§ 457.173 Florida Avocado crop insurance provisions.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices.

* * * * *

10. Duties in the Event of Damage or Loss.

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

(a) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested.

* * * * *

■ 24. Amend § 457.175 by:
■ a. In the undesignated introductory paragraph, remove the year ''2020'' and add ''2024'' in its place;
■ b. In section 1:
■ i. Remove the definition of ''Direct marketing''; and
■ ii. Revise the definition of ''Interplanted'';
■ c. Revise the section 3 heading;
■ d. In section 6, in paragraph (b), remove the words ''growing season after set out'' and add ''leaf year'' in their place;
■ e. In section 10, paragraph (a), revise the first sentence; and
■ f. In section 11, paragraph(b)(3), remove ''11(c)'' and add ''11(c))'' in its place.

The revisions read as follows:

§ 457.175 California avocado crop insurance provisions.

* * * * *

1. Definitions

* * * * *

Interplanted. In lieu of the definition contained in section 1 of the Basic Provisions, acreage in which two or more crops are planted in any form of an alternating or mixed pattern.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices

* * * * *

10. Duties in the Event of Damage or Loss

* * * * *

(a) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. * * *

* * * * *

Marcia Bunger,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2022–13411 Filed 6–29–22; 8:45 am]

BILLING CODE 3410–08–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 120 and 123

RIN 3245–AG98

Regulatory Reform Initiative: Streamlining and Modernizing the 7(a), Microloan, and 504 Loan Programs To Reduce Unnecessary Regulatory Burden

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule removes or revises various regulations governing the agency's business loan programs that are obsolete, unnecessary, ineffective, or burdensome. This final rule also makes several technical amendments to incorporate recent statutory changes and other non-substantive changes. In addition, because this final rule removes a regulation that is cross-referenced in a regulation in SBA's Disaster Loan Program, this rule makes one conforming change to the regulation in the Disaster Loan Program.

DATES: The effective date of this final rule will be August 1, 2022.

FOR FURTHER INFORMATION CONTACT: Linda Reilly, Chief, 504 Loan Program Division, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; phone: (202) 604–5032; email address: *linda.reilly@sba.gov.* The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

A. General Information

As part of its ongoing responsibility to ensure that the rules it issues do not have an adverse economic impact on those affected by those rules, the U.S. Small Business Administration (SBA) published a proposed rule in the **Federal Register** on December 14, 2020 (85 FR 80676) to remove or revise various regulations in part 120 of title 13 of the Code of Federal Regulations that are obsolete, unnecessary, ineffective, or burdensome. The rule also proposed to make several technical amendments to regulations in part 120 to incorporate recent statutory changes and other non-substantive changes. In addition, because the rule proposed to remove a regulation that is cross-referenced in a regulation in part 123 on SBA's Disaster Loan Program, the rule proposed to make one conforming change to that regulation. The comment period was open until February 12, 2021.

In response to the request for comments, SBA received 2,901 comments of which 234 were duplicative. Of the unique 2,667 comments received, 1 was from a national trade association, 4 were from government entities, 14 were from advocacy groups, 5 were from private industries, and 2,643 were from individuals. Over 99% of the comments received, 2,651, were in response to the proposed removal of 120.110(k) from the regulations. This provision currently provides that businesses principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs are ineligible for SBA financial assistance; all but one of the comments received expressed opposition to its removal. The comments received on this issue and the other comments received are summarized and addressed below in the section-by-section analysis.

F. Section-by-Section Analysis

Section 120.2. SBA proposed to remove paragraphs (a)(1)(i) and (ii) of this section because SBA has not received funding to make direct or immediate participation 7(a) loans for over 30 years, explaining that it may be confusing to the public to refer to such loans when they are not available from the agency. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of these provisions at this time in order to retain the option for these programs should budget authority for direct lending or immediate participation programs become available.

Section 120.10. SBA proposed to remove the references to non-lending technical assistance providers (NTAPs) in the definition of ''Risk Rating'' because SBA has not issued grant funds to NTAPs for many years. No comments were received on this proposed change and SBA is adopting the change as proposed.

Section 120.103. SBA proposed to remove this section on farm enterprises, which refers to an outdated Memorandum of Understanding between SBA and the United States Department of Agriculture (USDA), because it is unnecessary. Although Federal financial assistance to agricultural businesses is generally available from USDA, SBA is also statutorily authorized to make non-disaster business loans to agricultural

enterprises under sections 3(a)(1) and 7(a) of the Small Business Act and Title V of the Small Business Investment Act. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting the change as proposed.

Section 120.110. This section lists the types of businesses that are ineligible for SBA business loans. For clarity, SBA proposed to make changes to three of the types of businesses on the list. First, SBA proposed to amend paragraph (h), which currently provides that businesses ''engaged in any illegal activity'' are ineligible, by revising it to provide that the business is ineligible if it is ''engaged in any activity that is illegal under Federal, State, or local law''. SBA wants to make it clear, consistent with its longstanding interpretation of this regulation, that the business is ineligible if it is engaged in any activity that is illegal at any level of government in the jurisdiction in which the business is operating. SBA received one supporting comment from a trade association and no opposing comments SBA is adopting this change as proposed.

Second, SBA proposed to remove and reserve paragraph (k), which currently provides that a business is ineligible if it is ''principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs, whether in a religious or secular setting''. SBA explained that this provision, which was promulgated in 1996, could be interpreted as impermissibly imposing a special disability on organizations based on their religious status. In both *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,*____ U.S.____, 137 S. Ct. 2012, 198 L. Ed. 2d 551 (2017), and *Espinoza* v. *Montana Department of Revenue,* ____U.S.____, 140 S. Ct. 2246, 207 L. Ed. 2d 679 (2020), the Court held that the government may not deny a public benefit to an entity solely because of its religious status, character, or identity. Accordingly, SBA proposed to remove paragraph (k) from section 120.110. Over 99% of the total number of comments submitted, or 2,651, related to the proposed removal of section 120.110(k), and all but one of these comments (as discussed below) expressed opposition to the removal of this provision. The vast majority of the commenters stated that they oppose SBA providing Federal government assistance to religious institutions or for religious purposes and stated that providing such assistance violates the First Amendment and its Establishment Clause and the First Amendment principle of separation of church and state. They also expressed opposition to using taxpayer funds to support religious institutions that already receive the benefit of tax-exempt status. Other commenters stated that they did not want their taxes to support faiths that promote bigotry or expressed concern that the religious institution may misappropriate or misuse the funds provided with government assistance.

As mentioned above, one commenter, a trade association, did not object to the removal of paragraph (k) but suggested also amending 13 CFR 120.130 ''to add funding religious activities as an ineligible use of loan proceeds.'' The commenter expressed their view that this addition to the regulations would be consistent with the guidance that SBA currently provides in its Standard Operating Procedure (SOP) 50 10 6 that ''[i]f it appears that the proceeds of a loan sought by an Applicant may be used to fund religious activities, the SBA Lender must complete SBA Form 1971, Religious Eligibility Worksheet.''

It therefore seems clear that the overriding concern of the commenters was the continued adherence of SBA's business loan programs to the demands of the Establishment Clause of the First Amendment. SBA believes that the language of section 120.110(k) could be viewed as being at odds with *Trinity Lutheran* and *Espinoza.* But, as stated in the preamble to the proposed rule, SBA will apply relevant case law to assure that the intended use of the loan proceeds of SBA business loans is consistent with the First Amendment's Establishment Clause.

Accordingly, SBA has determined that: (1) paragraph (k) of section 120.110 should be removed from the Agency's regulations, and reserved; (2) the Agency will continue to ensure that the proceeds of SBA business loans are used in a manner consistent with the requirements of the First Amendment of the U.S. Constitution; and (3) to assist SBA in applying applicable case law, the guidance provided in the Agency's SOP 50 10 6, at page 146, regarding the submission of SBA Form 1971, will remain in effect until further notice. If needed and appropriate, SBA may subsequently propose additional regulatory language addressing relevant constitutional requirements.

Third, SBA proposed to revise paragraph (n), which currently provides that a business is ineligible if an Associate ''is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude''. With respect to ineligibility based on indictment for a crime, SBA proposed to change the phrase to ''is under indictment'' from ''has been indicted''. SBA explained that it wants to make clear, consistent with its longstanding interpretation of this regulation, that the business is not ineligible if an Associate has a history of ever being indicted (but not convicted), but would be ineligible only if an Associate is under indictment when the business submits a loan application or prior to loan approval. In addition, SBA proposed to replace the phrase, ''a crime of moral turpitude'', which is not always easily defined and can vary by State, with ''a crime involving or related to financial misconduct or a false statement''. SBA explained that it believes that the proposed standard is clearer and more relevant to SBA's responsibility to carry out the business loan programs in a financially prudent manner. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting the changes as proposed.

Section 120.111. SBA proposed to revise this section by removing a duplicative sentence at the end of the introductory text. No comments were received on this proposed change and SBA is adopting it as proposed.

Section 120.120. This section describes the eligible uses of loan proceeds. SBA proposed to revise paragraph (a)(1), which currently provides that a Borrower may use loan proceeds to ''acquire land (by purchase or lease)'', to add that the land must be ''actively used in the applicant's business operations (except that a Borrower may lease a portion of the property in accordance with 13 CFR 120.131 and 120.870(b))''. SBA explained that this change reflects SBA's prohibition against financing passive activities other than Eligible Passive Companies under 13 CFR 120.111. SBA received one supporting comment from a trade association and no opposing comments. However, SBA has decided that more time is needed to review and study ''use of proceeds'' and is not moving forward with this revision at this time.

Section 120.173. SBA proposed to remove this section, which prohibits the use of lead-based paint if loan proceeds are for the construction or rehabilitation of a residential structure. SBA explained that this regulation is unnecessary because 16 CFR part 1303 already bans paint containing a concentration of lead in excess of 0.009% (90 parts per million) for use in residences, schools, hospitals, parks, playgrounds, and public buildings or other areas where consumers will have direct access to the painted surface. No comments were received on this proposed change and SBA is adopting it as proposed.

Section 120.190. SBA proposed to remove the reference to immediate participation loans in paragraph (a) and to remove paragraph (d), which refers to direct loans, because SBA has not received funding for immediate participation or direct loans for over 30 years and believes that it may be confusing to the public to refer to such loans when they are not available from the agency. No comments were received on these proposed changes. However, SBA has decided not to move forward with the removal of these provisions at this time in order to retain the option for these programs should budget authority for direct lending or immediate participation programs become available.

Section 120.192. SBA proposed to remove this section which states that loan applicants will receive notice of approval or denial of the loan application by the Lender, Certified Development Company (CDC), Microloan Intermediary, or SBA, as appropriate. SBA explained that it was SBA's responsibility to provide notice to the applicant only when it made direct loans, and that because SBA has not received funding for direct loans for over 30 years, it is no longer necessary to include the reference to SBA in this section. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of these provisions at this time in order to retain the option for these programs should budget authority for direct lending or immediate participation programs become available.

Section 120.211. SBA proposed to remove this section, which describes the statutory limits for direct loans and immediate participation loans, because SBA has not received funding to make these loans for over 30 years. SBA explained that it believes that it may be confusing to the public to refer to such loans when they are not available from the agency. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of this section at this time in order to retain the option for these programs should budget authority for direct lending or immediate participation programs become available.

Section 120.212. SBA proposed to amend this section which establishes the maturities for a 7(a) loan. Paragraph (b) of this section establishes the loan term at ten years or less unless the loan finances or refinances real estate or equipment with a useful life exceeding ten years. When the loan is used to finance equipment or leasehold improvements, SBA proposed to amend paragraph (b) to allow a Lender to add a reasonable period, not to exceed 12 months, to the loan term when necessary to complete the installation of the equipment and/or complete the leasehold improvements. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting this change as proposed.

Section 120.213. SBA proposed to remove paragraph (b), which describes the interest rate charged by SBA for direct loans, for which SBA has not received funding for over 30 years. SBA explained that it may be confusing to the public to refer to such loans when they are not available from the agency. The remainder of the section would have also been revised accordingly. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of this provision at this time in order to retain the option for this program should budget authority for direct lending become available.

Sections 120.214. SBA proposed to amend paragraph (c) of section 120.214 by removing the thirty-day London Interbank Offered Rate (LIBOR) as a base rate option for calculating the maximum variable interest rate for a 7(a) loan in paragraph (c)(ii). SBA explained that the U.K. Financial Conduct Authority announced on July 27, 2017, that it would phase-out LIBOR completely by the end of 2021 (since revised to June 30, 2023), and no generally accepted replacement for LIBOR has been identified or widely adopted at this time. To provide certainty to SBA Lenders and Borrowers in advance of LIBOR's sunset in 2023, SBA proposed to remove from the regulation the reference to LIBOR as an optional base rate for variable rate 7(a) loans.

Until such time as an alternative reference rate becomes widely adopted for small business commercial lending, Lenders will only be able to use Prime or the Optional Peg Rate as the base rate for any loan approved after the effective date of this final rule. In addition, for any loans outstanding with interest rates based on LIBOR, SBA recommends that Lenders review their loan documents to determine if the documents provide a fallback base rate (*i.e.,* Prime or the Optional Peg Rate) without having to modify the loan documents. If there is no such flexibility, Lenders will need to work with Borrowers to modify their loan documents on an individual basis before LIBOR sunsets in 2023. Such modifications must be in compliance with the procedures set forth in the current versions of SBA SOPs 50 10 and 50 57. If such loans have been sold on the secondary market, Lenders will need to obtain the consent of investors to modify the base rate in the loan agreement. With only 3% of SBA's total portfolio of non-disaster business loans using LIBOR as a base rate, the process of phasing out LIBOR should not have a significant economic impact on a substantial number of small entities in SBA's business loan programs.

SBA received one comment from a trade association expressing support for the deletion of LIBOR as an optional base rate since it is being phased out by June 30, 2023, and SBA is adopting this change as proposed with the addition of a sentence that provides that, if an alternative reference rate subsequently becomes widely adopted for small business commercial lending, SBA will provide notice of this rate as an additional base rate option through publication in the **Federal Register**.

In addition, SBA proposed to use loan amounts as the basis upon which the variable interest rate is set, instead of loan maturities. To implement this change, SBA proposed to remove paragraph (e) and revise paragraph (d) to reflect the maximum variable interest rates for all 7(a) loans as follows:

(1) For all 7(a) loans of $50,000 and less, the maximum interest rate shall not exceed six and a half (6.5) percentage points over the base rate;

(2) For all 7(a) loans greater than $50,000 and up to and including $250,000, the maximum interest rate shall not exceed six (6.0) percentage points over the base rate;

(3) For all 7(a) loans greater than $250,000 and up to and including $350,000, the maximum interest rate shall not exceed four and a half (4.5) percentage points over the base rate; and

(4) For all 7(a) loans greater than $350,000, the maximum interest rate shall not exceed three (3.0) percentage points over the base rate.

By basing the rates on loan amounts and allowing Lenders to charge higher rates for smaller loans, Lenders would have more incentive to make smaller loans to businesses in need of credit on reasonable terms. In addition, the maximum variable interest rates described above would apply to all types of 7(a) loans. Currently, the maximum variable interest rate that Lenders are permitted to charge may vary depending upon the type of 7(a) loan the Lender is making, *i.e.,* SBA Express, Export Express, Community Advantage Pilot, or regular 7(a). By standardizing the maximum variable interest rates for all 7(a) loans, SBA is streamlining and simplifying its regulations, and reducing the burden on

Lenders. Upon the effective date of this rule, SBA Express and Export Express Lenders may continue to use, in accordance with the statutory authority of section 7(a)(31) and 7(a)(34) of the Small Business Act, respectively, the same base rates they use on their similarlysized, non-SBA guaranteed commercial loans, as well as their established change intervals, payment accruals, and other interest rate terms. However, the interest rate must never exceed the maximum allowable interest rate stated in paragraph (d) of this section and these loans may be sold on the Secondary Market only if the base rate is one of the base rates allowed in § 120.214(c). In addition, under this final rule, Community Advantage Lenders are allowed to charge the higher interest rate in paragraph (1) above for loans of $50,000 or less (such Lenders can already charge 6 percentage points over the Prime rate for loans up to $250,000, the maximum loan amount under the Community Advantage Pilot).

Two other changes that SBA proposed to this section include removing the requirement in the introductory paragraph of § 120.214 that SBA's approval is required for a Lender to use a variable rate of interest and amending the second sentence of the introductory paragraph of § 120.214 by moving it to § 120.214(d) and revising it to clearly state that the initial maximum variable interest rate is determined as of the date that SBA received the loan application.

SBA received two comments with respect to these changes, including one from a trade association, which expressed support for the changes, and one from an individual, who expressed support for the new interest rates. The commenters agreed that providing a higher interest rate on smaller loans is a great incentive for lenders to provide such loans to borrowers.

SBA is adopting these changes as proposed.

Section 120.215. SBA proposed to remove this section, which establishes the interest rates for smaller loans. The interest rates for all 7(a) loans will now be covered by § 120.213 and the proposed amendments to § 120.214. SBA received one supporting comment from a trade association and no opposing comments; the Agency is removing this section as proposed.

Section 120.220. SBA proposed to revise this section with two changes. First, paragraph (a)(3) currently states that ''[i]n fiscal years when the 7(a) program is at zero subsidy, SBA will not collect a guarantee fee in connection with a loan made under section 7(a)(31) of the Small Business Act to a business owned and controlled by a veteran or the spouse of a veteran.'' This regulatory paragraph implements section 7(a)(31)(G) of the Small Business Act, which provides that the guarantee fee imposed by section 7(a)(18) of the Small Business Act is waived in connection with a loan made under the SBA Express Loan Program to a veteran or the spouse of a veteran except in any fiscal year in which the 7(a) program is not operating at zero subsidy. However, section 1102(d) of the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116–136, 134 Stat. 281) removed the exception and, accordingly, SBA proposed to remove it from section 120.220(a)(3). SBA received one comment in support of this change and is adopting this change as proposed.

Second, paragraph (b) of this regulation establishes the deadlines for paying the SBA guaranty fee. For a loan with a maturity in excess of 12 months, this provision has historically required the Lender to pay the fee electronically within 90 days after SBA approval of the loan. In practice, SBA has been giving Lenders an additional 30 days to pay this fee, for a total of 120 calendar days after SBA loan approval, before cancelling the guarantee. With the efficiencies that have been created by electronic banking, SBA believes that these payments should be made in less time than 120 days and proposed to require that the fee be paid within 45 days after loan approval. If the fee is not paid by the 45th day, SBA proposed to give the Lender a grace period of an additional 30 days and if the fee is not paid by the 75th day, SBA would cancel the guarantee. For loans with a maturity of 12 months or less, SBA proposed to continue to cancel the guarantee if the fee is not paid by the 10th business day after the Lender receives SBA loan approval. SBA received two comments opposing this change, one from a trade association and one from a member of the general public. Both commenters objected to shortening the time frame for paying the guaranty fee on 7(a) loans with a maturity date of more than one year from 90 days to 45. The trade association reasons that SBA has historically not terminated its guaranty unless the fee remained unpaid on the 121st day after loan approval. In addition, both commenters note that the period between loan approval and loan disbursement may be longer than 45 days. Since the guaranty fee may not be paid until after the borrower's first disbursement, the trade association argues that maintaining the timeframe at 90 days would avoid stressing lender liquidity.

After considering these comments, SBA has decided to conduct further study on the timing of guarantee fee payment by lenders and is not adopting this change at this time.

Section 120.222. SBA proposed to revise this section with a minor technical correction to § 120.222 to remove an extra word (''in'') that was inserted in error. No comments were received on this proposed change and SBA is adopting it as proposed.

Section 120.310. SBA proposed to remove the reference to direct loans in this provision, which governs the Disabled Assistance Loan Program (''DAL''), to make this regulation consistent with section 7(a)(10) of the Small Business Act, which authorizes ''guaranteed'' loans under the DAL program, but not direct loans. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of the reference to direct loans in this provision at this time in order to retain the option for this program should budget authority for direct lending become available.

Section 120.315. SBA proposed to remove this section in its entirety, which establishes the interest rate and limit on the loan amount with respect to direct DAL loans, to make this regulation consistent with section 7(a)(10) of the Small Business Act, which authorizes guaranteed loans only and not direct loans. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of this section at this time in order to retain the option for direct lending should budget authority become available.

Section 120.320. SBA proposed to remove this provision in its entirety. It references SBA's authority under section 7(a)(11) of the Small Business Act to guarantee or make direct loans to businesses owned by low income individuals. SBA explained that direct loans have not been funded for over 30 years and that this provision did not add anything to the general authority that SBA has under section 7(a) of the Small Business Act to make guaranteed loans to businesses owned by low-income individuals. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of this section at this time in order to retain the option for direct lending should budget authority become available.

Section 120.330. SBA proposed to remove the reference to direct loans in this section because SBA has not received funding to make these loans for over 30 years. SBA explained that it may be confusing to the public to refer to such loans when they are not

available from the agency. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of the reference to direct loans in this provision at this time in order to retain the option for direct lending should budget authority become available.

Sections 120.350 and 120.352. The regulations governing SBA guaranteed loans to qualified employee trusts or ''Employee Stock Ownership Plans'' (ESOPs) are set forth in §§ 120.350 through 120.354. SBA proposed to include a technical amendment to both § 120.350 and § 120.352 to incorporate the statutory change made in Section 862 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232) that permits SBA to guarantee a loan to the small business concern (rather than the qualified employee trust), if the proceeds from the loan are used only to make a loan to a qualified employee trust that results in the qualified employee trust owning at least 51 percent of the small business concern. SBA proposed this amendment to ensure that the regulations are consistent with the statute and to provide clarity to SBA Lenders and SBA employees with respect to guaranteed loans involving ESOPs. Additional guidance governing these loans will be provided in SOP 50 10. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting the amendments as proposed.

Sections 120.360 and 120.361. SBA proposed to remove these sections, which describe an outdated veteran's loan program for direct and guaranteed loans to Vietnam-era veterans and certain disabled veterans. SBA explained that it has not received funding to make direct 7(a) loans in the Veterans Loan Program for over 30 years and SBA's existing Loan Program Requirements provide special consideration for veteran-owned businesses. No comments were received on these proposed changes. However, SBA has decided not to move forward with the removal of these sections at this time in order to retain the option for direct lending should budget authority become available.

Section 120.370. SBA proposed to remove this section, which describes SBA's authority under section 7(a)(12) of the Small Business Act to finance pollution control facilities, because the $1 million cap set forth in section 7(a)(12)(B) for these pollution control loans was superseded when Congress raised the guaranty limit in section 7(a)(3) to $3.75 million. This provision is also unnecessary because SBA is authorized under the general authority of section 7(a) to make guaranteed loans for pollution control facilities. SBA received one supporting comment from a trade association and no opposing comments. SBA is removing this section as proposed.

Section 120.375. SBA proposed to remove this section's reference to direct loans to firms participating in the 8(a) Program because direct loans have not been funded for over 30 years. SBA explained that it may be confusing to the public to refer to such loans when they are not available from the agency. No comments were received on this proposed change. However, SBA has decided not to move forward with the removal of the reference to direct loans at this time in order to retain the option for direct lending should budget authority become available.

Section 120.376. SBA proposed to remove paragraph (a), the second sentence of paragraph (c), and paragraph (d), all of which describe requirements for direct loans or an immediate participation loan related to the loan program for participants in the 8(a) Program, for the same reasons expressed under the discussion of section 120.375 above, with the remaining paragraphs redesignated accordingly. No comments were received on these proposed changes. However, SBA has decided not to move forward with the removal of these provisions at this time in order to retain the option for these programs should budget authority for direct lending or immediate participation programs become available.

Sections 120.380 through 120.383. SBA proposed to remove these sections, which govern the program to provide defense economic transition assistance, because this program is no longer being funded. SBA believes that it may be confusing to the public to refer to such loans when they are not available from the agency. SBA received one supporting comment from a trade association and no opposing comments. SBA is removing these sections as proposed.

Section 120.420. SBA proposed to remove paragraph (b), which defines ''Bank Regulatory Agencies,'' because this term is no longer used in part 120, and the term ''Federal Financial Institution Regulator,'' which is used instead, is defined in 13 CFR 120.10, with the remaining paragraphs redesignated accordingly. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting this change as proposed.

Section 120.432. SBA proposed to amend § 120.432(a) to implement SBA's longstanding policy of holding Assuming Institutions and investors responsible for the contingent liabilities (including repairs and denials) associated with 7(a) loans originated by failed insured depository institutions, whether the 7(a) loans are purchased by a Lender through a Federal Deposit Insurance Corporation (FDIC) loan sale or transferred to an Assuming Institution through a whole bank transfer. SBA proposed to make this modification to ensure consistent treatment of all portfolio loan transfers whether through voluntary bank mergers or asset sales, or through FDIC-led portfolio transfers following the failure of a Lender. SBA also proposed to modify the regulatory language to include a statement that clarifies the applicability of the paragraph and the ability for the Agency to agree otherwise in writing (*i.e.,* to affirm the validity of the guaranties). In addition, SBA proposed to modify the regulatory language to remove the specific reference to the FDIC and make it applicable to all 7(a) loans purchased from any Federal or state banking regulator, any receiver, or any conservator. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting these changes as proposed.

Section 120.453. SBA proposed to remove this section, which states that servicing and liquidation responsibilities for PLP Lenders are set forth in subpart E of part 120, as unnecessary. PLP Lenders are required to service and liquidate their loans in accordance with the same standards set forth in subpart E that are applied to non-delegated Lenders. SBA received one supporting comment from a trade association and no opposing comments. SBA is removing this section as proposed.

Section 120.470. SBA proposed to revise paragraph (d)(1) of this provision by increasing the dollar amount that a small business lending company (SBLC) may disburse with the signature of only one bonded officer from $1,000 to $10,000, provided that such action is covered under the SBLC's fidelity bond. SBA believes this change would reduce burden on SBLCs without introducing significant risk to the program. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting this change as proposed.

Section 120.532. SBA proposed to remove this section, which refers to SBA's authority to assume a Borrower's

obligation under terms and conditions set by SBA (see section 5(e) of the Small Business Act), because SBA does not use this authority and believes it may be confusing to the public for the regulations to refer to the availability of a loan moratorium under this section when it is not available from the agency. SBA received one supporting comment from a trade association and no opposing comments. SBA is adopting this change as proposed.

Section 120.540. Paragraph (g) of this section provides that a Lender may appeal an SBA office's decision pertaining to an original or amended liquidation plan to the Director of the Office of Financial Assistance (D/FA) within 30 days of the decision. The office within SBA that is now responsible for considering these appeals is the Office of Financial Program Operations (OFPO). Accordingly, SBA proposed to amend this paragraph by replacing ''D/FA'' with ''Director/Office of Financial Program Operations (D/OFPO)'' where it first appears and with ''D/OFPO'' thereafter. SBA received one comment supporting this change and no opposing comments.

The commenter also recommended that SBA amend paragraph (b) of this section to delete the requirement of prior SBA approval for the liquidation plan on a loan processed under a 7(a) lender's Certified Lender Program (CLP) authority. The trade association argues that this change is appropriate since SBA discontinued CLP authority years ago. However, section 7(a)(19)(C) of the Small Business Act requires SBA's prior approval of liquidation plans for CLP loans and so long as CLP loans are outstanding, this requirement needs to remain in the regulation.

Section 120.542. Paragraph (d) of this section provides that a Lender may appeal an SBA decision to decline to reimburse all, or a portion, of the fees and/or costs incurred in conducting liquidation to the D/FA, and that the decision of the D/FA (or designee) will be made in consultation with the Associate General Counsel for Litigation. The office within SBA that is now responsible for considering these appeals is OFPO. Accordingly, SBA proposed to amend this paragraph by replacing ''D/FA'' with ''D/OFPO'' wherever it appears.

In addition, paragraph (e) of this section provides that a Lender may appeal a decision by SBA to decline to reimburse all, or a portion, of the legal fees and/or costs incurred in conducting debt collection litigation to the Associate General Counsel for Litigation. It further provides that the Associate General Counsel makes this decision in consultation with the D/FA. The office within SBA that is now responsible for consulting with the Associate General Counsel is OFPO. Accordingly, SBA proposed to amend this paragraph by replacing ''D/FA'' with ''D/OFPO''. SBA received one supporting comment from a trade association on these changes and no opposing comments. SBA is adopting these changes as proposed.

Section 120.701. SBA proposed to remove paragraph (g) of this section, which defines ''Non-lending technical assistance provider'' (NTAP), because SBA has not issued grant funds to NTAPs for many years. SBA also proposed to redesignate the remaining paragraph (h) accordingly. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.706. SBA proposed to revise paragraph (a) of this section to increase the maximum outstanding amount of loans that an Intermediary may borrow from SBA from $5 million to $6 million. This change incorporates the increase made by section 853(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, 15 U.S.C. 636(m)(3)(C). No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.707. SBA proposed to revise the regulation at § 120.707(b) to increase the maximum maturity of a loan from an Intermediary to a Microloan borrower from 6 years to 7 years, explaining that this change would allow for a longer repayment period for these small loans. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.712. In § 120.712(b), SBA proposed to incorporate a recent statutory change to the percentage of grant funds that may be used by the Intermediary for marketing, managerial, and technical assistance to prospective Microloan borrowers. In addition, in § 120.712(d), SBA proposed to incorporate a recent statutory change to the percentage of grant funds the Intermediary may use to contract with third parties to provide technical assistance to Microloan borrowers. No comments were received on these proposed rule changes and SBA is adopting them as proposed.

Section 120.714. SBA proposed to remove § 120.714, which describes how grants are made to non-lending technical assistance providers (NTAPs). SBA no longer makes such grants and there are no NTAPs currently participating in the Microloan Program. SBA therefore proposed to eliminate this section to reduce confusion. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.715. SBA proposed to remove this section, which describes the Deferred Participation Loan Pilot, under which SBA was authorized to guarantee a loan that an Intermediary in the Microloan Program obtained from another source. SBA proposed to remove § 120.715 in its entirety as this pilot expired in Fiscal Year 2000 and SBA no longer has the authority to guarantee such loans. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.800. SBA proposed to remove this section, which describes the purpose of the 504 program, because it is unnecessary. The 504 Loan Program is described in § 120.2(c). No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.812. SBA proposed to revise paragraph (a)(2) to provide that a newly certified CDC may petition for more than a single one-year extension of probation. In addition, SBA proposed to revise paragraph (d) to clarify that, if SBA declines the CDC's petition for permanent status, the CDC will no longer have authority to participate in the 504 Loan Program and SBA will direct the CDC to transfer all funded and/or approved loans to another CDC, SBA, or another servicer approved by SBA. No comments were received on these changes and SBA is adopting them as proposed.

Section 120.840. SBA proposed to make a technical correction to § 120.840(b) by replacing the reference in this section to the Director, Office of Financial Assistance with ''appropriate SBA official in accordance with Delegations of Authority.'' In addition, SBA proposed to revise § 120.840(b) to reflect the modernized application submission process for the Accredited Lenders Program (ALP), which will allow CDCs to submit ALP applications electronically into the Corporate Governance Repository, rather than apply to the Lead SBA Office. No comments were received on these proposed changes and SBA is adopting them as proposed.

Section 120.845. Paragraph (c)(1) of this section, which sets forth the eligibility criteria for the Premier Certified Lenders Program, refers to the criteria that are listed for the Accredited Lenders Program in § 120.841(a) through (h). However, the criteria are listed only in § 120.841(a) through (f). SBA

proposed to amend paragraph (c)(1) by removing ''through (h)'' at the end of the sentence and adding ''through (f)'' in its place. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.850. SBA proposed to remove this section because the designation of Associate Development Company ceased to exist on January 1, 2004. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.862. SBA proposed to amend paragraph (b) by adding the three energy public policy goals described in paragraphs (I), (J) and (K) of section 501(d)(3) of the Small Business Investment Act of 1958, as amended, to the list of economic development objectives. These three goals relate to the reduction of energy consumption by at least 10 percent, the increased use of sustainable design, and plant, equipment and process upgrades of renewable energy sources. This change would make the regulations consistent with the statute. No comments were received for this proposed rule change and SBA is adopting it as proposed.

Section 120.1400. Under current 13 CFR 120.1400(a), a CDC that obtains approval for 504 loans after October 20, 2017, and an SBA Supervised Lender that makes 7(a) guaranteed loans after October 20, 2017, consent to the applicable receivership remedies in 13 CFR 120.1500(c). Pursuant to SOP 50 10 5(J), SBA deemed the consent by a CDC under 13 CFR 120.1400(a)(1), and the consent by an SBA Supervised Lender under 13 CFR 120.1400(a)(2), to take effect on January 1, 2018, which was the effective date of the SOP 50 10 5(J). As proposed, the amendments to this rule would codify the SOP provision into the rule and would also clarify that the CDC's or the SBA Supervised Lender's consent does not preclude them from contesting whether or not SBA has established the grounds for seeking the remedy of a receivership. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Section 120.1500. SBA proposed to amend paragraphs (c)(3) and (e)(3) to incorporate into the regulations the factors set forth in the current SOP 50 10 that SBA considers when seeking the appointment of a receiver and the scope of the receivership. The appointment of a receiver is only one of several types of enforcement actions set forth in 13 CFR 120.1500, and typically, SBA will use its receivership authority as a remedy of last resort. The factors vary slightly depending upon the type of SBA Lender and whether the SBA Lender has assets unrelated to SBA loan program activities. No comments were received for this proposed rule change and SBA is adopting it as proposed.

Section 123.17. SBA proposed to amend this section to remove the reference to lead-based paint. As stated above, with the proposed removal of § 120.173, Lead-based paint, which prohibits the use of lead-based paint if loan proceeds are for the construction or rehabilitation of a residential structure, the removal of the reference to lead-based paint in § 123.17 conforms this regulation to the removal of § 120.173 and will avoid confusion. No comments were received on this proposed rule change and SBA is adopting it as proposed.

Compliance With Executive Orders 12866, 12988, 13132, 13563, the Congressional Review Act (5 U.S.C. 801–808), the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget has determined that this final rule is considered a ''significant regulatory action'' under Executive Order 12866. It is important to note that, while OMB has determined that this rule is considered a ''significant regulatory action,'' OMB did not determine that this final rule is economically significant. The next section contains SBA's Regulatory Impact Analysis.

Regulatory Impact Analysis

1. Is there a need for this regulatory action?

This final rule removes or revises various regulations governing the Agency's business loan programs that are obsolete, unnecessary, ineffective, or burdensome. This final rule also makes several technical amendments to incorporate recent statutory changes and other non-substantive changes. In addition, because this final rule removes a regulation that is cross-referenced in a regulation in SBA's Disaster Loan Program, this rule makes one conforming change to a regulation in the Disaster Loan Program. SBA believes it is necessary to provide clear regulatory guidance for Lenders to encourage participation in extending loans, particularly smaller dollar loans, to eligible small businesses, and to enable participating Lenders to extend credit with confidence in their ability to rely on payment by SBA of the guaranty, if necessary. As identified more specifically in the identified benefits below, the change to § 120.110(k) is needed to align SBA's regulations with Supreme Court precedent and eliminate the uncertainty and confusion caused by the perceived inconsistency between that precedent and the current regulatory text.

Further, the Agency believes it needs to streamline Loan Program Requirements and reduce regulatory burdens to facilitate robust participation in the business loan programs that assist small U.S. businesses, particularly those businesses in underserved markets.

2. What are the potential benefits and costs of this regulatory action?

As stated above, this final rule is a comprehensive effort to remove or revise regulations governing the Agency's business loan programs that are obsolete, unnecessary, ineffective, or burdensome. In addition, this final rule removes information from the regulations that is confusing, misleading, or obsolete. SBA believes the removal or revision of these regulations will make the regulations easier to understand and use and will benefit Lenders and Borrowers by saving them time in reading and inquiring about obsolete, confusing, or inaccurate information.

Further, several of the changes will provide clarity and certainty to both Lenders and Borrowers in determining eligibility for SBA financial assistance. Section 120.110 of the regulations lists the types of businesses that are ineligible for SBA business loans. For clarity, SBA proposed to make changes to three of the types of businesses on the list. First, SBA proposed to amend paragraph (h), which currently provides that businesses ''engaged in any illegal activity'' are ineligible, by revising it to provide that the business is ineligible if it is ''engaged in any activity that is illegal under Federal, State, or local law''. SBA wants to make it clear, consistent with its longstanding interpretation of this regulation, that the business is ineligible if it is engaged in any activity that is illegal at any level of government in the jurisdiction in which the business is operating.

Second, SBA proposed to remove and reserve paragraph (k), which currently provides that a business is ineligible if it is ''principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs, whether in a religious or secular setting''. SBA explained that this provision, which was promulgated in 1996, could be interpreted as impermissibly imposing a special disability on organizations based on their religious status. Thus, the regulation may have caused uncertainty for Lenders and Borrowers in

determining the eligibility of an applicant for an SBA business loan.

In order ensure that the proceeds of SBA business loans are used in a manner consistent with the requirements of the First Amendment to the U.S. Constitution, SBA's practice has been to apply relevant Supreme Court caselaw to the facts of each individual case. The removal of section 120.110(k) will eliminate uncertainty for Lenders and Borrowers and, as explained in the preamble to the proposed rule and this final rule, SBA will continue to apply relevant Supreme Court caselaw to ensure that the proceeds of SBA business loans are used in a manner consistent with the First Amendment to the U.S. Constitution. Although this change is beneficial to increase clarity and remove uncertainty, it will not result in any specific change in the way SBA implements this provision. SBA is currently following the Supreme Court precedent when analyzing eligibility for SBA financial assistance as it believes that any regulation which may be inconsistent with that precedent cannot be given effect.

Third, SBA proposed to revise paragraph (n), which currently provides that a business is ineligible if an Associate ''is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude''. With respect to ineligibility based on indictment for a crime, SBA proposed to change the phrase to ''is under indictment'' from ''has been indicted''. SBA explained that it wants to make clear, consistent with its longstanding interpretation of this regulation, that the business is not ineligible if an Associate has a history of ever being indicted (but not convicted), but would be ineligible only if an Associate is under indictment when the business submits a loan application or prior to loan approval. In addition, SBA proposed to replace the phrase, ''a crime of moral turpitude'', which is not always easily defined and can vary by State, with ''a crime involving or related to financial misconduct or a false statement''. SBA explained that it believes that the proposed standard is clearer and more relevant to SBA's responsibility to carry out the business loan programs in a financially prudent manner. As stated above, SBA believes it is necessary to provide clear guidance to enable Lenders to extend credit to eligible small businesses and these regulatory changes will help provide that clarity for Lenders and Borrowers.

In addition to the benefits described above, there are some costs associated with this rule that could impact small businesses. The removal of LIBOR as an optional base rate for variable rate 7(a) loans will cause some Borrowers to modify their loan documents to specify a new base rate. Any costs associated with modifying loan documents are an unavoidable result of the phase-out of LIBOR that will occur in 2023, and the loan documents will need to be modified whether or not this rule is promulgated.

In addition, SBA proposed to use loan amounts as the basis upon which the variable interest rate is set, instead of loan maturities. By basing the rates on loan amounts and allowing Lenders to charge higher rates for smaller loans, Lenders would have more incentive to make smaller loans to businesses in need of credit on reasonable terms. In addition, the maximum variable interest rates described above would apply to all types of 7(a) loans. Currently, the maximum variable interest rate that Lenders are permitted to charge may vary depending upon the type of 7(a) loan the Lender is making, *i.e.,* SBA Express, Export Express, Community Advantage Pilot, or regular 7(a). By standardizing the maximum variable interest rates for all 7(a) loans, SBA is streamlining and simplifying its regulations, and reducing the burden on Lenders.

3. What are the alternatives to this final rule?

The alternative to issuing this final rule is to not make any changes to the regulations at all. However, that alternative would leave obsolete, unnecessary, confusing, and inaccurate or misleading information in the Agency's regulations governing its business loan programs, which would create uncertainty and confusion for both Lenders and Borrowers. SBA chose to proceed with this final rule in order to reduce the burden on Lenders in order to encourage participation in SBA lending programs, and to provide clarity and certainty for both Lenders and Borrowers.

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. This action does not have preemptive effect or retroactive effect.

Executive Order 13132

SBA has determined that this final rule would not have federalism implications as defined in Executive Order 13132. It would 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. Therefore, for the purposes of Executive Order 13132, SBA has determined that this final rule does not warrant the preparation of a Federalism Assessment.

Executive Order 13563

As discussed above, SBA received a significant number of public comments in response to the **Federal Register** document requesting the public's input.

Congressional Review Act, 5 U.S.C. 801–808

OMB's Office of Information and Regulatory Affairs has determined that this rule is not a major rule under subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), 5 U.S.C. 804(2). 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.

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

SBA has determined that this final rule would not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

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

When an agency issues a final rule, the Regulatory Flexibility Act (RFA) requires the agency to address public comments and ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). SBA has complied with these requirements. Furthermore, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the final rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This final rule is a comprehensive effort to remove information from the regulations that are confusing and misleading, which would save Lenders and Borrowers time in reading and inquiring about obsolete or inaccurate information.

In addition, there are some costs associated with this rule that could impact small businesses. The removal of LIBOR as an optional base rate for variable rate 7(a) loans will cause some Borrowers to modify their loan documents to specify a new base rate. Any costs associated with modifying

loan documents are an unavoidable result of the phase-out of LIBOR that will occur in 2023, and the loan documents will need to be modified whether or not this rule is promulgated. SBA estimates only 3% of active SBA business loans could be affected by this change and that the burden created would be $1,622,988 in the first year that LIBOR is discontinued and would not be repeated in subsequent years.

Based on the foregoing, the Administrator of the SBA hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The SBA invites comments from the public on this certification.

List of Subjects

13 CFR Part 120

Loan programs—business, Reporting and recordkeeping requirements, Small businesses, Veterans.

13 CFR Part 123

Disaster assistance, Loan programs-business, Small businesses.

For the reasons stated in the preamble, SBA amends 13 CFR parts 120 and 123 as follows:

PART 120—BUSINESS LOANS

■ 1. The authority citation for 13 CFR part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), (b)(7), (b)(14), (h), and note, 636(a), (h) and (m), and note, 636m, 650, 657t, and note, 657u, and note, 687(f), 696(3), and (7), and note, and 697, 697a and e, and note; Public Law 116–260, 134 Stat. 1182.

■ 2. Amend § 120.10 by revising the first sentence of the definition of ''Risk Rating'' to read as follows:

§ 120.10 Definitions.

* * * * *

Risk Rating is an SBA internal composite rating assigned to individual SBA Lenders and Intermediaries that reflects the risk associated with the SBA Lender's or Intermediary's portfolio of SBA loans. * * *

* * * * *

§ 120.103 [Removed]

■ 3. Remove § 120.103.

■ 4. Amend § 120.110 by revising paragraph (h), removing and reserving paragraph (k), and revising paragraph (n).

The revisions read as follows:

§ 120.110 What businesses are ineligible for SBA business loans?

* * * * *

(h) Businesses engaged in any activity that is illegal under Federal, State, or local law;

* * * * *

(n) Businesses with an Associate who is incarcerated, on probation, on parole, or is under indictment for a felony or any crime involving or relating to financial misconduct or a false statement;

* * * * *

§ 120.111 [Amended]

■ 5. Amend § 120.111 by removing the last sentence of the introductory text.

§ 120.173 [Removed]

■ 6. Remove § 120.173.

■ 7. Amend § 120.212 by revising paragraph (b) to read as follows:

§ 120.212 What limits are there on loan maturities?

* * * * *

(b) Ten years or less, unless it finances or refinances real estate or equipment with a useful life exceeding ten years. The term for a loan to finance equipment and/or leasehold improvements may include an additional reasonable period, not to exceed 12 months, when necessary to complete the installation of the equipment and/or complete the leasehold improvements.

* * * * *

■ 8. Amend § 120.214 by:
■ a. Revising the introductory paragraph and paragraphs (c) and (d);
■ b. Removing paragraph (e); and
■ c. Redesignating paragraph (f) as paragraph (e).

The revisions read as follows:

§ 120.214 What conditions apply for variable interest rates?

A Lender may use a variable rate of interest for guaranteed loans under the following conditions:

* * * * *

(c) *Base rate.* The base rate will be one of the following: the prime rate or the Optional Peg Rate. The prime rate will be that which is in effect on the first business day of the month, as printed in a national financial newspaper published each business day. SBA may from time to time permit the use of alternative base rate options that are widely adopted for small business commercial lending and will publish notice of such alternative options in the **Federal Register**. SBA publishes the Optional Peg Rate quarterly in the **Federal Register**.

(d) *Maximum Allowable Variable Interest Rates.* The maximum allowable variable interest rates are set forth below, with the initial maximum allowable rate for the loan determined as of the date SBA receives the loan application:

(1) For all 7(a) loans of $50,000 and less, the interest rate shall not exceed six and a half (6.5) percentage points over the base rate;

(2) For all 7(a) loans of more than $50,000 and up to and including $250,000, the maximum interest rate shall not exceed six (6.0) percentage points over the base rate;

(3) For all 7(a) loans of more than $250,000 and up to and including $350,000, the maximum interest rate shall not exceed four and a half (4.5) percentage points over the base rate; and

(4) For all 7(a) loans of more than $350,000, the maximum interest rate shall not exceed three (3.0) percentage points over the base rate.

* * * * *

§ 120.215 [Removed]

■ 9. Remove § 120.215.

§ 120.220 [Amended]

■ 10. Amend § 120.220(a)(3) by removing the phrase ''In fiscal years when the 7(a) program is at zero subsidy,''.

§ 120.222 [Amended]

■ 11. Amend § 120.222 by removing the word ''in'' before the words ''any premium received''.

■ 12. Revise § 120.350 to read as follows:

§ 120.350 Policy.

Section 7(a)(15) of the Act authorizes SBA to guarantee a loan to a:

(a) Qualified employee trust (''ESOP'') to:

(1) Help finance the growth of its employer's small business; or

(2) Purchase ownership or voting control of the employer; and a

(b) Small business concern, if the proceeds from the loan are only used to make a loan to a qualified employee trust that results in the qualified employee trust owning at least 51 percent of the small business concern.

■ 13. Revise § 120.352 to read as follows:

§ 120.352 Use of proceeds.

Loan proceeds may be used for:

(a) *Qualified employee trust.* A qualified employee trust may use loan proceeds for two purposes:

(1) *Qualified employer securities.* A qualified employee trust may relend loan proceeds to the employer by purchasing qualified employer securities. The small business concern

may use these funds for any general 7(a) purpose.

(2) *Control of employer.* A qualified employee trust may use loan proceeds to purchase a controlling interest (51 percent) in the employer. Ownership and control must vest in the trust by the time the loan is repaid.

(b) *Small business concern.* A small business concern may only use loan proceeds to make a loan to a qualified employee trust that results in the qualified employee trust owning at least 51 percent of the small business concern.

§§ 120.370 and 120.380 through 120.383 [Removed]

■ 14. Remove §§ 120.370 and 120.380 through 120.383.

§ 120.420 [Amended]

■ 15. Amend § 120.420 by removing paragraph (b) and redesignating paragraphs (c) through (k) as paragraphs (b) through (j).

■ 16. Amend § 120.432 by adding a sentence at the end of paragraph (a) to read as follows:

§ 120.432 Under what circumstances does this subpart permit sales of, or sales of participating interests in, 7(a) loans?

(a) * * * This paragraph (a) applies to all 7(a) loans purchased from any Federal or state banking regulator, any receiver, or any conservator, unless SBA agrees otherwise in writing.

* * * * *

§ 120.453 [Removed]

■ 17. Remove § 120.453.

§ 120.470 [Amended]

■ 18. Amend § 120.470 in paragraph (d)(1) by removing the number ''$1,000'' and adding the number ''$10,000'' in its place.

§ 120.532 [Removed]

■ 19. Remove § 120.532.

§ 120.540 [Amended]

■ 20. Amend § 120.540 in paragraph (g) by removing the term ''D/FA'' from the first sentence and adding in its place the phrase ''Director/Office of Financial Program Operations (D/OFPO)'' and by removing the term ''D/FA'' from the second and fourth sentences and adding in its place the term ''D/OFPO''.

§ 120.542 [Amended]

■ 21. In § 120.542, amend paragraphs (d) and (e) by removing the term ''D/FA'' wherever it appears and adding in its place the term ''D/OFPO''.

§ 120.701 [Amended]

■ 22. Amend § 120.701 by removing paragraph (g) and redesignating paragraph (h) as paragraph (g).

§ 120.706 [Amended]

■ 23. Amend § 120.706 in the last sentence of paragraph (a) by removing ''5 million'' and adding in its place ''6 million''.

§ 120.707 [Amended]

■ 24. Amend § 120.707 in the last sentence of paragraph (b) by removing the word ''six'' and adding in its place the word ''seven''.

■ 25. Amend § 120.712 by:

■ a. Revising paragraph (b)(1); and

■ b. Removing the number ''25'' and adding in its place the number ''50'' in paragraph (d).

The revision to read as follows:

§ 120.712 How does an Intermediary get a grant to assist Microloan borrowers?

* * * * *

(b) * * *

(1) Up to 50 percent of the grant funds may be used to provide information and technical assistance to prospective Microloan borrowers; provided, however, that no more than 5 percent of the grant funds may be used to market or advertise the products and services of the Microloan Intermediary directly related to the Microloan Program; and

* * * * *

§§ 120.714, 120.715, and 120.800 [Removed]

■ 26. Remove and reserve §§ 120.714, 120.715, and 120.800.

■ 27. Amend § 120.812 by revising paragraph (a)(2) and by adding a sentence at the end of paragraph (d) to read as follows:

§ 120.812 Probationary period for newly certified CDCs.

(a) * * *

(2) A one-year extension of probation. If a one-year extension of probation is granted, at the end of this extension period, the CDC must petition the Lead SBA Office for permanent CDC status or an additional one-year extension of probation.

* * * * *

(d) * * * If SBA declines the petition, the CDC will no longer have authority to participate in the 504 Loan Program and SBA will direct the CDC to transfer all funded and/or approved loans to another CDC, SBA, or another servicer approved by SBA.

■ 28. Amend § 120.840 by revising paragraph (b) to read as follows:

§ 120.840 Accredited Lenders Program (ALP).

* * * * *

(b) *Application.* A CDC must apply for ALP status by submitting an application in accordance with SBA's Standard Operating Procedure 50 10, available at *http://www.sba.gov.* A final decision will be made by the appropriate SBA official in accordance with Delegations of Authority.

* * * * *

§ 120.845 [Amended]

■ 29. Amend § 120.845 in paragraph (c)(1) by removing the phrase ''through (h)'' and adding in its place the phrase ''through (f)''.

§ 120.850 [Removed]

■ 30. Remove the undesignated center heading ''Associate Development Companies (ADCs)'' and § 120.850.

■ 31. Amend § 120.862(b) by:

■ a. Removing ''or'' at the end of paragraph (9);

■ b. Removing the period at the end of paragraph (10) and adding '';'' in its place; and

■ c. Adding paragraphs (b)(11) through (13).

The additions read as follows:

§ 120.862 Other economic development objectives.

* * * * *

(b) * * *

(11) Reduction of energy consumption by at least 10 percent;

(12) Increased use of sustainable design, including designs that reduce the use of greenhouse gas emitting fossil fuels, or low-impact design to produce buildings that reduce the use of non-renewable resources and minimize environmental impact; or

(13) Plant, equipment and process upgrades of renewable energy sources such as the small-scale production of energy for individual buildings' or communities' consumption, commonly known as micropower, or renewable fuels producers including biodiesel and ethanol producers.

■ 32. Amend § 120.1400 by:

■ a. Removing the date ''October 20, 2017'' in paragraphs (a)(1) and (2) and adding in their place the date ''January 1, 2018''; and

■ b. Adding two sentences to the end of paragraphs (a)(1) and (2).

The additions read as follows:

§ 120.1400 Grounds for enforcement actions—SBA Lenders.

(a) * * *

(1) * * * The CDC's consent does not preclude the CDC from contesting whether or not SBA has established the

grounds for seeking the remedy of a receivership. A CDC's consent to receivership as a remedy does not require SBA to seek appointment of a receiver in any particular SBA enforcement action.

(2) * * * The SBA Supervised Lender's consent does not preclude such Lender from contesting whether or not SBA has established the grounds for seeking the remedy of a receivership. The SBA Supervised Lender's consent to receivership as a remedy does not require SBA to seek appointment of a receiver in any particular SBA enforcement action.

* * * * *

■ 33. Amend § 120.1500 by adding a sentence at the end of paragraph (c)(3), adding paragraphs (c)(3)(i) and (ii), and adding two sentences after the first sentence of paragraph (e)(3) to read as follows:

§ 120.1500 Types of enforcement actions—SBA Lenders.

* * * * *

(c) * * *

(3) * * * In deciding whether to seek the appointment of a receiver and in determining the scope of a receivership, SBA will consider the following factors, in its discretion:

(i) for NFRLs:

(A) the existence of fraud or false statements;

(B) the NFRL's refusal to cooperate with SBA enforcement action instructions or orders;

(C) the NFRL's insolvency (legal or equitable);

(D) the size of the NFRL's SBA loan portfolio(s) in relation to other activities of the NFRL;

(E) the dollar amount of any claims SBA may have against the NFRL;

(F) the NFRL's failure to comply materially with any requirement imposed by Loan Program Requirements; and/or

(G) the existence of other non-SBA enforcement actions against the NFRL;

(ii) for SBLCs:

(A) the existence of fraud or false statements;

(B) the SBLC's refusal to cooperate with SBA enforcement action instructions or orders;

(C) the SBLC's insolvency (legal or equitable);

(D) the dollar amount of any claims SBA may have against the SBLC; and/or

(E) the SBLC's failure to comply materially with any requirement imposed by Loan Program Requirements.

* * * * *

(e) * * *

(3) * * * SBA will limit the scope of the receivership to the CDC's assets related to the SBA loan program(s) except where the CDC's business is almost exclusively SBA-related. SBA will only seek a receivership if there is either the existence of fraud or false statements, or if the CDC has refused to cooperate with SBA enforcement action instructions or orders. * * *

PART 123—DISASTER LOAN PROGRAM

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

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 636(d), and 657n; Section 1110, Pub. L. 116–136, 134 Stat. 281; and Section 331, Pub. L. 116–260, 134 Stat. 1182.

§ 123.17 [Amended]

■ 35. Amend § 123.17 by removing the words ''lead-based paint,'' and removing the words ''§§ 120.170 through 120.175'' and inserting ''§§ 120.170 through 120.172, 120.174 and 120.175'' in their place.

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2022–13483 Filed 6–29–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0994; Airspace Docket No. 21–AGL–14]

RIN 2120–AA66

Amendment of VOR Federal Airways V–7, V–341, and V–493; in the Vicinity of Menominee, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–7, V–341, and V–493, in the vicinity of Menominee, MI. The airway amendments are necessary due to the planned decommissioning of the VOR portion of the Menominee, MI, VOR/Distance Measuring Equipment (DME) navigational aid (NAVAID). The Menominee VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (VOR MON) program.

DATES: Effective date 0901 UTC, September 8, 2022. 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.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a noticed of proposed rulemaking for Docket No. FAA–2021–0994 in the **Federal Register** (86 FR 67377; November 26, 2021), amending VOR Federal airways V–7, V–341, and V–493 in the vicinity of Menominee, MI. The proposed amendments were due to the planned decommissioning of the VOR portion of the Menominee, MI, VOR/DME NAVAID. The FAA invited interested parties to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraphs 6010(a) of FAA Order JO 7400.11F, dated August 20, 2021, and effective September 15, 2021, which are incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in