

consider initiating a rulemaking on this subject in the future.

Initiating a rulemaking at this time would not be an efficient or effective use of the Commission's resources. See 11 CFR 200.5(e). The Commission is currently defending the constitutionality of BCRA's electioneering communication provisions against two as-applied challenges to the statute involving communications that the plaintiffs claim are "grassroots lobbying" communications. See *Wisconsin Right to Life v. FEC*, Civ. No. 04-1260 (D.D.C.); *Christian Civic League of Maine v. FEC*, Civ. No. 06-614 (D.D.C.). Even if the Commission were to grant the Petitioners' request to begin a rulemaking to create a "grassroots lobbying" exemption, the plaintiffs in these cases may well continue to pursue litigation or to initiate new litigation, particularly if the Commission were to craft an exemption narrower than that contemplated by the plaintiffs. Moreover, any eventual court decisions in these lawsuits may provide the Commission with guidance on whether and how the Commission should exercise its discretion in this area. Judicial guidance may well necessitate a reevaluation of any rules the Commission were to propose now. Therefore, in light of the pending as-applied challenges to the constitutionality of the electioneering communication provisions, the Commission believes that initiating a rulemaking at this time would not be an effective use of its resources or an appropriate way to proceed.

Dated: August 29, 2006.

**Michael E. Toner,**

*Chairman, Federal Election Commission.*

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**BILLING CODE 6715-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 120**

#### **RIN 3245-AF49**

#### **Business Loan Program; Lender Examination and Review Fees**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule implements a recent amendment to the Small Business Act authorizing the Small Business Administration (SBA) to assess fees to lenders participating in SBA's 7(a) loan guarantee program (Lenders) to cover the costs of

examinations, reviews, and other Lender oversight activities. The proposed rule describes the methodology for fee assessment. Under the proposed rule, Lenders would pay the actual costs to SBA of the on-site examinations and reviews, and would be allocated off-site review/monitoring costs based on each Lender's proportionate share of loan dollars that SBA has guaranteed in the SBA portfolio. The proposed rule also describes the billing and payment processes.

**DATES:** Comments must be received on or before October 5, 2006.

**ADDRESSES:** You may submit comments, identified by [RIN number 3245-AF49], by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web Site: [proprule@sba.gov](mailto:proprule@sba.gov). Follow the instructions for submitting comments.
- E-mail: [lender.oversight@sba.gov](mailto:lender.oversight@sba.gov).
- Fax: (202) 205-6831.
- Mail: Bryan Hooper, Associate Administrator for Lender Oversight, Small Business Administration, 409 3rd Street, SW., 8th floor, Washington, DC 20416.
- Hand Delivery/Courier: 409 3rd Street, SW., 8th floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** John White, Deputy Associate Administrator for Lender Oversight, (202) 205-6345, [john.white@sba.gov](mailto:john.white@sba.gov); or Paul Bishop, Financial Analyst, Office of Lender Oversight, (202) 205-7516, [paul.bishop@sba.gov](mailto:paul.bishop@sba.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 7(a) of the Small Business Act, 15 U.S.C. 636(a), authorizes SBA to guarantee loans made by Lenders to eligible small businesses. Currently, there are over 5,000 Lenders authorized to make such SBA guaranteed loans. SBA conducts off-site reviews/monitoring and on-site exams/reviews of these Lenders to ensure they are processing loans in accordance with prescribed standards, and to minimize losses. Section 5(b)(14) of the Small Business Act (15 U.S.C. 634(b)(14)), authorizes SBA to require these Lenders to pay fees to cover "the costs of [the] examinations, reviews, and other Lender oversight activities." Congress granted SBA this new fee authority under section 131 of Division K of Public Law 108-447, enacted December 8, 2004.

Examination and review costs primarily consist of contractor charges

for assistance with (i) on-site examinations; (ii) on-site reviews; and (iii) off-site reviews/monitoring activities. SBA's contractors for on-site exams and reviews bill SBA separately for each examination/review as it is conducted. The contractor supporting off-site reviews/monitoring generally bills SBA on a quarterly basis to cover its contract price.

A discussion of the proposal and a section-by-section analysis follows.

## **II. Proposal**

### **A. Review and Examination**

SBA conducts the following examinations and reviews of Lenders: (i) Off-site reviews/monitoring; (ii) on-site examinations; and (iii) on-site reviews. Under the proposed rule, the fee that SBA would charge a Lender would generally depend on the reviews/examinations that SBA conducts for that Lender.

### **B. All Lenders**

All Lenders receive a quarterly off-site review. The off-site review is conducted using SBA's Loan and Lender Monitoring System (L/LMS). This L/LMS review is the primary method of monitoring all of SBA's approximately 5,200 Lenders. For lower volume Lenders, it also may be SBA's sole method of reviewing them. L/LMS is also used in conjunction with SBA's on-site exams/reviews, for purposes of planning and prioritization of exams/reviews. Under the proposed rule, SBA's cost of off-site review/monitoring (primarily the L/LMS contract cost) would be recovered through fees charged to all Lenders. The cost would be allocated according to each Lender's respective outstanding SBA guarantees (guaranteed dollars) relative to the total guaranteed dollars SBA has outstanding in its 7(a) loan portfolio. Both Lenders' outstanding SBA guarantees and the total guaranteed SBA dollars would be calculated using September 30 portfolio figures. Guaranteed dollars outstanding includes guarantees of both loans held by the Lender and loans sold into the secondary market, securitized, or for which a Lender has sold a participation interest. It also includes loans that have been purchased by SBA but have not yet been charged off.

The annual cost of the L/LMS reviews under SBA's current contract is about \$82 per \$1 million in outstanding guarantees. SBA proposes to use this ratio in calculating the Lender's fee for off-site monitoring/reviews. Should SBA's costs under the contract change, the ratio would change accordingly. SBA does not plan at this time to

recover its own costs related to the conduct of the off-site review, including the salary and expenses of SBA employees involved in the review.

Under the current formula, approximately 3,400 Lenders that have less than \$1 million in outstanding SBA loan guarantees would incur an average annual fee of less than \$25. The approximately 1,100 Lenders with between \$1 million and \$4 million in outstanding SBA loan guarantees would incur an annual off-site review fee ranging from \$82 to \$327. The approximately 300 Lenders with between \$4 million and \$10 million in outstanding SBA loan guarantees would pay an estimated annual off-site review fee ranging from \$330 to \$816. Finally, the remaining 380 Lenders with outstanding SBA loan guarantees of greater than \$10 million would pay a median of \$1,848 per year for off-site reviews/monitoring. Each Lender's fee assessment will include a description of how the fee was calculated. This off-site review cost could, over time, serve to maintain on-site examination/review costs at a minimum by allowing SBA to focus its on-site reviews and examinations on those Lenders whose portfolios or operational performance present SBA with the most risk. SBA may waive or provide an exemption for the fees due from very small volume Lenders when the administrative costs of collecting the fee from a Lender are greater than the amount of the fee itself (i.e. when it is not cost effective to collect such fees). SBA is in the process of determining at which dollar amount it would not be cost effective for SBA to bill and collect. SBA is also in the process of estimating the total amount of fees in case SBA determines to implement the waiver/exemption. SBA is considering other methodologies for determining the appropriate basis for waiver/exemption. Should SBA decide to grant fee waivers/exemptions, such action will not affect the fee charged to other Lenders, and any shortfall will be made up with SBA's available appropriations.

### C. SBA Supervised Lenders

In addition to quarterly off-site reviews, SBA also performs on-site safety and soundness examinations of SBA's Small Business Lending Companies ("SBLCs") and large Non-Federally Regulated Lenders ("NFRs") (together "SBA Supervised Lenders"). Each SBLC is usually examined on a 12 to 24 month cycle. NFRs may also be examined on a 12 to 24 month cycle, depending upon such factors as size, level of SBA lending activity, and results of previous examinations. Under

the proposed rule, each SBA Supervised Lender's fees would, generally, include: (i) The annual L/LMS charge and (ii) the on-site examination cost (if an exam was performed that fiscal year). The examination fee component would be based primarily on actual hourly charges of, and travel expenses incurred by, the contractor (currently a Federal financial institution regulator).

The safety and soundness examination that these Lenders receive is similar in scope to safety and soundness examinations conducted by other Federal regulators. However, the cost of an SBA examination is reasonable in relation to the assessments for examinations by other Federal regulators. For example, the Comptroller of the Currency's current annual assessment on a bank with \$1 billion in assets is \$219,580, and the Office of Thrift Supervision assesses the same size institution \$204,096; whereas the annual cost for an SBA-Supervised Lender on a 24 month exam cycle with \$1 billion in outstanding loan balances (with 71% of that portfolio guaranteed by SBA) would average \$139,220. This amount is calculated as follows: The biennial safety and soundness examination for a Lender with \$1 billion in assets under the current contract typically costs \$162,000, for an average annual cost of \$81,000. In addition, the L/LMS fee for the same sized SBLC would be \$58,220, for a total annual cost to the Lender of \$139,220.

### D. Non-SBA Supervised Lenders

In addition to quarterly off-site reviews/monitoring, SBA plans to conduct, on a 12 to 24 month review cycle, on-site reviews of the 7(a) operations of Lenders with \$10 million or more in outstanding SBA loan guarantees. On-site reviews will not be conducted for the SBLCs and NFRs that receive on-site examinations. On-site reviews are performed with the assistance of a financial services firm under contract with SBA. Under the proposed rule, fees for the Lenders in this category would generally include: (i) The annual L/LMS charge and (ii) the on-site review fee (if a review was performed that fiscal year). On-site review costs of a Lender's 7(a) operations currently range from \$20,000 to \$24,000. Factors that may affect where a Lender falls in the estimated range include, but are not limited to, the complexity of a Lender's 7(a) operations, rating trends, guaranteed dollars outstanding, and results of previous examinations. The timing of on-site reviews may also depend upon SBA's ability to coordinate reviews of Lenders that will minimize travel

expenses and achieve economies of scale, thus reducing Lenders' review fees.

In addition to Lenders with \$10 million or more in SBA in 7(a) loan guarantees, SBA may perform on-site reviews of Lenders with loan guarantees of as little as \$4 million in situations where SBA's off-site monitoring indicate such a Lender is a very high risk to SBA.

### E. SBA's Other Lender Oversight Expenses

Under the proposed rule, SBA has the authority to recover its other expenses in carrying out Lender oversight activities (for example, the salaries and travel expenses of SBA employees and equipment expenses that are related to carrying out Lender oversight activities). However, SBA does not plan at this time to charge Lenders for these costs. Should SBA decide to assess a fee for these expenses in the future, each Lender's fee would be calculated by multiplying the total annual cost of SBA's oversight operational expenses by the Lender's dollar share of the total outstanding SBA guarantees. SBA will notify Lenders if it proposes to recover expenses resulting from its other Lender oversight activities.

### F. Assessment Methodology

SBA's proposed assessment formula is based primarily on allocating the actual cost of a particular Lender's examination and review to that Lender. This is feasible because SBA's on-site examination and review costs, unlike those of most of the other financial institution regulators, primarily consist of contractor assistance billed on a Lender-specific basis.

For those costs that are not incurred on a Lender-by-Lender basis (for example, off-site monitoring/reviews), SBA proposes a risk-based formula based on a Lender's outstanding guaranteed dollars relative to that of SBA's outstanding guaranteed portfolio, as of September 30. The guaranteed dollar methodology ties a Lender's charge to that of SBA's risk of dollar loss. SBA considered allocating these costs based on the number of loans that a Lender has outstanding. The loan number-based methodology, however, fails to consider varying guarantee percentages in SBA's loan programs (for example SBA Express at 50% versus regular 7(a) lending at 75% or more) and diversity of loan sizes. It also fails to consider that SBA's dollar loss is directly related to the size of the loans rather than the number of loans; the loss from a large loan will greatly exceed the loss from a small loan. It, therefore,

would result in a less equitable distribution of the costs. Finally, the loan-based methodology may be contrary to SBA's goal to assist as many of America's small businesses as are eligible for agency assistance.

SBA also considered the fee assessment methodologies of the various federal financial institution regulators. The federal financial institution regulators' methodologies are generally complex. There are approximately three common factors incorporated into the allocation formulas. The factors are: (i) An institution's assets; (ii) an institution's exam rating; and (iii) economies of scale. These factors were considered and incorporated into SBA's proposed fee assessment methodology to determine the proposed on-site review charge.

The off-site monitoring/review cost allocation formula is also based on outstanding guaranteed dollars of the institution's SBA loan assets. Exam rating trends are indirectly incorporated into the methodology to the extent that better ratings could translate to less frequent on-site examinations and reviews. Overall, SBA's proposed cost allocation methodology would result in fees that are reasonable relative to federal financial institution regulator assessments. It provides for equitable distribution of SBA costs. Finally, it is consistent with legislative guidance to tie fees to the "size of the lender's portfolio being reviewed, and the time necessary to review the portfolios." Sen. Rept. 108-124 pg. 12 (Aug. 26, 2003).

### III. Section-by-Section Analysis

*Section 120.454—PLP Performance Review.* To eliminate redundancy, SBA proposes to strike the second sentence of this provision, which authorizes SBA to charge a PLP Lender fee to cover the costs of the PLP performance review.

Subpart I—Lender Oversight. SBA would add a new subpart for lender oversight, which would initially consist of proposed section 120.1070 governing lender oversight fees.

*Section 120.1070—Lender Oversight Fees.* SBA proposes to add this new section to part 120 of Title 13 CFR to implement the fee authority granted to SBA.

*Section 120.1070(a)—Fee Components.* This provision sets forth the components that may be included in the total fee, including charges to cover the costs of: (1) On-site safety and soundness examinations conducted for SBLCs and NFRs; (2) on-site reviews conducted for other Lenders; (3) off-site reviews/monitoring conducted for all Lenders; and (4) SBA's other Lender oversight expenses, as assessed. The fee

would be based on SBA's costs. The amount of each Lender's fee for the on-site examination or review would include the actual expenses incurred for that Lender's on-site review or examination. In the case of off-site reviews/monitoring, SBA would allocate the charge based on the Lender's share of SBA guaranteed dollars outstanding. Finally, if SBA later decides to include charges for other lender oversight activities, those costs would be allocated similar to the formula for allocating off-site review/monitoring costs.

*Section 120.1070(b)—Billing Process.* This provision describes the process for billing the Lenders for the fees. For the on-site examinations and reviews, SBA would bill the Lender following completion of the review. SBA would bill the Lender for the charges for the off-site reviews and SBA's other Lender oversight expenses (the latter if assessed) on an annual basis. The bill will include the approved payment method(s). The payment due date will be no less than 30 calendar days from the bill date.

*Section 120.1070(c)—Delinquent Payment and Late-Payment Charges.* This provision provides that any payment that is not received by the due date specified in the bill would be considered delinquent. It also provides that SBA may charge interest, penalties and other charges on delinquent payments, as provided by applicable law, and that SBA may waive the interest charge if circumstances warrant.

### IV. Comments

The form and content of the proposal should not be viewed as exhaustive. SBA seeks comments on all aspects of the proposal and suggestions as to any modifications. For example, SBA would be interested in comments concerning the methodology used to distribute costs to Lenders. However, SBA will rely on its own expertise in making final determinations for the final rule.

### V. 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)

#### *Executive Order 12866*

The Office of Management and Budget has determined that this rule constitutes a significant regulatory action under Executive Order 12866 thus requiring a Regulatory Impact Analysis, as set forth below.

#### A. Regulatory Objective

As the SBA moves to more streamlined lending processes and

delegates more authority to its Lenders, the need for better and more comprehensive Lender oversight is essential. With the integration of L/LMS, the SBA has an early warning system that allows SBA to monitor its Lenders on a regular basis. Off-site reviews/monitoring and on-site examinations or reviews allow SBA to determine which Lenders pose the most risk to the SBA from both an exposure and credit risk perspective. By identifying Lenders with unacceptable levels of risk, the SBA can work with the Lenders to limit the risk.

This proposed rule implements a recent amendment to the Small Business Act authorizing SBA to require 7(a) Lenders to pay fees to cover the costs of examinations or reviews and other Lender oversight activities. SBA believes that the methodology for charging fees to Lenders, which is based on direct costs of individual Lender examination or review expenses and the allocation of off-site review expenses by each Lender's share of the guaranteed dollars in the entire outstanding SBA portfolio, is equitable and reasonable.

#### B. Baseline Costs

SBA currently performs examinations and reviews for all 7(a) lenders. This proposal does not modify the current examination and review scope. Rather, it implements the recent amendment to the Small Business Act authorizing SBA to assess lenders fees to cover the costs of those examinations or reviews. Examination and review costs primarily consist of contractor charges for assistance with (i) on-site examinations; (ii) on-site reviews; and (iii) off-site reviews/monitoring activities. SBA's contractors for on-site exams and reviews bill SBA separately for each examination/review as it is conducted. The total annual cost of contractor on-site examinations and reviews is \$4,915,000. The contractor for off-site reviews/monitoring generally bills SBA one flat fee for the year to cover the reviews/monitoring of all Lenders. The total annual cost for off-site reviews/monitoring is approximately \$2,604,000; the apportionment of these costs at the Lender level have been discussed above in the "Supplemental Information, Section II Proposal."

#### C. Potential Benefits and Costs

The costs to Lenders associated with SBA's on-site and off-site reviews and monitoring are described elsewhere in this notice. The benefit for Lenders is that it allocates direct costs of on-site examinations or reviews to those Lenders for whom those costs are incurred.

Indirect costs of off-site monitoring will be allocated according to each Lender's participation level as measured by SBA guaranteed dollars, so that the costs will be proportionate to the benefits Lenders derive from participating in the 7(a) program. In addition, Lenders with the highest amount of SBA guaranteed dollars represent the most risk to SBA and require the greatest level of off-site monitoring; therefore, apportioning the monitoring costs in relation to the amount of SBA guaranteed dollars is more equitable to smaller or new Lenders that represent proportionately less risk to SBA. The 92% of 7(a) Lenders with under \$10 million in outstanding SBA guarantees benefit by the off-site review process. Most of these Lenders will be subject to off-site reviews instead of on-site reviews, which will eliminate space and staff costs associated with SBA's on-site review process. Payment of fees proposed in this rule will allow SBA to maintain the off-site review process for less active lenders while allocating the higher cost of on-site reviews and examinations to those active lenders that represent the most risk to SBA and for whom the expense is directly incurred. The SBA and lenders will incur additional administrative costs related to the billing, collection, and payment of the fees. These administrative costs are limited to accounting input for SBA's bill and receipt system and writing a check by the lender. They are deemed to be minimal.

Besides allocating its review and monitoring costs to its Lenders, SBA will benefit through the relative ease of administering the assessment process. SBA's additional costs would only consist of new expenses incurred in collecting the fees. SBA anticipates that these new expenses would be minimal.

#### D. Alternatives (Cost/Benefits Estimated)

An alternative off-site review/monitoring cost allocation plan was considered, based on the number of loans outstanding for each respective Lender. A significant portion of the cost of analytics used in the L/LMS is that of obtaining credit scores on borrowers with outstanding SBA guaranteed loans to assess the credit risk of the Lender's 7(a) loan portfolio. The benefit of this scheme is that it charges each Lender based on the credit scores obtained for their SBA portfolio. We have determined that this methodology is contrary to the SBA's mission and would not be well related to risk. Our mission is to provide capital access to

as many small business concerns as possible within the authorized funding level. Lending partners that reach out to very small businesses and startup businesses should not be charged the same off-site monitoring fee for their small loan as another Lender with a very large loan. The loan number based methodology also fails to consider varying guarantee percentages in SBA's loan programs (for example SBA Express at 50% versus regular 7(a) lending at 75%). Risk considered is the dollar risk of defaulted guaranteed balances. Therefore, a scheme that assesses fees directly proportionate to the guaranteed balances is the most equitable.

#### *Executive Order 12988*

This proposed action meets applicable standards set forth in §§ 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. This rule would not have retroactive or pre-emptive effect.

#### *Executive Order 13132*

This proposed rule would not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

#### *Regulatory Flexibility Act*

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RF), 5 U.S.C. 601–612, requires the agency to “prepare and make available for public comment an initial regulatory flexibility analysis” which will “describe the impact of the proposed rule on small entities.” 5 U.S.C. 603(a). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Although this rulemaking may affect a substantial number of small entities, for the reasons stated below, SBA does not believe that this proposal will have a significant economic impact on a substantial number of small entities.

This proposed rule implements Small Business Act 5(b)(14), which authorizes SBA to require 7(a) Lenders to pay examination and review fees. These fees are to be available to fund the costs of

examinations, reviews, and other Lender oversight activities.

The proposed would apply to all 7(a) lenders with outstanding SBA guaranteed loan balances. Approximately 5,200 lenders are currently participating in the 7(a) program, of which 11 are active SBLC Lenders. SBA has determined that SBLCs are classified under the size standard for NAICS 522298. Three of the 11 active SBLCs are below the \$6.5 million in average annual receipts and are deemed small business concerns. Nearly all of the remaining 7(a) Lenders are covered under NAICS 522110 for commercial banks and other depository financial institutions. About 3,000 of the Lenders in this classification have less than \$165 million in assets and are deemed small business concerns.

The proposed rule would not have a significant economic impact on a substantial number of the 3,000 Lenders covered under NAICS 522110. Most of these Lenders have very small SBA portfolios and would only be subject to fees for the off-site reviews/monitoring. The annual fee for 98% percent of these lenders would be less than \$945, the cost of a one year subscription to the “American Banker” magazine. The estimated annual fee for 2,068 of these small Lenders would be less than \$50. SBA may waive the fees when it is not cost-effective to bill and collect. SBA is in the process of determining at which dollar amount it would not be cost effective for SBA to bill and collect. That determination may be revised periodically to reflect changes in SBA's costs. Another 443 would be assessed annual fees of less than \$100. For 469 Lenders, the annual fee would be between \$100 and \$1,000. The largest of the approximately 51 remaining Lenders classified as small business concerns has over \$100 million in outstanding SBA guarantees. The estimated annualized fee for this Lender, which would cover the cost of the bi-annual on-site review plus annual off-site monitoring cost, would be \$21,440. The estimated annualized fee of the on-site exam plus the annual off-site monitoring cost fee for the three SBLCs classified as small business concerns would range from \$26,034 to \$40,302.

Moreover, since SBA would calculate and bill for the fee, there would be virtually no recordkeeping or other compliance requirements of the rule. There are also no relevant Federal rules governing fees for the 7(a) program which may duplicate, overlap or conflict with the Proposed Rule. Accordingly, the Administrator of SBA hereby certifies to the Chief Counsel of Advocacy that this proposed rule will

not have a significant economic impact on a substantial number of small entities.

#### *Paperwork Reduction Act*

SBA has determined that this proposed rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

#### **List of Subjects in 13 CFR Part 120**

Loan programs—business, Small businesses.

For the reasons discussed in the preamble, SBA proposes to amend 13 CFR part 120 to read as follows:

#### **PART 120—BUSINESS LOANS**

1. The authority citation for part 120 is revised to read as follows:

**Authority:** 15 U.S.C. 634(b)(6), 634(b)(7), 634(b)(14), 633(b)(3), 636(a) and (h), 650, and 696(3) and 697(a)(2).

2. Revise § 120.454 to read as follows:

##### **§ 120.454 PLP performance review.**

SBA may review the performance of a PLP Lender.

3. Add a new Subpart I to read as follows:

#### **Subpart I—Lender Oversight**

##### **§ 120.1070 Lender Oversight Fees.**

Lenders are required to pay to SBA fees to cover costs of examinations, reviews, and other Lender oversight activities.

(a) *Fee components:* The fees may cover the following:

(1) *On-Site Examinations.* The costs of conducting on-site safety and soundness examinations of an SBA-Supervised Lender, including any expenses that are incurred in relation to the examination. For the purposes of this paragraph, the term “SBA-Supervised Lender” means a Small Business Lending Company or a Non-Federally Regulated Lender.

(2) *On-Site Reviews.* The costs of conducting an on-site review of a Lender, including any expenses that are incurred in relation to the review.

(3) *Off-Site Reviews/Monitoring.* The costs of conducting off-site reviews/monitoring of a Lender, including any expenses that are incurred in relation to the review/monitoring activities. SBA will assess this charge based on each Lender’s portion of the total dollar amount of SBA guarantees in SBA’s portfolio.

(4) *Other Lender Oversight Activities.* The costs of additional expenses that SBA incurs in carrying out Lender oversight activities (for example, the salaries and travel expenses of SBA

employees and equipment expenses that are directly related to carrying out Lender oversight activities). SBA will assess this charge based on each Lender’s portion of the total dollar amount of SBA guarantees in SBA’s portfolio.

(b) *Billing Process.* For the on-site examinations or reviews conducted under paragraphs (a)(1) and (a)(2) of this section, SBA will bill each Lender for the amount owed following completion of the examination or review. For the off-site reviews/monitoring conducted under paragraph (a)(3) of this section and the other Lender oversight expenses incurred under paragraph (a)(4) of this section, SBA will bill each Lender for the amount owed on an annual basis. SBA will state in the bill the date by which payment is due SBA and the approved payment method(s). The payment due date will be no less than 30 calendar days from the bill date.

(c) *Delinquent Payment and Late-Payment Charges.* Payments that are not received by the due date specified in the bill shall be considered delinquent. SBA will charge interest, and other applicable charges and penalties, on delinquent payments, as authorized by 31 U.S.C. 3717. SBA may waive or abate the collection of interest, charges and/or penalties if circumstances warrant. In addition, a Lender’s failure to pay any of the fee components described in this section, or to pay interest, charges and penalties that have been charged, may result in a decision to suspend or revoke a participant’s eligibility under § 120.415, or to limit a participant’s delegated authority under other provisions of this part.

Dated: August 24, 2006.

**Steven C. Preston,**

*Administrator.*

[FR Doc. 06–7399 Filed 9–1–06; 8:45 am]

**BILLING CODE 8025–01–P**

#### **DEPARTMENT OF TRANSPORTATION**

#### **Federal Aviation Administration**

##### **14 CFR Part 39**

**[Docket No. FAA–2006–25723; Directorate Identifier 2006–NM–007–AD]**

**RIN 2120–AA64**

#### **Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model DHC–8–400 series airplanes. This proposed AD would require repetitive cleaning/inspecting of the drain hole of each pitot static probe and repetitive cleaning of the pitot lines in the pitot static system. This proposed AD results from reports of incidents of airspeed mismatch between the pilot, co-pilot, and standby airspeed indications caused by contamination in the pitot static system. We are proposing this AD to prevent erroneous/misleading altitude and airspeed information from a contaminated pitot static system to the flightcrew, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

**DATES:** We must receive comments on this proposed AD by October 5, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.

- *Fax:* (202) 493–2251.

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Ezra Sasson, Aerospace Engineer, Systems Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7320; fax (516) 794–5531.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number “FAA–2006–25723; Directorate Identifier 2006–NM–007–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic,