

1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

§ 2635.204 [Amended]

■ 5. In § 2635.204, in paragraph (g)(3)(iv) and examples 1 and 4 following paragraph (g)(6), remove the dollar amount “\$390” and add in its place “\$415” wherever it occurs.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Docket No. SBA–2020–0036]

RIN 3245–AH50

Business Loan Program Temporary Changes; Paycheck Protection Program—Additional Revisions to First Interim Final Rule

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule.

SUMMARY: On April 2, 2020, the U.S. Small Business Administration (SBA) posted on its website an interim final rule relating to the implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or the Act) (published in the **Federal Register** on April 15, 2020). Section 1102 of the Act temporarily adds a new product, titled the “Paycheck Protection Program,” to the U.S. Small Business Administration’s (SBA’s) 7(a) Loan Program. Subsequently, SBA issued a number of interim final rules implementing the Paycheck Protection Program. This interim final rule revises SBA’s interim final rule published in the **Federal Register** on April 15, 2020 by changing the eligibility requirement related to felony convictions of applicants or owners of the applicant.

DATES:

Effective date: The provisions in this interim final rule are effective June 16, 2020.

Comment date: Comments must be received on or before July 20, 2020.

ADDRESSES: You may submit comments, identified by number SBA–2020–0036, through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

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 send an email to ppp-ifr@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: A Call Center Representative at 833–572–0502, or the local SBA Field Office; the list of offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

SUPPLEMENTARY INFORMATION:

I. Background Information

On March 13, 2020, President Trump declared the ongoing Coronavirus Disease 2019 (COVID–19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, territories, and the District of Columbia. With the COVID–19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, and local public health measures that are being taken to minimize the public’s exposure to the virus. These measures, some of which are government-mandated, have been implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, have been implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act or the Act) (Pub. L. 116–136) to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. The Small Business Administration (SBA) received funding and authority through the Act to modify existing loan programs and establish a new loan program to assist small businesses nationwide adversely impacted by the COVID–19 emergency.

Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans under a new program titled the “Paycheck Protection Program.” Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program.

On April 24, 2020, the President signed the Paycheck Protection Program and Health Care Enhancement Act (Pub. L. 116–139), which provided additional

funding and authority for the PPP. On June 5, 2020, the President signed the Paycheck Protection Program Flexibility Act of 2020 (Flexibility Act) (Pub. L. 116–142).

II. Comments and Immediate Effective Date

This interim final rule is effective without advance notice and public comment because section 1114 of the CARES Act authorizes SBA to issue regulations to implement Title I of the Act without regard to notice requirements. In addition, SBA has determined that there is good cause for dispensing with advance public notice and comment on the grounds that that it would be contrary to the public interest. Specifically, advance public notice and comment would defeat the purpose of this interim final rule given that SBA’s authority to guarantee PPP loans expires on June 30, 2020. These same reasons provide good cause for SBA to dispense with the 30-day delayed effective date provided in the Administrative Procedure Act. Although this interim final rule is effective on or before date of filing, comments are solicited from interested members of the public on all aspects of the interim final rule, including section III below. These comments must be submitted on or before July 20, 2020. The SBA will consider these comments, comments received on the interim final rule posted on SBA’s website April 2, 2020 (the First Interim Final Rule) and published in the **Federal Register** on April 15, 2020, and the need for making any revisions as a result of these comments.

III. Paycheck Protection Program—Additional Revisions to First Interim Final Rule (85 FR 20811)

Overview

The CARES Act was enacted to provide immediate assistance to individuals, families, and businesses affected by the COVID–19 emergency. Among the provisions contained in the CARES Act are provisions authorizing SBA to temporarily guarantee loans under a new 7(a) loan program titled the “Paycheck Protection Program.” Loans guaranteed under the Paycheck Protection Program (PPP) will be 100 percent guaranteed by SBA, and the full principal amount of the loans may qualify for loan forgiveness. The purpose of this interim final rule is to make changes to the First Interim Final Rule, posted on SBA’s website on April 2, 2020, and published in the **Federal Register** on April 15, 2020 (85 FR 20811). The First Interim Final Rule, as amended, should be interpreted

consistent with the frequently asked questions (FAQs) regarding the PPP that are posted on SBA's website¹ and the other interim final rules issued regarding the PPP.²

1. Changes to the First Interim Final Rule

Eligibility Requirements

The First Interim Final Rule provided, among other things, that a PPP loan will not be approved if an owner of 20 percent or more of the equity of the applicant has been convicted of a felony within the last five years. After further consideration, the Administrator, in consultation with the Secretary of the Treasury (the Secretary), has determined that a shorter timeframe for felonies that do not involve fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance is more consistent with Congressional intent to provide relief to small businesses and also promotes the important policies underlying the First Step Act of 2018 (Pub. L. 115–391). Therefore, Part III.2.b.iii. of the First Interim Final Rule (85 FR 20811, 20812) is revised to read as follows:

b. Could I be ineligible even if I meet the eligibility requirements in (a) above?

You are ineligible for a PPP loan if, for example:

* * * * *

iii. An owner of 20 percent or more of the equity of the applicant is incarcerated, on probation, on parole; presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of a felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance within the last five years or any other felony within the last year; or

* * * * *

2. Additional Information

SBA may provide further guidance, if needed, through SBA notices which will be posted on SBA's website at www.sba.gov. Questions on the Paycheck Protection Program may be directed to the Lender Relations Specialist in the local SBA Field Office. The local SBA Field Office may be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

¹ See <https://www.sba.gov/document/support-faq-lenders-borrowers>.

² See <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>.

Compliance With Executive Orders 12866, 12988, 13132, 13563, and 13771, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Orders 12866, 13563, and 13771

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563, and is considered a major rule under the Congressional Review Act. SBA, however, is proceeding under the emergency provision at Executive Order 12866 Section 6(a)(3)(D) based on the need to move expeditiously to mitigate the current economic conditions arising from the COVID–19 emergency. This rule's designation under Executive Order 13771 will be informed by public comment.

This rule is necessary to implement Sections 1102 and 1106 of the CARES Act and the Flexibility Act in order to provide economic relief to small businesses nationwide adversely impacted under the COVID–19 Emergency Declaration. We anticipate that this rule will result in substantial benefits to small businesses, their employees, and the communities they serve. However, we lack data to estimate the effects of this rule.

Executive Order 12988

SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. The rule has no preemptive effect but does have a limited retroactive effect consistent with section 3(d) of the Flexibility Act.

Executive Order 13132

SBA has determined that this rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various layers of government. Therefore, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

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

SBA has determined that this rule will require modification to the existing PPP information collection that is approved under OMB Control Number 3245–0407 as an emergency request until October 31, 2020. As discussed above, this rule amends the PPP eligibility requirements regarding certain felony charges. As a result of

these amendments, conforming changes will be made to Question 6 of Form 2483, *Borrower Application Form*, and Section H of Form 2484, *Lender Application Form*. SBA will submit the revisions to these forms to the Office of Management and Budget for approval.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604. Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. Such analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. The RFA defines a "small entity" as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. 5 U.S.C. 601(3)–(6). Except for such small government jurisdictions, neither State nor local governments are "small entities." Similarly, for purposes of the RFA, individual persons are not small entities.

The requirement to conduct a regulatory impact analysis does not apply if the head of the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). The agency must, however, publish the certification in the **Federal Register** at the time of publication of the rule, "along with a statement providing the factual basis for such certification." If the agency head has not waived the requirements for a regulatory flexibility analysis in accordance with the RFA's waiver provision, and no other RFA exception applies, the agency must prepare the regulatory flexibility analysis and publish it in the **Federal Register** at the time of promulgation or, if the rule is promulgated in response to an emergency that makes timely compliance impracticable, within 180 days of publication of the final rule. 5 U.S.C. 604(a), 608(b).

Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public

procedure are impracticable, unnecessary, or contrary to the public interest. Small Business Administration's Office of Advocacy guide: *How to Comply with the Regulatory Flexibility Act, Ch.1. p.9.* Accordingly, SBA is not required to conduct a regulatory flexibility analysis.

Authority: 15 U.S.C. 636(a)(36); Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, Section 1114.

Jovita Carranza,
Administrator.

[FR Doc. 2020-13130 Filed 6-16-20; 2:00 pm]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 744 and 772

[Docket No. 200611-0158]

RIN 0694-A106

Release of "Technology" to Certain Entities on the Entity List in the Context of Standards Organizations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: Huawei Technologies Co., Ltd. (Huawei) and 114 of its foreign affiliates were added to the Entity List by the Bureau of Industry and Security (BIS) in 2019, but continue to participate in many important international standards organizations in which U.S. companies also participate. As international standards serve as the building blocks for product development and help ensure functionality, interoperability, and safety of the products, it is important to U.S. technological leadership that U.S. companies be able to work in these bodies in order to ensure that U.S. standards proposals are fully considered. Since Huawei's addition to the Entity List, organizations have consequently sought clarity about U.S. industry participation in standards development. BIS is amending the Export Administration Regulations (EAR) to authorize the release of certain technology to Huawei and its affiliates on the Entity List without a license if such release is made for the purpose of contributing to the revision or development of a "standard" in a "standards organization." For the purpose of this interim final rule, a "standard" is as defined in Office of Management and Budget (OMB)

Circular A-119: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities, and a "standards organization," is the equivalent of a "voluntary consensus standards body" as defined in Office of Management and Budget (OMB) Circular A-119: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities. This interim final rule does not change the assessment of whether "technology" is subject to the EAR. BIS is requesting comments on the impact of these revisions.

DATES: This rule is effective June 18, 2020. Submit comments on or before August 17, 2020.

ADDRESSES: You may submit comments, identified by docket number BIS 2020-0017 or RIN 0694-A106, through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

All filers using the portal should use the name of the person or entity submitting comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referencing the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC." Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page. The corresponding non-confidential version of those comments must be clearly marked "PUBLIC." The file name of the non-confidential version should begin with the character "P." The "BC" and "P" should be followed by the name of the person or entity submitting the comments or rebuttal comments. All filers should name their files using the name of the person or entity submitting the comments. Any submissions with file names that do not begin with a "BC" or "P" will be assumed to be public and will be made publicly available through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Susan Kramer, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce. Phone: (202) 482-2440; Fax (202) 482-3355; Email: Susan.Kramer@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) has continued to receive questions regarding the applicability of the Export Administration Regulations (15 CFR 730-774) (EAR) in the context of standards setting or development in light of the addition of Huawei Technologies Co., Ltd. (Huawei) and its 114 non-U.S. affiliates to the Entity List (Supplement No. 4 to part 744 of the EAR) (see 84 FR 22961 (May 21, 2019) and 84 FR 43493 (August 21, 2019)) and the Temporary General License (TGL). The TGL was published on May 22, 2019 (84 FR 23468), extended and amended through a final rule published on August 21, 2019 (84 FR 43487), and is currently extended through August 13, 2020 in a final rule published on May 18, 2020 (85 FR 29610). On August 19, 2019, BIS posted a "General Advisory Opinion Concerning Prohibited Activities in the Standards Setting or Development Context When a Listed Entity Is Involved" to the BIS website that addressed the applicability of § 734.7 of the EAR (Published) (15 CFR 734.7) to certain types of releases. With publication of this rule, that advisory opinion is rescinded, and BIS has removed the guidance from its website. This rule removes certain license requirements imposed by the original listing, removing the need to determine the application of controls to those releases.

The assessment of whether "technology" is subject to the EAR is the same regardless of whether a person on the Entity List is a member of, or participates in, the standards setting or development group or body. Because of the importance of U.S. participation and leadership in standards organizations, and in view of the consistent concerns expressed with Huawei's participation therein, this rule revises the Entity List to authorize certain releases of technology without a license. Specifically, technology subject to the EAR that is designated as EAR99 or controlled on the Commerce Control List only for anti-terrorism (AT) reasons may be released to members of a standards organization without a license, including Huawei, if released for the purpose of contributing to the revision or development of a standard. This interim final rule adopts in § 772.1 (Definitions) the definitions of "standard" and "standards organization" from the Office of Management and Budget (OMB) Circular A-119: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity