

Lenders and CDCs also will be expected to certify on the applicable eligibility checklist that no loan proceeds will be used for a restricted use. In addition, on 7(a) Recovery Act loan guaranties it will be the responsibility of the borrower to certify that it will not use any working capital loan proceeds for any restricted use. For all Recovery Act loan guaranties for the construction, acquisition or renovation of any business that has a restricted use, it will be the responsibility of the borrower to certify that it has obtained alternate funding which may come from the borrower's equity injection to pay the costs reasonably and in good faith estimated to be allocable to the restricted use. Failure by a lender to accurately identify a restricted use for a Recovery Act loan and remit appropriate fees within 90 days of loan approval or within 90 days of publication of this Notice, whichever is later, may result in SBA's denial of liability on the loan. Please refer to SBA Policy Notice 5000-1105 for further guidance on restricted uses of Recovery Act loan proceeds.

For 7(a) loans, the eligibility questionnaire and checklists for the Standard 7(a), Small/Rural Lender Advantage, PLP, SBA Express and Pilot Loan Programs have been modified to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (The Standard 7(a) Eligibility Questionnaire can be found at <http://www.sba.gov/aboutsba/sbaprograms/elending/lgpc/forms/index.html>. The Small/Rural Lender Advantage (S/RLA) eligibility checklist (SBA Form 2301-C) can be found at <http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html>.)

The PLP Eligibility Checklist can be found at http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_plpchecklist.pdf. The SBA Express and Pilot Loan Program checklists (SBA Form 1920SX, Part C) can be found at <http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html>.) In addition, for eligibility authorized SBA Express loans, SBA Form 2238 has been modified to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (SBA Form 2238, SBA Express/Patriot Express Guarantee Request (Eligibility Authorized) can be found at http://www.sba.gov/idc/groups/public/documents/sba_homepage/sba_forms_2238.pdf.)

For 504 loans, the 504 and PCLP eligibility checklists have been modified

to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (The 504 Eligibility Checklist can be found at http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_504checklist_submission.pdf. The PCLP Eligibility Information (Form 2234) can be found at http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_pclpchecklist2234c.doc.)

Additional Requirements

All other provisions of the Small Business Act and the Small Business Investment Act applicable to the 7(a) and 504 programs and the regulations promulgated thereunder that are not superseded by the relevant provisions of the Recovery Act will continue to apply to loans made under the Recovery Act.

Lenders, CDCs, and/or borrowers may be subject to additional reporting or recordkeeping requirements in connection with loans under the Recovery Act. Lenders completing Form 1086 for the sale of Recovery Act loans on the secondary market are advised to use the loan approval date for the guaranty fee "paid on" date.

SBA may provide further guidance, if needed, through SBA notices published on SBA's Web site, www.sba.gov.

Authority: Public Law 111-5, Div. A, Title V, Section 501, 123 Stat. 115.

Karen G. Mills,
Administrator.

[FR Doc. E9-13306 Filed 6-5-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Business Loan Program Temporary Increased Guaranty Percentage

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice and request for comments.

SUMMARY: This Notice formalizes the implementation of Section 502 of the American Recovery and Reinvestment Act of 2009. Section 502 temporarily permits SBA to guarantee up to 90 percent of qualifying small business loans. The increase in maximum guaranty percentage is intended to promote economic recovery by encouraging lenders to make small business loans by reducing their exposure to risk. While these changes have been implemented and are under way, this Notice contains the key provisions of SBA's implementation of

Section 502 in formal guidance and requests public comment.

DATES: *Effective Date:* This Notice is effective June 8, 2009.

Applicability Date: This Notice applies to 7(a) loan applications (or requests for loan numbers submitted through delegated lender processes, except SBA Express) received by SBA on or after March 16, 2009 until funds made available for this purpose are exhausted.

Comment Date: Comments must be received on or before July 8, 2009.

ADDRESSES: You may submit comments, identified by number SBA-2009-0004 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Recovery Act Comments—Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Suite 8300, Washington, DC 20416.

- *Hand Delivery/Courier:* Grady Hedgespeth, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416. SBA will post all comments on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.regulations.gov, please submit the information to Grady Hedgespeth, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, or send an e-mail to recovery.act@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: The SBA district office nearest you; the list of offices can be found at <http://www.sba.gov/localresources/index.html>.

SUPPLEMENTARY INFORMATION:

I. Background Information

America's financial crisis has created adverse conditions that are affecting small businesses, including a lack of liquidity in the lending system, a reluctance of many lenders to extend new loans, tightened credit standards, weaker finances at small businesses, and uncertainty about taking on new debt on the part of many entrepreneurs. As a result, lending by SBA program participants has significantly declined and SBA's ability to ensure small

business access to capital has been limited.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (the "Recovery Act") (Pub. L. 111-5, 123 Stat. 115) to promote economic recovery by preserving and creating jobs, and to assist those most affected by the severe economic conditions facing the nation. The SBA received funding and authority through the Recovery Act to modify existing loan programs and establish new loan programs to significantly stimulate small business lending. It is expected that SBA's actions will increase access to affordable credit for small businesses through the Agency's 7(a) and 504 loan programs, unfreeze the secondary market for SBA guaranteed loans, help small businesses struggling with existing debt, and allow greater investment in high-growth small businesses.

To this end, Section 502 of the Recovery Act temporarily permits SBA to guarantee up to 90 percent of 7(a) loans, except for loans made under the SBA Express program. SBA Express loans will continue to have a maximum guaranty of 50 percent. Providing a higher guaranty will provide an incentive to lenders to expand their SBA lending and make loans to America's small businesses with confidence. A more detailed discussion of Section 502 of the Recovery Act follows.

II. Comments

The intent of the Recovery Act is that SBA provide relief to America's small businesses as quickly and effectively as possible. This along with the current economic conditions provided good cause for SBA moving forward prior to receiving public comments. Although Section 502 has been implemented and this Notice is effective immediately, comments are solicited from interested members of the public on all aspects of the Notice including the formal guidance set forth in the section below. These comments must be submitted on or before July 8, 2009. The SBA will consider these comments and the need for making any revisions as a result of these comments.

III. Business Loan Temporary Increase in Maximum Guaranty Percentage

Overview

The Recovery Act was enacted to promote economic recovery by preserving and creating jobs, and assisting those most impacted by the severe economic conditions facing the nation. Among the SBA provisions

contained in the Recovery Act are provisions authorizing SBA to temporarily permit an increase in the maximum guaranty percentage of up to 90 percent on qualifying small business loans. The following outlines the key guidance of section 502 of the Recovery Act as implemented.

Applicability Date of the Increase in Maximum Guaranty Percentage

Lenders may request the increase in the maximum guaranty percentage of up to 90 percent for qualifying small business loan applications (or requests for loan numbers submitted through delegated lender processes, except SBA Express) received by SBA on or after March 16, 2009. The Recovery Act provides that the increase in the maximum guaranty percentage will sunset on the earlier of February 17, 2010 or such date as funds made available for this purpose are exhausted. Depending on loan volume in the 7(a) program, SBA estimates that the increased guaranty percentage will be available through approximately December 31, 2009. SBA will notify the public when funds made available for this purpose are exhausted. The increase in the maximum guaranty percentage of up to 90 percent provided in this Notice temporarily supersedes any provision that conflicts in 13 CFR 120.210.

Qualifying Small Business Loans

The Recovery Act defines a "qualifying small business loan" as "any loan to a small business concern pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636) or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 and following) except for such loans made under section 7(a)(31)." (Loans made under section 7(a)(31) of the Small Business Act are loans made under the SBA Express program and because these loans are excluded from guarantee increases under the Recovery Act, they will continue to have a maximum guaranty of 50 percent.) With the exception of loans made under the SBA Express Program, SBA will consider any 7(a) loan, including Pilot Loan Program loans made under the Patriot Express, Community Express, Export Express and Gulf Opportunity (GO) Loan programs, to be a qualifying small business loan.

Qualified Borrower

The Recovery Act also defines the term "Qualified Borrower." The Recovery Act states that a loan guarantee may not be made to a small business concern "if an individual who

is an alien unlawfully present in the United States (A) has an ownership interest in that concern; or (B) has an ownership interest in another concern that itself has an ownership interest in that concern." (Section 502(c)(1).) SBA currently has a process in place to verify that an alien with ownership interest in a small business applicant is lawfully in the United States. This process is set forth in SBA's Standard Operating Procedure (SOP) 50 10 5(A), Subpart B, Chapter 2. (SBA's SOP 50 10 5(A) can be found at <http://www.sba.gov/aboutsba/sbaprograms/elending/reg/index.html>.)

In addition, the eligibility questionnaire and checklists for the Standard 7(a), Small/Rural Lender Advantage (S/RLA), Preferred Lender Program (PLP), and Pilot Loan Programs have been modified to include an additional statement that, for loans made under the Recovery Act, no individual who is an unauthorized alien has an ownership interest in another concern that itself has an ownership interest in the applicant. (The Standard 7(a) Eligibility Questionnaire can be found at <http://www.sba.gov/aboutsba/sbaprograms/elending/lgpc/forms/index.html>. The S/RLA eligibility checklist (SBA Form 2301-C) can be found at <http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html>. The PLP Eligibility Checklist can be found at http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_plpchecklist.pdf. The Pilot Loan Programs eligibility checklist (SBA Form 1920SX, Part C) can be found at <http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html>.)

The Recovery Act also states that a loan guarantee may not be made under this section "for a loan to any entity found, based on a determination by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien." (Section 502(c)(2).) To help ensure that an SBA loan guarantee is not made to such an entity, SBA will require each small business that receives a loan under this Act to certify that the business has not been determined by the Secretary of the Department of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee for employment in the United States an alien knowing the person is an unauthorized alien. Version 2009.2 of the 7(a) Loan Authorization Boilerplate

is available and incorporates this certification for Standard 7(a), Certified Lender Program (CLP), S/RLA, and PLP loans. For any Pilot Loan Program loans, the lender will be responsible for adding this requirement to the lender's authorization. (The Authorizations may be found at <http://www.sba.gov/aboutsba/sbaprograms/elending/authorizations/index.html>.)

In addition to providing this certification, as with all 7(a) loan applications, every proprietor, partner, officer, director and owner of 20% or more of the applicant must complete a Statement of Personal History (SBA Form 912). (SBA Form 912 can be found at <http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html>.) This form requires the disclosure of whether: (1) The individual is presently under indictment, on parole or probation; (2) has ever been charged with and/or arrested for any criminal offense other than a minor motor vehicle violation, including offenses which have been dismissed, discharged or not prosecuted; and (3) has ever been convicted, placed on pretrial diversion, or placed on any form of probation, including adjudication withheld pending probation, for any criminal offense other than a minor vehicle violation. Thus, any violations of immigration laws would be required to be disclosed on this form.

Funding

Lenders may request the increased guaranty percentage of up to 90 percent for qualifying small business loan applications (or requests for loan numbers submitted under the delegated lending processes, except SBA Express) received by SBA on or after March 16, 2009. The increased guaranty percentage of up to 90 percent will be available until the earlier of February 17, 2010 or such date as funds made available for this purpose are exhausted. Depending on loan volume in the 7(a) program, SBA estimates that the increased guaranty percentage will be available through approximately December 31, 2009. SBA will notify the public when funds made available for this purpose are exhausted.

Use of Proceeds Restriction

Section 1604 of the Recovery Act provides that none of the funds appropriated or otherwise made available through the Recovery Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. For

otherwise eligible loans to these small businesses or for these uses, lenders may continue to submit applications or requests for loan numbers in accordance with SOP 50 10 5(A), with a maximum guaranty percentage of 75/85 percent, depending on the loan amount, and pay all applicable fees. For Recovery Act loan guaranties, it will be the responsibility of the lender to document in the credit memorandum that the applicant's use of proceeds does not include a restricted use or, if there is a restricted use component, the lender must document the other resources that the borrower has obtained to pay the costs allocable to the restricted use component. Lenders also will be expected to certify on the applicable eligibility checklist that no loan proceeds will be used for a restricted use. In addition, it will be the responsibility of the borrower to certify that it will not use any working capital loan proceeds for any restricted use. For all Recovery Act loan guaranties for the construction, acquisition or renovation of any business that has a restricted use, it will be the responsibility of the borrower to certify that it has obtained alternate funding which may come from the borrower's equity injection to pay the costs reasonably and in good faith estimated to be allocable to the restricted use. Failure by a lender to accurately identify a restricted use for a Recovery Act loan and reduce the guaranty percentage and remit appropriate fees within 90 days of loan approval or within 90 days of publication of this Notice, whichever is later, may result in SBA's denial of liability on the loan. Please refer to SBA Policy Notice 5000-1105 for further guidance on restricted uses of Recovery Act loan proceeds.

The eligibility questionnaire and checklists for the Standard 7(a), S/RLA, PLP, and Pilot Loan Programs have been modified to include an additional statement that, for loans made under the Recovery Act, no proceeds will be used for a restricted use. (The Standard 7(a) Eligibility Questionnaire can be found at <http://www.sba.gov/aboutsba/sbaprograms/elending/lgpc/forms/index.html>. The S/RLA eligibility checklist (SBA Form 2301-C) can be found at <http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html>. The PLP Eligibility Checklist can be found at http://www.sba.gov/idc/groups/public/documents/sba_program_office/bank_plpchecklist.pdf. The Pilot Loan Programs eligibility checklist (SBA Form 1920SX, Part C) can be found at [\[smallbusinessforms/fsforms/index.html\]\(http://www.sba.gov/tools/Forms/smallbusinessforms/fsforms/index.html\).\)](http://www.sba.gov/tools/Forms/</p></div><div data-bbox=)

Additional Requirements

All other provisions of the Small Business Act (15 U.S.C. 636) applicable to the 7(a) loan program and regulations promulgated thereunder that are not superseded by the relevant provisions of the Recovery Act will continue to apply to loans made under the Recovery Act.

Lenders and borrowers may be subject to additional reporting or recordkeeping requirements in connection with loans under the Recovery Act.

Cancellation and Resubmission of Loans Approved Prior to March 16, 2009

The purpose of the Recovery Act is to stimulate new lending. A loan cancelled and then resubmitted to obtain the increased guaranty percentage does not stimulate new lending and, therefore, is ineligible for Recovery Act treatment. Therefore, SBA will not permit cancelled 7(a) loans, which were approved prior to March 16, 2009 (the implementation date of Section 502 of the Recovery Act) to be resubmitted as Recovery Act loans eligible for a maximum guaranty percentage of up to 90%, unless the resubmitted loan is not a replacement for the original loan, as determined by SBA on a case by case basis.

Requests for a determination that it is not merely a replacement loan must be submitted by the lender to the Standard 7(a) Loan Guaranty Processing Center. The request will be reviewed and a recommendation will be forwarded to the Director/Office of Financial Assistance for approval. In making a case by case determination on resubmitted loans, the existence of one or more of the following factors will make it more likely that SBA will approve the request: (i) The loan was cancelled for reasons other than the passage of the Recovery Act (e.g., the loan was cancelled because the location for the new business was not available; subsequently another location became available and a new loan was approved); (ii) the new loan is for a different purpose (e.g., the original loan was for working capital but the new loan is for the acquisition of real estate); (iii) the new loan is likely to achieve additional economic stimulus (e.g., the previous loan would have preserved jobs but the new loan will also create jobs); or (iv) the new loan could not be made but for the provisions of the Recovery Act (e.g., the loan was cancelled because the borrower failed to meet a key provision (e.g., appraisal value) in the original loan authorization and, therefore, the lender would not make the loan now

but for the higher guaranty level). Based on past cancellation experience in SBA's loan programs, SBA expects that only a limited number of borrowers with cancelled/resubmitted loans will meet the criteria for a new loan with a higher guaranty percentage.

Changes to all loans approved prior to March 16, 2009, including loan increases, will be processed as changes to the original loan in accordance with SBA's standard practice.

SBA will provide further guidance as necessary, through SBA notices published on SBA's Web site, <http://www.sba.gov>.

Questions on the increased maximum guaranty percentage may be directed to the Lender Relations Specialist in the local SBA district office. The local SBA district office may be found at <http://www.sba.gov/localresources/index.html>.

Authority: Public Law 111-5, Div. A, Title V, Section 502, 123 Stat. 115.

Karen G. Mills,
Administrator.

[FR Doc. E9-13307 Filed 6-5-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11766 and # 11767]

Kentucky Disaster # KY-00022

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA-1841-DR), dated 05/29/2009.

Incident: Severe Storms, Tornadoes, Flooding, and Mudslides.

Incident Period: 05/03/2009 Through 05/20/2009.

Effective Date: 05/29/2009.

Physical Loan Application Deadline Date: 07/28/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 03/01/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/29/2009, applications for disaster

loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Breathitt, Floyd, Owsley, Pike.

Contiguous Counties (Economic Injury Loans Only):

Kentucky: Clay, Jackson, Johnson, Knott, Lee, Letcher, Magoffin, Martin, Perry, Wolfe.

Virginia: Buchanan, Dickenson, Wise.
West Virginia: Mingo.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.875
Homeowners Without Credit Available Elsewhere	2.437
Businesses With Credit Available Elsewhere	6.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11766B and for economic injury is 117670

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-13309 Filed 6-5-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

SBA North Florida District Advisory Council

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the SBA North Florida District Advisory Council. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, June 24th from 12 p.m. to 2:30 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the Florida Institute of Human and Machine Cognition located at 40 South Alcaniz Street, Pensacola, Florida 32502.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the SBA North Florida District Advisory Council. The SBA North Florida District Advisory Council is tasked with providing advice and opinions to SBA regarding the effectiveness of and need for SBA programs, particularly within North Florida and for listening to what is currently happening in the Florida small business community.

The purpose of the meeting is to discuss with the council the current status of small business across North Florida and to discuss the agency status under the new Administrator. The agenda includes: an overview of the status of the SBA as an agency from Wilfredo J. Gonzalez, SBA District Director, program updates from SBA staff, and an open forum to hear from the members of the council/audience.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the SBA North Florida District Advisory Council must contact Lola Kress Naylor by June 19th, 2009, by fax or e-mail in order to be placed on the agenda. Lola Kress Naylor, Business Development Specialist, SBA North Florida District Office, lola.naylor@sba.gov, (904) 443-1933, fax (202) 481-4188. Additionally, if you need accommodations because of a disability or require additional information, please contact Lola Kress Naylor, Business Development Specialist, SBA North Florida District Office, lola.naylor@sba.gov, (904) 443-1933.

Dated: June 1, 2009.

Meaghan Burdick,

SBA Committee Management Officer.

[FR Doc. E9-13308 Filed 6-5-09; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice to waive the Nonmanufacturer Rule for Product Service Code (PSC) 9130—Liquid