necessary funds to repair their damaged real estate. In accordance with the home lending limit increase, SBA is also increasing the limits from $200,000 to $500,000 for eligible refinancing purposes in section 123.105(a)(3), post-disaster mitigation in § 123.105(a)(4), and eligible malfeasance in § 123.105(a)(5). These changes are based on increases in median home prices and repair/replacement costs.

SBA is increasing the deferment period for the first payment due in § 123.105(c) from 5 months to 12 months from the date of the initial disbursement to reduce the financial burden for disaster survivors. Generally, the borrower will pay monthly installments of principal and interest, payment beginning 12 months from the date of the initial disbursement. Currently, SBA has the discretion to defer first payment due dates longer than 5 months and frequently defers payments for 12 months on a disaster-by-disaster basis. This change will create clarity and consistency across disaster declarations, since each will have the same deferment period, and will provide more time to a borrower recovering from a declared disaster to start making payments on the loan. SBA recognizes that full disbursements are not always completed immediately after approval and disaster recovery can be an ongoing process.

Finally, in order to allow for flexibility and to match the authority already granted to the Administrator for business loans,[4] SBA is adding a new paragraph (d) to § 123.105 to allow the Administrator to increase home loan lending limits within § 123.105(a) under an individual disaster declaration based on appropriate economic indicators for the region(s) in which the disaster occurred including but not limited to factors such as Consumer Price Index (CPI), Producer Price Index (PPI), median home prices and local construction costs. After reviewing the totality of circumstances, and if determined appropriate, SBA will publish any increased lending limit for an individual disaster declaration in the **Federal Register**.

[4] See 15 U.S.C. 636(b)(8)(B) and 13 CFR 123.202(e).

Section 123.106 What is eligible refinancing?

The eligible amount of refinancing is limited by the amount of physical damage to the home as well as the maximum loan amount. Therefore, in accordance with the increases in disaster lending limits, SBA is increasing the refinance limits in § 123.106(b) to match the above stated repair/replacement lending limit of $500,000.

In addition, SBA is revising the regulation to remove certain restrictions on the amount of eligible refinancing. Currently, refinancing amounts cannot exceed the amount of physical damage, less any amounts received from insurance or other recoveries, up to a maximum of $200,000. SBA is revising § 123.106(b) to state that refinancing amounts cannot exceed the amount of physical damage, and the amount will be reduced by any insurance or other recoveries, but only if the disaster survivor uses the insurance or other recoveries to pay down the mortgage or lien to be refinanced, up to a maximum of $500,000. This change ties the eligible refinancing amount to the amount of physical damage rather than to the amount received from SBA for physical damage repairs. This change also makes the regulatory language—currently more constraining than the statutory language—the same as the statutory language, removes the existing penalty on disaster borrowers with insurance, and makes more funding available to disaster survivors for refinancing.[5] For example, under the current regulation, if a disaster survivor suffered $150,000 in real estate damages and received $100,000 from their insurance company, SBA would reduce the disaster survivor's refinancing eligibility to $50,000—the physical damages less their insurance recovery. So the borrower could receive $50,000 for physical damages and $50,000 for refinancing, for a total maximum SBA loan amount of $100,000. In contrast, a borrower with the same damages, but no insurance, could receive $150,000 for physical damages and $150,000 for refinancing, for a maximum total SBA loan amount of $300,000. With the change, some disaster survivors will have increased refinancing eligibility. Using the earlier example, the disaster survivor's refinancing eligibility will be $150,000, unless any amount of insurance is used to reduce the lien SBA is refinancing. So the borrower could receive $50,000 for physical damages and $150,000 for refinancing, for a total maximum SBA loan amount of $200,000. If the disaster survivor uses the $100,000 of insurance proceeds to pay down the lien SBA is refinancing, only then would SBA reduce the amount of eligible refinancing funds by the $100,000 to $50,000, for a total maximum SBA loan amount of $100,000 ($50,000 for physical damages and $50,000 for refinancing).

Section 123.107 How much can I borrow for post-disaster mitigation for my home?

In accordance with increases in the disaster loan limit discussed above, SBA is also increasing the maximum amount available for post-disaster mitigation. Current regulations limit the amount to the lesser of the cost of the mitigation measure, or up to 20% of the verified loss, to a maximum of $200,000. SBA is increasing the maximum allowed for post-disaster mitigation from $200,000 to $500,000 to align with the real estate lending limit increase.

Section 123.202 How much can my business borrow with a physical disaster business loan?

SBA is revising paragraph (c) of § 123.202 to remove restrictions on the amount of eligible refinancing for businesses. SBA is removing the requirement to reduce the amount of eligible refinancing if there is compensation from insurance or other recoveries. Like the changes to § 123.106(b) described above applicable to home loans, SBA is revising the regulation to the statutory language. Revised paragraph (c) requires the refinancing amount for business loans to be reduced only to the extent the lien or encumbrance to be refinanced is satisfied by insurance or other recoveries.

In addition, and in accordance with removal of the limit on amounts for landscaping or recreational facilities in § 123.105(a)(4) for home loans, SBA is removing similar language in § 123.202(d) applicable to business loans. Currently, SBA makes exceptions to this limit based on documented functional need on a case-by-case basis. This change provides consistency and removes the need for administrative exceptions and reduces administrative burden on the disaster survivor and SBA in securing resources to repair or replace their damaged property.

Section 123.203 What interest rate will my business pay on a physical disaster business loan and what are the repayment terms?

SBA is increasing the deferment period for the first payment due in § 123.203(b) from 5 months to 12 months from the date of the initial disbursement to reduce the financial burden for disaster survivors. Generally, the borrower will pay monthly installments of principal and interest, payment beginning 12 months from the date of the initial disbursement. Currently, SBA has the discretion to defer first payment due dates longer than 5 months and frequently defers payments for 12 months on a disaster-by-disaster basis. This change will create clarity and consistency across disaster declarations, since each will have the same deferment period, and will provide more time to a borrower recovering from a declared disaster to start making payments on the loan. SBA recognizes that full disbursements are not always completed immediately after approval and disaster recovery can be an ongoing process.

Section 123.301 When would my business not be eligible to apply for an economic injury disaster loan?

SBA is removing ineligibility for economic injury disaster loans for consumer or marketing cooperatives to align with SBA's 7(a) and 504 business loan programs that currently consider cooperatives as eligible entities. Cooperatives are recognized by SBA as an eligible form of business organization which should not be excluded from disaster assistance provided to other business entities. As such, cooperatives may be eligible for economic injury disaster loans, provided they meet all other program requirements. SBA is removing paragraph (c) in its entirety.

Section 123.502 Under what circumstances is your business ineligible to be considered for a Military Reservist Economic Injury Disaster Loan?

SBA is removing ineligibility for Military Reservist Economic Injury Disaster loans for consumer or marketing cooperatives for the same reasons as stated above. SBA is removing paragraph (j) in its entirety.

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

[5] See 15 U.S.C. 636(b)(1)(B)(iv).

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. SBA's disaster loan maximums have not been increased in over 20 years, in part, because such increase in the maximums was unnecessary: despite the rise in the costs of real estate, SBA had perennially satisfied the lending demands of disaster survivors, ensuring homeowners could successfully rebuild. However, today, recent natural disasters have demonstrated SBA's lending limits are increasingly preventing households from receiving the necessary disaster assistance to rebuild as in years past. Over the past 20 years, SBA has provided disaster assistance for 119 disaster declarations each year on average, each of which is an emergency to the survivors. The timing, occurrence, and impact of a disaster is unpredictable. But natural disasters are increasing in severity and in frequency across the United States and its territories, evidenced by more severe hurricane seasons and more frequent wildfires, tornados, floods, and blizzards. This is a recent phenomenon, and the effect on disaster survivors has been exacerbated by the increase in construction costs occasioned by the pandemic. As stated previously, more than 60% of borrowers from the recent Colorado wildfires and nearly 20% of borrowers from Hurricanes Fiona and Ian, were unable to obtain the full disaster assistance necessary because of SBA's current disaster loan maximums and other criteria. Overall, as also noted above, on average from 2018 to 2022, fewer than 10% of borrowers affected by a disaster have been unable to obtain sufficient disaster assistance through SBA. Further, an increasing number of insurance carriers in areas of frequent disasters are insolvent and have issues providing benefit payments to insured customers.[6] All disaster occurrences are urgent and require the most efficient and effective path to assistance for the survivors. In short, an increase to SBA's disaster loan maximums is no longer preemptive, but now necessary to meet current economic demands from increasingly severe and frequent disasters. A higher threshold accounting for increased average home value, inflation, and other changes is required to ensure nearly all disaster survivors can receive full SBA assistance.

This direct final rule changes the maximum loan size which is well overdue based on inflation and other economic data. SBA does not anticipate receiving significant adverse comments because the principal effect of these amendments is to increase the amount disaster survivors can borrow under the SBA's Disaster Assistance Loan Program. The regulatory changes in this direct final rulemaking address overdue loan amount adjustments based on inflation and costs over a 28-year period, the need to increase mitigation measures that reduce taxpayer investment in repeat repairs and expanding payment options for disaster survivors that assist with successful repayment of loans. 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 to adequately reflect increases in costs associated with replacing and repairing residential real property and household effects which have been lost or damaged as a result of a disaster. This would eliminate the need for many disaster borrowers to seek out more costly additional financing options to cover potential shortfalls in completing repair and replacement projects, such as second mortgages and Home Equity Lines of Credit (HELOC), which incur additional closing costs, and credit cards, which historically carry variable and/or punitive higher interest rates compared to disaster assistance loans (current average 22.91%). Other changes, such as increasing the amounts available for landscaping, refinancing, and mitigation, also benefit disaster survivors. Due to urgent needs for disaster assistance, and the noncontroversial nature of these changes, 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, the Paperwork Reduction Act (44 U.S.C., Ch. 35), the Congressional Review Act (5 U.S.C. 801–808), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget has determined that this rule is a ''significant regulatory action'' under Executive Order 12866. SBA has drafted a Regulatory Impact Analysis for the public's information below.

A. Regulatory Objective of the Rule

The Agency believes it needs to update its disaster home loan limits and expand access to disaster loan funds to better meet the recovery needs of many homeowners throughout the nation that have incurred physical damage from an unforeseen disaster. The lending limits for home loans have been in place since 1994 and the increase would align the SBA Disaster Program with relative increased costs related to construction and labor, as well as increases in property valuations that have occurred over time. According to the Bureau of Labor Statistics' (BLS) consumer price index and Zillow median house price data,[7] housing prices have increased by an average of 0.85% monthly between May 2013 and May 2022, whereas inflation has only increased at an average monthly rate of 0.24% over the same period.[8] In light of housing prices increasing at a faster rate than inflation, SBA has identified a need for increasing home disaster loan lending limits. Further changes in the program, including extending the loan deferment for first payment due date on the loan are also necessary to provide disaster borrowers with flexibility in payment options when dealing with and incurring additional expenses related to disaster recovery. Other modernizations include expanding the availability of mitigation measures, which supports the Administration's climate resilience priorities and resiliency initiative. In addition, rule updates related to refinancing eligibility, removing restrictions on loans to consumer or marketing cooperatives, and enhancing the Administrator's authority to adjust loan limits for specific disaster declarations depending on economic indicators allows the disaster loan program greater flexibility for unforeseen economic conditions. These

[6] See *e.g.,* Duvall, M. (December 20, 2022). Home insurers are leaving Florida: Here's what you need to know. Retrieved from *https://www.insurance.com/home-and-renters-insurance/home-insurers-leaving-florida.*

[7] For home prices: Zillow's website and pulling median sale price smoothed and seasonally adjusted *www.zillow.com/research/data/.*

[8] *See* CPI Home: *www.bls.gov/cpi/.*

increases and expansions are necessary and long overdue for many disaster borrowers especially in areas of the country where housing and repair costs have risen significantly.

B. Benefits of the Rule

This regulatory action will directly benefit disaster survivors by increasing the amount of loan proceeds available as well as expanding options for mitigation funds and other related benefits. The changes will allow for increased resources for disaster borrowers specifically accounting for regional pricing differentials. The changes will reflect increases in costs to replace and repair residential, property and household effects which have been lost or damaged as a result of a physical disaster.

Data from disaster loan approvals between July 2018 and July 2022 shows over 2,300 disaster home borrowers had uncompensated real estate damage that exceeded the $200,000 loan limit, of which 97% were under the $500,000 limit. In addition, there were a larger number of disaster borrowers, over 7,600, that had uncompensated personal property losses that exceeded the $40,000 limit, of which 94% were under the $100,000 limit.

In these cases, the disaster borrowers were limited in the amount of loan funds that they could receive and had to seek out more costly financing options to cover potential shortfalls in completing repair and replacement projects, such as second mortgages and Home Equity Lines of Credit (HELOC), which incur additional closing costs, and credit cards, which historically carry variable and/or punitive higher interest rates compared to disaster assistance loans (current average 22.91%).

Between July 2018 and July 2022, for the disaster survivors whose losses exceeded the $200,000 limit in uncompensated losses, the annual average uncompensated loss for real estate damage was approximately $113,027. The annual average personal property uncompensated losses were approximately $36,847. These amounts represent a shortfall in funds needed for the disaster survivor to fully recover. Based on SBA's review of historic data, between 479 and 2,919 loan applicants per year would benefit from the loan limit increases for personal property and real estate losses. There are no changes to loan eligibility approval or repayment factors so these estimates are based on the number of loan applicants who applied and were approved previously but would have received the recovery benefit of a larger loan amount. These calculations reflect the historical number of applicants who would potentially benefit from the new loan limits and the corresponding increases in their approved loan amounts.

C. Costs of the Rule

SBA anticipates the calculated subsidy from the changes will not have a significant impact on the overall subsidy rate. The initial cost to the Agency is de minimis. Individual applicants will still be governed by standard disaster loan eligibility requirements for SBA disaster assistance and will remain eligible for assistance to the extent of verifiable uncompensated loss as present regulations provide.

Based on SBA data from disaster loan approvals between July 2018 and July 2022, SBA anticipates that this rule change would result in an average annual increase of roughly $95.1 million in additional lending. The annual increase in loan amounts could range between $68.9 million and $131.1 million, depending on the severity of disasters in any given year. Although the loan amounts would likely increase, SBA does not expect any significant impact to the subsidy rate given that the historical rate of default for the disaster program trends down as loan amounts increase. Based on actual performance from FY 2012 through July 2022, approximately 221,497 home loans were approved, of which a total 16,141 defaulted (7.2%). This portfolio default rate based on the size of loan is 5.2% for loans approved between $50,000 to $200,000, decreasing to 3.75% rate of default for loans over $200,000. This data demonstrates a diminishing rate of default for larger amount loans.

There are no changes in credit and repayment consideration for loan approval determinations. SBA will continue to analyze personal or business cash flow to determine repayment ability for those applicants who do not have strong credit. In addition, the value of the property being repaired by the disaster loan would be enhanced by additional repair/replacement funds from the increased loan amount, which would potentially enhance SBA collateral in the event of default.

D. Alternatives

Given that the program has not increased the current lending limits since 1994, the SBA found no acceptable alternatives to the regulation changes. The Agency currently requires disaster survivors to seek outside financing to cover project shortfalls caused by current lending limits. Typical alternate financing includes the use of second mortgages and Home Equity Lines of Credit (HELOC), which incur additional closing costs, and credit cards, which historically carry variable and/or punitive higher interest rates compared to disaster assistance loans (current average 22.91%). Use of alternate financing can make full recovery from disasters significantly less affordable for many survivors and further reduces opportunities to include mitigation funds for sustainable recoveries. Additionally, outside lenders generally require collateral for loans which can adversely impact SBA's lien priority and collateral on secured home loans.

SBA concluded that the revisions as set forth in this rule are the optimum available to ensure recovery is available for disaster survivors. When comparing SBA's projections to a no action baseline, the Agency found that between 479 and 2,919 loan applicants per year would potentially be excluded from the benefits of the higher loan limits. These applicants are those that qualify for funds greater than the previous limits of $200,000 and $40,000 for real estate and personal property, respectively, who are currently forced to look to other likely more costly sources to cover excess loss.

Table 1 displays the relative frequencies of uncompensated losses between July 2018 and July 2022, when grouped by each of the discussed loan limit ranges. Over this period, 29% of loans with real estate had uncompensated losses between the $200,000 and $500,000 thresholds, while only 3% exceeded this threshold. The table demonstrates that the increase of the disaster home loan lending limit to $500,000 for real property damage would cover an additional 29% of uncompensated real estate losses and fully cover 97% of the uncompensated real estate losses during this timeframe. Similarly, increasing the personal property disaster loan limit from $40,000 to $100,000 would cover an additional 88% of uncompensated personal property losses and fully cover 94% of disaster survivors in this category.

TABLE 1—RELATIVE FREQUENCIES OF UNCOMPENSATED LOSSES
[FY 2018–FY 2022]

Category	Percentages of loans within category
Real estate (7,279)	
0–$200K	68
$201K–$500K	29
>$500K	3

TABLE 1—RELATIVE FREQUENCIES OF UNCOMPENSATED LOSSES—Continued
[FY 2018–FY 2022]

Category	Percentages of loans within category
Personal Property (8,174)	
0–$40K	6
$41K–$100K	88
>$100K	6

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 Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 13563

A description of the need for this regulatory action and benefits and costs associated with this action, including possible distributional impacts that relate to Executive Order 13563, are included above in the Regulatory Impact Analysis under Executive Order 12866.

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. Expanding the scope of mitigation measures by not limiting them to similar disasters that caused the original damage will allow for more options and give more flexibility for the recipient to utilize the funds. In addition, the regulations allow physical disaster loan recipients additional funding of up to 20 percent of the verified loss to cover costs related to these measures. Increasing the maximum amount of mitigation funding from $200,000 to $500,000 will assist in encouraging the use of proceeds for mitigation measures. These changes align with the intent of Executive Order 14030 in that they expand the range of mitigation measures that a disaster survivor can use to prevent future loss from subsequent disasters.

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

SBA has determined that this 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

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 mitigation, Loan programs—physical disaster (home, business).

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.

§ 123.7 [Amended]

■ 2. Amend § 123.7 by removing the word ''similar''.

■ 3. Amend § 123.11 by revising paragraph (b) to read as follows:

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

* * * * *

(b) For loans larger than the amounts outlined in paragraph (a) of this section, you will be required to provide available collateral, as determined by SBA, such as a lien on the damaged or replacement property and/or a security interest in business assets.

* * * * *

§ 123.13 [Amended]

■ 4. Amend § 123.13 in paragraph (d) by removing the second sentence.

■ 5. Amend § 123.105 by revising paragraphs (a) and (c) and adding paragraph (d) to read as follows:

§ 123.105 How much can I borrow with a home disaster loan and what limits apply on use of funds and repayment terms?

(a) There are limits on how much money you can borrow for particular purposes. The limits in effect for disasters occurring on or after June 16, 2023 are as follows.

(1) $100,000 for repair or replacement of household and personal effects;

(2) $500,000 for repair or replacement of a primary residence (including

upgrading in order to meet minimum standards of safety and decency or current building code requirements);

(3) $500,000 for eligible refinancing purposes;

(4) 20 percent of the verified loss (not including refinancing or malfeasance), before deduction of compensation from other sources, up to a maximum of $500,000 for post-disaster mitigation (see § 123.107); and

(5) $500,000 for eligible malfeasance, pursuant to § 123.18.

* * * * *

(c) SBA determines the loan maturity and repayment terms based on your needs and your ability to pay. Generally, you will pay monthly installments of principal and interest, beginning twelve months from the date of the initial disbursement. SBA will consider other payment terms if you have seasonal or fluctuating income. The maximum maturity for a home disaster loan is 30 years. There is no penalty for prepayment of disaster loans.

(d) The SBA Administrator may increase the home loan lending limits within paragraph (a) of this section under an individual disaster declaration based on appropriate economic indicators for the region(s) in which the disaster occurred. SBA will publish any increased lending limit for an individual disaster declaration in the **Federal Register**.

■ 6. Amend § 123.106 by revising paragraph (b) to read as follows:

§ 123.106 What is eligible refinancing?

* * * * *

(b) Your home disaster loan for refinancing existing liens or encumbrances cannot exceed an amount equal to the lesser of $500,000, or the physical damage to your primary residence. Any refinancing amount will be reduced to the extent such lien or encumbrance is satisfied by insurance or otherwise.

§ 123.107 [Amended]

■ 7. Amend § 123.107 by removing the number ''$200,000'' and adding in its place the number ''$500,000''.

■ 8. Amend § 123.202 by:

■ a. Revising paragraph (c) introductory text;

■ b. Removing paragraph (d); and

■ c. Redesignating paragraph (e) as paragraph (d).

The revision reads as follows:

§ 123.202 How much can my business borrow with a physical disaster business loan?

* * * * *

(c) Physical disaster business borrowers may request refinancing of liens on both damaged real property and machinery and equipment. Such amount shall be reduced to the extent such lien or encumbrance is satisfied by insurance or otherwise. Your business property must be totally destroyed or substantially damaged, which means:

* * * * *

■ 9. Amend § 123.203 by revising paragraph (b) as follows:

§ 123.203 What interest rate will my business pay on a physical disaster business loan and what are the repayment terms?

* * * * *

(b) Generally, you will pay monthly installments of principal and interest, beginning twelve months from the date of the initial disbursement. SBA will consider other payment terms if you have seasonal or fluctuating income. There is no penalty for prepayment for disaster loans.

* * * * *

§ 123.301 [Amended]

■ 10. Amend § 123.301 by removing and reserving paragraph (c).

§ 123.502 [Amended]

■ 11. Amend § 123.502 by removing and reserving paragraph (j).

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2023–12779 Filed 6–15–23; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0439; Project Identifier MCAI–2022–01263–T; Amendment 39–22449; AD 2023–11–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This AD was prompted by a report that a design deficiency was discovered which could allow a no-back pawl to be incorrectly installed in a horizontal stabilizer trim actuator (HSTA). This AD requires a check for part number and serial numbers of the HSTA, and if necessary, inspection of the no-back pawl installation, and corrective action. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 21, 2023.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 21, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–0439; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–0439.

FOR FURTHER INFORMATION CONTACT: Chirayu Gupta, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–100–1A10 airplanes. The NPRM published in the **Federal Register** on March 24, 2023 (88 FR 17748). The NPRM was prompted by AD CF–2022–55, dated September 21, 2022, issued by Transport Canada, which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that during an unscheduled inspection, a design deficiency was discovered which could allow a no-back pawl to be