

it gives a service provider access to that information. The credit union should exercise appropriate due diligence in managing and monitoring its outsourcing arrangements to confirm that its service providers have implemented an effective information security program to protect member information and member information systems consistent with these Guidelines.

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 121 and 123

#### Pre-Disaster Mitigation Loans

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Proposed rule.

**SUMMARY:** With this rule SBA proposes to amend its Pre-Disaster Mitigation Loan Program (program) regulations. This rule proposes amendments that will clarify program requirements and procedures. The Pre-Disaster Mitigation Loan Program is a pilot program that was authorized by Congress in 1999. It allows SBA to make low interest, fixed rate loans to small businesses for the purpose of implementing mitigation measures to protect their property from disaster related damage. The Pre-Disaster Mitigation Loan Program was developed in support of Project Impact, a formal mitigation program established by the Federal Emergency Management Agency (FEMA).

**DATES:** Submit comments on or before July 14, 2000.

**ADDRESSES:** Written comments should be sent to Bernard Kulik, Associate Administrator, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Bernard Kulik, Associate Administrator, Office of Disaster Assistance, 202-205-6734.

**SUPPLEMENTARY INFORMATION:** SBA proposes to amend its regulations dealing with the Pre-Disaster Mitigation Loan Program (program). This proposed rule would clarify the application and loan approval processes and will make plain language edits to support the Administration's efforts to communicate clearly with the public.

The Pre-Disaster Mitigation Loan Program is a pilot program authorized by Congress at a level of 15 million dollars for each of 5 fiscal years from 2000 through 2004. The program allows SBA to make low interest, fixed rate

loans to small businesses for the purpose of implementing mitigation measures that will protect the small business from disaster related damage. The Pre-Disaster Mitigation Loan Program was developed in support of Project Impact, a formal mitigation program established by FEMA. These initiatives encourage preparedness rather than rely solely on a response and recovery approach to emergency management.

#### Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA has determined that this proposed rule is a significant rule within the meaning of Executive Order 12866. However, it is not likely to have an annual economic effect of \$100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. Given that Congress has limited the funding level for this pilot program, the program can only serve a limited number of small businesses. With a maximum loan amount of \$50,000, the number of small businesses affected under this program would be 300. Even if the loan amounts did not reach the maximum level, and amounted to only \$25,000 per loan, the number of small businesses affected would only be 600. This is not substantial, in view of the fact that there are some 13-16 million small businesses across the country.

For the purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has submitted the Pre-Disaster Mitigation Small Business Loan Application (application) to the Office of Management and Budget (OMB) for review. SBA is requesting that OMB approve or disapprove of this collection of information within 30 days of submission. This application will allow small businesses to apply for pre-disaster mitigation loans and will provide SBA with the information necessary to evaluate applicants. The application will request such information as name, address, location and type of mitigation project, type of business, management information, organization type, and financial information to permit SBA to determine repayment ability. The applicant will have to complete an application each

time it applies for a pre-disaster mitigation loan. SBA estimates that the time necessary to complete an application for the Pre-Disaster Mitigation Loan Program will average 2 hours.

SBA is seeking comments on: (a) Whether the information SBA proposes to collect on the application is necessary for the proper performance of this program, (b) the accuracy of the burden estimate (time estimated to complete the application), (c) ways to minimize the burden estimate, and (d) ways to enhance the quality of the information being collected. Please send comments regarding this proposed collection to Bernard Kulik, Associate Administrator, Office of Disaster Assistance, 409 3rd Street, SW., Washington, DC 20416, and to David Rostker, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

For purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications.

For purposes of Executive Order 12988, SBA certifies that this proposed rule is drafted, to the extent practicable, to be in accordance with the standards set forth in section 3 of that Order.

#### List of Subjects

##### 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small businesses.

##### 13 CFR Part 123

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

For the reasons stated in the preamble, SBA proposes to amend 13 CFR parts 121 and 123 as follows:

#### PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for part 121 is revised to read as follows:

**Authority:** 15 U.S.C. 632(a), 634(b)(6), 636(b), 636(c), 637(a), 644(c); 42 U.S.C. 13556; and Sec. 601 *et. seq.*, Pub. L. 105-135, 111 Stat. 2592.

2. In § 121.302, remove the last sentence of paragraph (c) and add two new sentences in its place to read as follows:

##### § 121.302 When does SBA determine the size status of an applicant?

\* \* \* \* \*

(c) \* \* \* For pre-disaster mitigation loans, size status is determined as of the date SBA accepts a complete Pre-

Disaster Mitigation Small Business Loan Application for processing. Refer to § 123.408 of this chapter to find out what SBA considers to be a complete Pre-Disaster Mitigation Small Business Loan Application.

\* \* \* \* \*

## **PART 123—DISASTER LOAN PROGRAM**

1. The authority citation for part 123 is revised to read as follows:

**Authority:** 15 U.S.C. 634(b)(6), 636(b), and 636(c).

2. Designate the undesignated center headings, Overview, Home Disaster Loans, Physical Disaster Business Loans, Economic Injury Disaster Loans, and Pre-Disaster Mitigation Loans and the sections under each as Subparts A, B, C, D, and E respectively.

### **Subpart A—Overview**

3. Redesignate § 123.107 as § 123.21, and transfer it to newly designated Subpart A, and revise it as follows:

#### **§ 123.21 What is a mitigation measure?**

A mitigation measure is something done for the purpose of protecting real and personal property against disaster related damage. You may implement mitigation measures after a disaster occurs, to protect against recurring disaster related damage, or before a disaster occurs (pre-disaster), to protect against future disaster related damage. Sections 123.400 through 123.413 specifically address pre-disaster mitigation. Examples of mitigation measures include retaining walls, sea walls, grading and contouring land, elevating flood prone structures, relocating utilities, retrofitting structures to protect against high winds, earthquakes, flood, wildfires, or other natural disasters.

4. Add § 123.22 to Subpart A to read as follows:

#### **§ 123.22 How much can your business borrow for mitigation?**

For mitigation measures implemented after a disaster has occurred your business can borrow the lesser of the cost of mitigation measure, or 20 percent of the amount of your approved physical disaster loan to repair or replace your damaged primary residence, personal property, and business property. To find out how much your business can borrow for pre-disaster mitigation measures, see § 123.405.

5. Add § 123.23 to Subpart A to read as follows:

#### **§ 123.23 Can you request a loan increase to use for mitigation measures?**

Yes, you can request a loan increase to use for mitigation measures by sending SBA a written request before the final disbursement of your original disaster loan. The written request must detail the nature and expected cost of the mitigation measure. If you send a written request for a loan increase after the final disbursement of your original disaster loan, SBA will only accept this request if, as a part of the request, you demonstrate that the request was late because of substantial reasons beyond your control.

6. Revise newly designated Subpart E to read as follows:

### **Subpart E—Pre-Disaster Mitigation Loans**

Sec.

123.400 What is the Pre-Disaster Mitigation Loan Program?

123.401 What types of mitigating measures can your business include in an application for a pre-disaster mitigation loan?

123.402 Can your business include its relocation as a mitigation measure in an application for a pre-disaster mitigation loan?

123.403 When is your business eligible to apply for a pre-disaster mitigation loan?

123.404 When is your business ineligible to apply for a pre-disaster mitigation loan?

123.405 How much can your business borrow with a pre-disaster mitigation loan?

123.406 What is the interest rate on a pre-disaster mitigation loan?

123.407 When does your business apply for a pre-disaster mitigation loan and where does your business get the application?

123.408 How does your business apply for a pre-disaster mitigation loan?

123.409 Which pre-disaster mitigation loan requests will SBA consider for funding?

123.410 When will SBA make funding decisions?

123.411 Which loan requests will SBA fund?

123.412 What if SBA determines that your business loan request meets the selection criteria of § 123.409 but SBA is unable to fund it because SBA has already allocated all program funds?

123.413 What happens if SBA declines your business' pre-disaster loan request?

### **Subpart E—Pre-Disaster Mitigation Loans**

#### **§ 123.400 What is the Pre-Disaster Mitigation Loan Program?**

The Pre-Disaster Mitigation Loan Program allows SBA to make low interest, fixed rate loans to small businesses for the purpose of implementing mitigation measures to protect their commercial real property (building) or leasehold improvements

from disaster related damage. This program supports Project Impact, a formal mitigation program established by the Federal Emergency Management Agency (FEMA). This pilot program is authorized for 5 fiscal years (October—September), from 2000 through 2004, and has approved only limited program funding. Therefore, approved loan requests are funded on a first come, first serve basis up to the limit of program funds available (see § 123.411).

#### **§ 123.401 What types of mitigation measures can your business include in an application for a pre-disaster mitigation loan?**

To be included in a pre-disaster mitigation loan application, each of your business' mitigation measures must satisfy the following criteria:

(a) The mitigation measure, as described in the application, must serve the purpose of protecting your commercial real property (building) or leasehold improvements from damage that may be caused by future disasters, and

(b) The mitigation measure must conform with the priorities and goals of the Project Impact community in which the business subject to the measure is located. To show that this factor is satisfied your business must submit to SBA, as a part of your complete application, a letter from your business' local Project Impact coordinator confirming this fact. Contact your regional FEMA office for a list of Project Impact coordinators or visit the FEMA Website at [www.fema.gov](http://www.fema.gov).

#### **§ 123.402 Can your business include its relocation as a mitigation measure in an application for a pre-disaster mitigation loan?**

Yes, you may request a pre-disaster mitigation loan for the relocation of your business if: (a) Your commercial real property (building) is located in a SFHA (Special Flood Hazard Area), and (b) your business relocates outside the SFHA but remains in the same Project Impact community. Contact your regional FEMA office for a listing of Project Impact Communities and SFHAs or visit the FEMA Website at [www.fema.gov](http://www.fema.gov).

#### **§ 123.403 When is your business eligible to apply for a pre-disaster mitigation loan?**

To be eligible to apply for a pre-disaster mitigation loan your business must meet each of the following criteria:

(a) Your business, which is the subject of the pre-disaster mitigation measure, must be located in a Project Impact community. Each State, the District of Columbia, Puerto Rico, and the Virgin Islands have at least one Project Impact

community. Contact your regional FEMA office to find out the locations of Project Impact communities or visit the FEMA Website at [www.fema.gov](http://www.fema.gov).

(b) If your business is proposing a mitigation measure that protects against a flood hazard, the location of your business which is the subject of the mitigation measure must be located in a Special Flood Hazard Area (SFHA). Contact your FEMA regional office to find out the locations of SFHAs or visit the FEMA Website at [www.fema.gov](http://www.fema.gov).

(c) As of the date your business submits a complete Pre-Disaster Mitigation Small Business Loan Application to SBA (see § 123.408 for what SBA considers to be a complete application), your business, along with its affiliates, must be a small business concern as defined in part 121 of this chapter. The definition of small business concern encompasses sole proprietorships, partnerships, corporations, limited liability companies, and other legal entities recognized under State law.

(d) Your business, which is the subject of the mitigation measure, must have operated as a business in its present location for at least one year before submitting its application.

(e) Your business, along with its affiliates and owners, must not have the financial resources to fund the proposed mitigation measures without undue hardship. SBA makes this determination based on the information your business submits as a part of its application.

(f) If your business is owning and leasing out real property, the mitigation measures must be for protection of a building leased primarily for commercial rather than residential purposes (SBA will determine this based upon a comparative square footage basis).

**§ 123.404 When is your business ineligible to apply for a pre-disaster mitigation loan?**

Your business is ineligible to apply for a pre-disaster mitigation loan if your business (including its affiliates) satisfies any of the following conditions:

(a) Any of your business' principal owners is presently incarcerated, or on probation or parole following conviction of a serious criminal offense, or has been indicted for a felony or a crime of moral turpitude;

(b) Your business' only interest in the business property is in the form of a security interest, mortgage, or deed of trust;

(c) The building, which is the subject of the mitigation measure, was newly constructed or substantially improved on or after February 9, 1989, and (without significant business

justification) is located seaward of mean high tide or entirely in or over water;

(d) Your business is an agricultural enterprise. Agricultural enterprise means a business primarily engaged (see § 121.107) in the production of food and fiber, ranching and raising of livestock, aquaculture and all other farming and agriculture-related industries.

Sometimes a business is engaged in both agricultural and non-agricultural business activities. If the primary business activity of your business is not an agricultural enterprise, it may apply for a pre-disaster mitigation loan, but loan proceeds may not be used, directly or indirectly, for the benefit of the agricultural enterprises;

(e) Your business is engaged in any illegal activity;

(f) Your business is a government owned entity (except for a business owned or controlled by a Native American tribe);

(g) Your business presents live performances of a prurient sexual nature or derives directly or indirectly more than de minimis gross revenue through the sale of products or services, or the presentation of any depictions or displays, of a prurient sexual nature;

(h) Your business engages in lending, multi-level sales distribution, speculation, or investment (except for real estate investment with property held for commercial rental);

(i) Your business is a non-profit or charitable concern;

(j) Your business is a consumer or marketing cooperative;

(k) Your business derives more than one-third of its gross annual revenue from legal gambling activities;

(l) Your business is a loan packager that earns more than one-third of its gross annual revenue from packaging SBA loans;

(m) Your business principally engages in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting; or

(n) Your business is primarily engaged in political or lobbying activities.

**§ 123.405 How much can your business borrow with a pre-disaster mitigation loan?**

Your business, together with its affiliates, may borrow up to \$50,000 each fiscal year. This loan amount may be used to fund only those projects that were a part of your business' approved loan request. SBA will consider mitigation measures costing more than \$50,000 per year if your business can identify, as a part of its Pre-Disaster Mitigation Small Business Loan Application, sources that will fund the cost above \$50,000.

**§ 123.406 What is the interest rate on a pre-disaster mitigation loan?**

The interest rate on a pre-disaster mitigation loan will be fixed at 4 percent per annum or less. The exact interest rate will be stated in the **Federal Register** notice announcing each filing period (see § 123.407).

**§ 123.407 When does your business apply for a pre-disaster mitigation loan and where does your business get an application?**

At the beginning of each of 5 fiscal years (October through September) commencing in fiscal year 2000, SBA will publish a notice in the **Federal Register** announcing the availability of pre-disaster mitigation loans. The notice will designate a 30-day application filing period with a specific opening date and filing deadline, as well as the locations for obtaining and filing loan applications. In addition to the **Federal Register**, SBA will use FEMA, and will issue press releases to the local media to inform potential loan applicants where to obtain loan applications. SBA will not accept any applications after the filing deadline; however, SBA may announce additional application periods each year depending on the availability of program funds.

**§ 123.408 How does your business apply for a pre-disaster mitigation loan?**

To apply for a pre-disaster mitigation loan your business must submit a complete Pre-Disaster Mitigation Small Business Loan Application (application) within the announced filing period. The complete application serves as your business' loan request. A complete application supplies all of the filing requirements specified on the application form including a written statement from the local Project Impact coordinator confirming:

(a) The business that is the subject of the mitigation measure is located within the Project Impact community, and

(b) The mitigation measure is in accordance with the specific priorities and goals of the local Project Impact community in which the business is located.

**§ 123.409 Which pre-disaster mitigation loan requests will SBA consider for funding?**

SBA will consider a loan request for funding if, after reviewing a complete application, SBA determines that it meets the following selection criteria:

(a) Your business satisfies the requirements of §§ 123.401, 123.402 and 123.403,

(b) None of the conditions specified in § 123.404 apply to your business, its affiliates, or principal owners,

(c) Your business has submitted a reasonable cost estimate for the proposed mitigation measure and has chosen to undertake a mitigation measure that is likely to accomplish the desired mitigation result (SBA's determination of this point is not a guaranty that the project will prevent damage in future disasters),

(d) Your business is credit worthy, and

(e) There is a reasonable assurance of loan repayment in accordance with the terms of a loan agreement.

#### § 123.410 When will SBA make funding decisions?

SBA will not make funding decisions until sixty calendar days after the announced opening of the application filing period (as published in the **Federal Register**). SBA will notify you in writing if your loan request doesn't meet the criteria specified in § 123.409.

#### § 123.411 Which loan requests will SBA fund?

SBA will date and time stamp each application (loan request) when we determine that it is complete. SBA will fund loan requests meeting the selection criteria specified in § 123.409 on a first come, first served basis using this date and time stamp. SBA will fund loan requests in this order until it allocates all program funds. SBA will notify you in writing of its funding decision.

#### § 123.412 What if SBA determines that your business loan request meets the selection criteria of § 123.409 but SBA is unable to fund it because SBA has already allocated all program funds?

If SBA determines that your business' loan request meets the selection criteria of § 123.409 but we are unable to fund it because we have already allocated all program funds, your request will be given priority status, based on the original filing date, once more program funds become available. However, if more than 6 months pass since SBA determined to fund your request, SBA may request updated or additional financial information.

#### § 123.413 What happens if SBA declines your business' pre-disaster mitigation loan request?

If SBA declines your business' loan request, SBA will notify your business in writing giving specific reasons for decline. If your business disagrees with SBA's decision, it may respond in accordance with § 123.13. If SBA reverses its decision, SBA will use the date it accepted your business' request for reconsideration or appeal as the basis for determining the order of funding.

Dated: May 25, 2000.

**Aida Alvarez,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-CE-29-AD]

RIN 2120-AA64

#### Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900, 1900C, and 1900D Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Company (Raytheon) Beech Models 1900, 1900C, and 1900D airplanes. The proposed AD would require you to modify the cockpit voice recorder (CVR) system. The proposed AD is the result of instances where the recording quality of the CVR in the affected airplanes was so poor that the information was practically unrecoverable. The actions specified by the proposed AD are intended to correct substandard quality cockpit voice recordings caused by the configuration of the present CVR system, which could affect air safety if important information that the CVR provides is not available after an accident. This information helps determine the probable cause of an accident and aids in developing necessary corrective action or design changes to prevent future accidents.

**DATES:** The Federal Aviation Administration (FAA) must receive any comments on this rule on or before August 11, 2000.

**ADDRESSES:** Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-29-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Raytheon Aircraft Company, PO Box 85, Wichita, Kansas 67201-0085; telephone: (800) 625-7043 or (316) 676-4556. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harvey E. Nero, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4137; facsimile: (316) 946-4407.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption "ADDRESSES." The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we presently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at <http://www.plainlanguage.gov>.

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000-CE-29-AD." We will date stamp and mail the postcard back to you.

##### Discussion

##### *What Events Have Caused This Proposed AD?*

The FAA has received reports of six instances where the recording quality of