

to as the "Acts". In compliance with the Acts, the Commission will make the fullest possible disclosure of its information and identifiable records consistent with the provisions of the Acts.

The Director of the United States Information Agency (USIA) is authorized to provide administrative services and staff support to the Commission, as necessary, for which reimbursement shall be made from funds of the Commission under section 686 of Title 31, United States Code, in such amounts as may be agreed upon by the Chairman of the Commission and the Director. Accordingly, the USIA will supply the Administrative services and staff for processing requests under the Acts. Therefore, all requests are to be made in accordance with the regulations published by the USIA at 22 CFR Part 505 and at 22 CFR Part 503.

The procedures shall become effective June 6, 1983 unless there is a notice to the contrary. The procedures shall apply to the Commission until January 31, 1984 upon which date the Commission will terminate.

Dated: May 3, 1983.

Victor B. Olason,

Coordinator, The Presidential Commission for the German-American Tricentennial.

[FR Doc. 83-12217 Filed 5-5-83; 8:45 am]

BILLING CODE 8230-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5456]

Avdon Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On January 21, 1983, a notice was published in the Federal Register (48 FR 2885) stating that Avdon Capital Corporation, 850 Avenue L, Brooklyn, New York 11230 had filed an Application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 104.102 (1982)), for a license to operate as a Section 301(d) small business investment company.

Interested parties were given until the close of business on February 5, 1983, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 02/02-5456 on April 21, 1983, to Avdon Capital Corporation, pursuant to Section 301(d)

of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 2, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12194 Filed 5-5-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 01/01-0324]

Investors Technology Capital Corp.; Application for License To Operate as a Small Business Investment Company

An Application for a License to Operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Investors Technology Capital Corporation, 314 Flanders Road, East Lyme, Connecticut 06333, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and shareholders are as follows:

President, Director (17.96%),

Richard D. McHugh, 15 South Gate Lane, North Haven, Connecticut 06473

Executive Vice President, Director (15.29%)

John G. Arbour, 9 Wildwood Lane, Westport, Connecticut 06880

Secretary, Director (17.96%)

Gary C. Granai, 202 Grassy Hill Road, East Lyme, Connecticut 06333

Director (0.65%)

Robert M. Green, 24 Jannus Lane, Madison, Connecticut 06443

Director (0.65%)

Joseph F. Bruno, 35 William Street, Hamden, Connecticut 06514

Director (0.65%)

Philip C. Hopkins, Carroll Heights, Norwich, Connecticut 06360

Director (0.65%)

Alphonse F. Spadaro, Jr., 101 Pease Road, Woodbridge, Connecticut

The Applicant, a Connecticut corporation, will begin operations with \$500,000 paid-in capital and paid-in surplus, and will conduct its activities primarily in the State of Connecticut.

The Applicant intends to provide financial assistance to small business concerns for their growth, modernization and expansion and will render other management consulting services.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small

Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 2, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12193 Filed 5-5-83; 8:45 am]

BILLING CODE 8025-01-M

[License No 10/10-118]

West Central Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), West Central Capital Corporation, Suite 206, 440 Northlake Center, Dallas, Texas 75238 under the laws of the State of Texas has surrendered its License No. 10/10-0118 issued by SBA on August 27, 1962.

West Central Capital Corporation, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of West Central Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 26, 1983

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-12195 Filed 5-5-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Application for Recordation of Trade Name: "Underground Camera, Inc."

AGENCY: Customs Service, Treasury.

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Underground Camera, Inc." used by Underground Camera, Inc., a corporation organized under the laws of the State of Massachusetts, located at 369 Central Street, Foxboro, Massachusetts 02035.

The application states that the trade name is used in connection with photographic equipment, namely, cameras and lenses; photographic supplies, namely, photographic film and chemicals; and photographic accessories, namely, camera supports and illuminators. The trade name is applied to the goods in the United States. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or

arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

DATE: Comments must be received on or before July 5, 1983.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; (202-566-5765).

Dated: May 3, 1983.

A. Piazza,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 83-12182 Filed 5-5-83; 8:45 am]

BILLING CODE 4620-02-M

VETERANS ADMINISTRATION

Availability of Reports of 38 U.S.C. 219 Program Evaluations

Notice is hereby given that the program evaluations of the Veterans Administration's Radiation Therapy Program and Nuclear Medicine Program have been completed.

Single copies of the Radiation Therapy Program evaluation and the Nuclear Medicine Program evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquires, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Director, Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: May 2, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-12186 Filed 5-5-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 48, No. 89

Friday, May 6, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1-2
Consumer Product Safety Commission	3
Federal Maritime Commission	4
International Trade Commission	5-6
Securities and Exchange Commission	7-8
Tennessee Valley Authority	9

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, May 19, 1983.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[5-642-83 Filed 5-4-83; 10:36 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 24, 1983.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Reparations—Proposed Rules
Enforcement Quarterly Budget Briefing
(closed)

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[5-641-83 Filed 5-4-83; 10:36 am]

BILLING CODE 6351-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 10, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Kerosene Heaters Voluntary Standard: Meeting with UL

The Commission will meet with representatives of Underwriters' Laboratories to discuss in further detail the voluntary standard for kerosene heaters.

2. Vented Space Heaters: Meeting with Industry

The Commission will meet with manufacturers of vented space heaters to discuss the use of safety shut-off devices which would prevent carbon monoxide poisonings associated with improper installation and/or malfunctioning heaters.

(For a recorded message containing the latest agenda information, call 301-492-5709.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301-492-6800.

[5-647-83 Filed 5-4-83; 3:37 pm]

BILLING CODE 6355-01-M

4

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 19267, April 28, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m. May 5, 1983.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

1. Fifty-Mile Container Rules.

[5-643-83 Filed 5-4-83; 11:01 am]

BILLING CODE 6730-01-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-22]

TIME AND DATE: 10 a.m., Tuesday, May 17, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
 - a. Certain processes for the manufacture of skinless sausage casings and resulting product (Docket No. 930).

5. Investigation 731-TA-130 (Chloropicrin from the People's Republic of China)—briefing and vote.

6. Investigation 751-TA-7 (Salmon Gill Fish Netting from Japan)—briefing and vote.

7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[3-640-83 Filed 5-4-83; 9:28 am]

BILLING CODE 7020-02-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-21]

TIME AND DATE: 10:00 a.m., Tuesday, May 10, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 104-TAA-18, 17, and 18 (Nonrubber Footwear from Brazil, India, and Spain)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[5-639-83 Filed 5-3-83; 4:19 pm]

BILLING CODE 7020-02-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission held the following meeting on Sunday, May 1, 1983, at 7:30 p.m. at 450 5th Street, N.W., Washington, D.C., to consider the following item.

Regulatory matter regarding financial institution.

The Commissioners, their legal assistants and the Secretary of the Commission attended the closed meeting. Certain staff members who are responsible for the calendared matter were present.

The General Counsel of the Commission, or his designee, has

certified that, in his opinion, the item considered at the closed meeting was considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted to consider the item listed for the closed meeting in closed session.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Michael Lefever at (202) 272-2468.

May 3, 1983.

[S-044-89 Filed 5-4-83; 11:17 am]

BILLING CODE 8010-01-M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 9, 1983, at 450 5th Street, N.W., Washington, D.C.

Closed meetings will be held on Tuesday, May 10, 1983, at 10 a.m. and on Wednesday, May 11, 1983, following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 10, 1983, at 10 a.m., will be:

Access to investigative files by Federal, State, or self-regulatory authorities.

Formal orders of investigation.

Settlement of administrative proceeding of an enforcement nature.

Right to Financial Privacy Act.

Institution of administrative proceeding of an enforcement nature.

Regulatory matters bearing enforcement implications.

The subject matter of the closed meeting scheduled for Wednesday, May 11, 1983, following the 10 a.m. open meeting, will be:

Regulatory matter regarding financial institution.

The subject matter of the open meeting scheduled for Wednesday, May 11, 1983, at 10 a.m., will be:

1. Consideration of whether to propose for public comment amendments to Rule 206(3)-2 under the Investment Advisers Act of 1940 which would eliminate the requirement that an investment adviser obtain at least annually from a client written renewal of the client's consent to agency cross transactions. For further information, please contact Arthur E. Dinerman at (202) 272-3021.

2. Consideration of whether to order an evidentiary hearing on an application filed by Union-Investment-Gesellschaft m.b.h. ("Union-Investment"), a West German management company, on behalf of Unifonds, a West German mutual fund, requesting an order pursuant to Sections 6(c) and 7(d) of the Investment Company Act of 1940, permitting registration of Union-Investment under the Act so that it may sell Unifonds shares in the United States, and granting exemptions from many of the provisions of the Act. A hearing was requested on this application by the Investment Company Institute, the national association of the American mutual fund industry. For further information, please contact Brian M. Kaplowitz at (202) 272-3027.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2092.

May 3, 1983.

[S-645-83 Filed 5-4-83; 11:17 am]

BILLING CODE 8010-01-M

9

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1311]

TIME AND DATE: 10:15 a.m. (E.D.T.),
Wednesday, May 11, 1983.

PLACE: TVA West Tower Auditorium,
400 West Summit Hill Drive, Knoxville,
Tennessee.

STATUS: Open.

AGENDA ITEM: Approval of minutes of meetings held on April 27, 1983.

A—Project Authorizations

A1. Project Authorization No. 3655—
Construction of 161-kV transmission
facilities and substation for Shell Oil
Company in north Langford, Mississippi.

B—Purchase Awards

B1. Requisition 67—Purchase of term coal
for Johnsonville Steam Plant.

C—Power Items

C1. Adoption of supplemental resolution
authorizing 1983 Series C power bonds.

C2. Resolution authorizing the Chairman
and other executive officers to take
further action relating to issuance and
sale of 1983 Series C power bonds.

* C3. Letter agreement with Big Rivers
Electric Corporation covering
arrangements for increase in the amount
of power which TVA wheels for Big
Rivers under an existing agreement.

D—Personnel Items

D1. Supplement to personal services
contract with Gilbert Associates,
Incorporated, Reading, Pennsylvania, for
architectural, engineering, and design
services, requested by the Office of
Engineering Design and Construction.

E—Real Property Transactions

E1. Grant of permanent easement to the
city of Franklin, Tennessee, for public
recreation purposes, affecting
approximately 1.0 acre of TVA
phosphate land located in Williamson
County, Tennessee—Tract No. XTPS-
13RE.

E2. Grant of permanent easement to Bear
Creek Development Authority for
sewerage facilities, affecting
approximately 0.46 acre of Upper Bear
Creek Reservoir land located in Winston
County, Alabama—Tract No. XTBCUR-
3S.

E3. Resolution designating approximately
24 acres of Tims Ford Reservoir land and
appurtenant use rights, located in
Franklin County, Tennessee, as surplus
and for sale at public auction—Tract No.
XTMFR-13.

F—Unclassified

* Item approved by individual Board members.
This would give formal ratification to the Board's
action.

F1. Agreement between TVA and Southeast Oklahoma Public Facilities Authority for the purpose of furthering economic development in the southeast Oklahoma area.

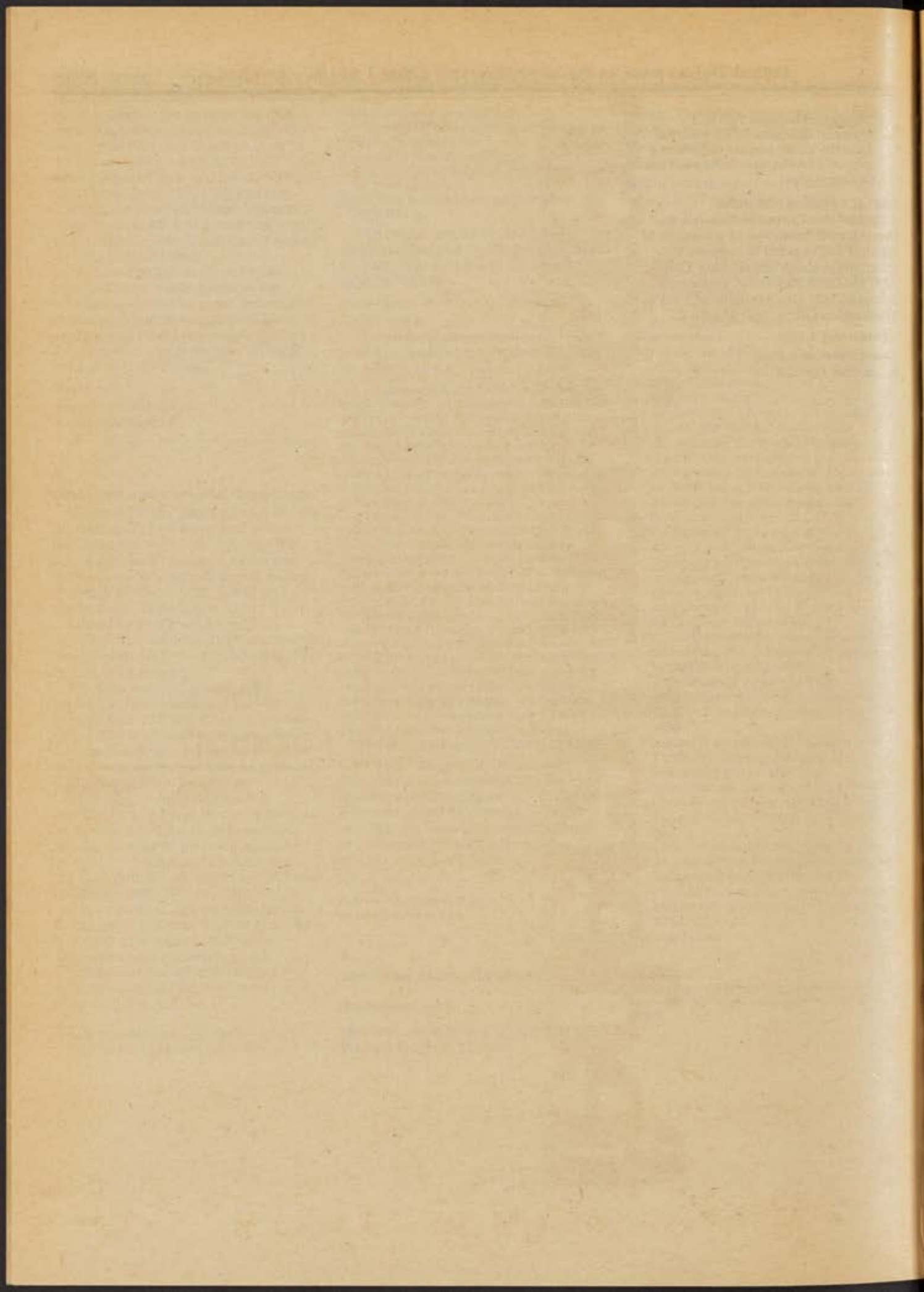
CONTACT PERSON FOR MORE

INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: May 4, 1983.

[5-646-83 Filed 4-5-83; 12:20 pm]

BILLING CODE 8120-01-M



federal register

**Friday
May 6, 1983**

Part II

Small Business Administration

**Small Business Size Standards: Proposed
Rule**

SMALL BUSINESS ADMINISTRATION**13 CFR Part 121****Small Business Size Standards;
Revision****AGENCY:** Small Business Administration.**ACTION:** Proposed rule.

SUMMARY: SBA is proposing to amend its size standards regulations. These changes are being proposed to deal with the effects of inflation, to address long-standing problems of defining small business in certain industries, to provide one set of standards for both the procurement and financial assistance programs, and to improve the readability of the regulations. This action is intended to update the size standards and clarify the regulations. In certain instances, however, existent regulations have been left in place.

DATE: Written comments must be submitted on or before July 5, 1983.

ADDRESS: Submit written comments to: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Andrew A. Canellas, (202) 653-6373.

SUPPLEMENTARY INFORMATION:**Chronology**

This is the fifth notice to appear in the Federal Register since March of 1980, concerning SBA's intent to comprehensively revise its size standards. Previous notices were: (1) Advance Notice, March 10, 1980; 45 FR 15442; (2) Notice of Public Hearings, April 8, 1980, 45 FR 23704; (3) Public Notice, September 10, 1980, 45 FR 59587; (4) Second Advance Notice, May 3, 1982, 47 FR 18992.

Summary of Notices

SBA's first advance notice of proposed rulemaking contained size standards based primarily on the industrial structure of each industry. Public and Federal Government agency comments had not been solicited prior to that time. In setting these size standards, SBA categorized industries by the degree of economic competition existing within the industry. Industries were grouped into either a competitive, mixed, or concentrated category and relatively high size standards were assigned to the mixed and, particularly, to the concentrated categories. Lower standards were proposed for competitive industries. Size standards for this notice were primarily stated in terms of number of employees and ranged from 15 to 2500 employees.

In response to this notice, SBA received over 1500 public and agency comments, both in the form of written correspondence and testimony at public hearings. These comments were largely supportive of existing SBA size standards rather than the proposed changes and were primarily directed at 200 of a total of over 800 different industries covered in the proposal. There was little opposition to using a single size standard for SBA programs, and to the general use of employee size standards.

As a result of these comments and the fact that the Nation was in an environment of budgetary constraints, SBA, in the second advance notice (1982), shifted its methodology away from the first advance notice's emphasis on economic analysis and industry competition. SBA focused more heavily on agency program needs and the desires of the public as shown by the comments. Moreover, SBA, as a matter of policy, proposed to lower the size standards thus concentrating SBA resources on smaller firms in the belief that those firms have the greatest needs. As a result, proposed size standards in this second notice ranged from 25 to 500 employees.

SBA received over 500 comments to the second notice from the public and Government agencies. The majority of them were negative.

In the rule that SBA is presently proposing, SBA is attempting to reconcile the various opinions presented by the commentators to each of the advance notices. Thus, the Agency's position reflects both the comments of the private sector and the opinions of the Federal agencies through the prior notices. The essential features of this revision are to propose that: (1) the existing procurement size standards (both receipts and employee size standards) be used as a base for uniform agency size standards; (2) size standards which are currently expressed in terms of annual receipts (chiefly nonmanufacturing industries), remain in annual receipts and be increased for inflation; (3) size standards currently expressed in number of employees (chiefly manufacturing) remain the same; (4) the language of the size standards regulations is revised to reflect these changes and to improve the readability of the regulation.

In effect, virtually no size standards will be lower than the current size standard (with a few exceptions where specific industry problems exist) and many will be higher under this proposal. This particular approach is largely based on the belief that the set of size standards presently in use is logically

based, considering the development and general public acceptability of the procurement size standards, the industrial structure of industries, and the needs of Federal programs which have utilized the existent standards for a number of years.

While major changes have occurred in SBA's size standards revision effort, two considerations have remained constant and have been continued over all three notices: (1) size standards are based on 4-digit Standard Industrial Code rather than a combination of SIC categories and numerous product or activity descriptions, which is presently the case; (2) there is a single size standard for each industry that is applicable to all SBA programs. This contrasts with the present variation in size standards among various SBA programs which has traditionally existed. In the past, this variation has resulted in certain firms being eligible for some programs, but ineligible for others, based on size. This new approach aids in providing more uniform SBA size standards applicable to all SBA programs.

Reason for This Proposed Rule

First, as discussed in more detail below, the comments to the advance notices proposing major increases or reductions in size standards for particular industries have been largely unfavorable. SBA highly values the process of public comment and accordingly has adjusted the standards expressed in this notice.

Second, the size of firm eligible to bid on procurements set aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially the Department of Defense. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process. This proposal is intended to address that concern by not lowering any size standards, and increasing others.

In addition, as a result of comments from the public and procuring agencies, SBA has realized that certain industries and activities within industries are especially sensitive to the size standard used for set-asides. Many size standards in this proposal have been adjusted to accommodate these circumstances.

Third, a compelling reason exists for continuation of the existing size standards, with adjustments for inflation. Many private sector

commentors and procuring agencies have indicated their preference for the current procurement size standards. A number of businesses and procuring agencies have been able to plan and operate their activities under the existing size standards. Based on their historical success with using these size standards, they are reluctant to accept any change other than an increase for inflation. SBA has a strong interest in facilitating the administration of the small business set-aside program, and has therefore sought to minimize disruption to this program.

Fourth, inflation is a well-known economic phenomenon by which the real value of any quantity measured in dollars becomes diminished. In recognition of this, SBA, in 1975, made a general adjustment to receipts size standards for inflation and is proposing to do so again. The intent of this proposal is to give the size standards a real value equivalent to that which existed in 1975, or whenever a receipts size standard may have been subsequently established. Firms have been losing SBA eligibility due to inflation, and an inflation adjustment will help to remedy this.

Fifth, the designation of the SBA size standards more specifically in terms of SIC Manual industry classifications has several implications. It follows the explicit statutory intent of Section 3 of the Small Business Act that the SBA size standards vary from industry to industry. It conforms the SBA industry definitions with general governmentwide, business, and economic industry categories, rather than specialized SBA or procurement groupings. Furthermore, SBA's Size Appeals Board precedents have utilized SIC categories in interpreting the present regulation in many instances. While the proposed revision increases the number of size standards, since almost every 4-digit SIC industry would have a separate size standard, the use of SIC industry categories is a common and acceptable procedure.

Firms generally know their SIC industry category, since they may use it for various Government and non-Government reporting purposes. In the procurement area, the designation of size standards more specifically in terms of SIC codes could reduce disputes concerning the proper classification of particular procurements, especially where the item or service being procured is similar to commercial items or services. Even where the item may be specialized, use of the SIC categories in the required SBA size standard can reduce disputes by establishing more

definite criteria. The use of uniform SIC industry size standards for the various SBA programs also facilitates the combined usage and interrelation of SBA programs, since firms would be likely to have the same size eligibility for various financial and procurement programs.

Since the SBA size standards are used not only in SBA size determinations, but also by private firms and other agencies for procurement, regulatory, and assistance purposes, stating the size standards in terms of the commonly used SIC industry categories should aid their acceptance and wider use in aid of small business. For example, the Regulatory Flexibility Act indicates that other agencies should generally follow the SBA size standards in considering the effects of their regulations or proposed regulations on small business. This would be facilitated if SBA size standards are established on a uniform SIC Manual industry classification basis.

Sixth, SBA is also proposing to eliminate the use of the residual size standard of 500 employees where no size standard is specified for procurement purposes. This would be replaced by an "ad hoc" size standard authority, similar to what is currently used for financial purposes. The existing residual and ad hoc regulations are presently found in 13 CFR Part 121.3-8 and 121.3-10. The proposed ad hoc authority may be found in § 121.10(b). Since virtually all industries involved in SBA programs are proposed to have a size standard, it is anticipated that the ad hoc provision will be rarely used.

Comments

In response to SBA's second advance notice a total of 516 respondents generated over 1,000 written comments. Of the individual respondents, 481 were from the public while 35 were from Federal agencies and departments. This latest response was down substantially from the first advance notice, which included 1,124 individual respondents. However, the figure of over 500 responses indicated that the public was still concerned with the potential impact of the proposed changes. The responses were critical of the proposed changes in the level of industry size standards by approximately a 4-to-1 margin. While numerous criticisms were voiced, a number of commentors stated similar objections. The most numerous comments included the following: (1) Many felt that the economic conditions of their particular industry argued for a different size standard. In the majority of cases the commentor wanted a higher size standard; (2) a number of

commentors were concerned with the lack of distinction between full-time and part-time employees in the second notice. Many felt that this was unfair to firms, especially in the service sector, which employs part-time workers, since part-time and full-time workers are counted equally for size standard purposes; (3) in some industries commentors stated that the standard industrial code was unnecessarily broad in that it included subindustries with different Federal procurement markets. Commentors believed that these subindustries should be separated with different, usually higher, size standards; (4) a number of commentors said that the size standard which was suggested in the second advance notice would be disadvantageous to the procurement set-aside program. Frequently, commentors claimed that the set-aside program could not attract competent bidders in industries with a lower size standard; (5) some commentors were strongly critical of the decision to have a maximum size standard of 500 employees. They argued that such a maximum was arbitrary and failed to recognize that in many industries this would result in an insufficient number of bidders on small business set-asides, and would ignore competitive circumstances; (6) many commentors urged that SBA should strive for continuity and that the employee-based size standards should be retained at their present level. Many of these commentors felt, however, that the size standards based on gross receipts should be revised for inflation to maintain real measures of size unaffected by price trends.

A pattern which is readily apparent from the comments is that a few industries are responsible for most of the comments. Almost half of the total comments, for example, focus on the following 10 industries:

- Engineering
- Dredging
- General Construction (Except Dredging)
- Janitorial Services
- Shipbuilding and Ship Repair
- Research and Development Laboratories
- Oil Refining
- Base Maintenance
- Computer Programming and Data Processing
- Special Trade Construction

These industries, and a few others with procurement-related problems, received special attention from the SBA size standards staff when reviewing the public response.

SBA has given considerable weight to the over 2,000 comments received in response to the two advance notices.

The public comment procedure, however, is not regarded as a letter-writing contest. The Office of the Federal Register has pointed out:¹

In rulemaking, every voice is important. Agencies cannot count the number of comments received as if they were votes. An agency must consider each issue and use its expertise to reach a solution that meets the letter and spirit of the law.

Nonetheless, SBA regards comments as an informal indicator of the proposed rules' impact.

Numerous commentors to SBA's March 10, 1980, and May 3, 1982, advance notices stated that the proposed changes would adversely affect them or a small group of firms within their industry. There are some individual firms which may be adversely affected by their own loss or a competitor's gain in eligibility. However, SBA anticipates no adverse impact on any industry as a whole or on the economy if the proposed size standards are implemented. One should not confuse the legitimate, but somewhat self-serving, concerns of a comparatively small number of firms with an adverse impact on an entire industry, region, or the economy.

Methodology for Setting Size Standards

As already discussed, the method of setting size standards in the manufacturing industries is simply to retain the present procurement size standards as expressed in employees unless comments have been received which indicate a problem. A similar approach applies to the nonmanufacturing industries. In these, however, an inflationary adjustment is made in an attempt to put the size standards on a real dollar equivalent to the time of the last general adjustment, usually 1975.

The technique for adjusting for inflation focuses on a single measure—the GNP deflator. This measure is used in the National Income Accounts to calculate GNP adjusted for inflation (real GNP). This measure is more sophisticated than other measures of inflation in both method and coverage. It includes the prices of all goods and services in the economy whether paid by consumers, businesses, or the public sector. Thus, it is the most comprehensive price index since it includes all sectors of the economy.

The appropriate adjustment period will vary from industry to industry depending on the year of its last adjustment for inflation. In the majority

of nonmanufacturing industries the last adjustment occurred in 1975 based on 1974 data. Thus the deflator for 1974 of 115 (1972=100) is compared with the estimated deflator of 208 for the third quarter of 1982. The total change of +81 percent is then applied to those size standards last adjusted in 1975 to calculate the proposed revisions. In instances where size standards have been set after 1974, the adjustments are commensurately less to reflect the shorter period in which inflation occurred.

Discussion of Provisions of the Proposed Part 121

Not all sections of this Part 121 reflect a proposed change. Only §§ 121.1, 121.2, 121.4, 121.5, 121.7, and 121.10 represent changes to the present regulations. All other sections are merely reproduced as they now exist or slightly amended for clarity. Revisions to these §§ 121.3, 121.6, 121.8, 121.9, and 121.11, may be proposed for change in the future.

This proposal revises the format of the Part 121 size regulation due to the consolidation of the size standards. The general SIC industry size standards are set forth in § 121.2, along with the definition of employees (average for the prior 12 months) and the definition of receipts (average of the most recent 3 completed fiscal years). Section 121.3 contains certain general definitions, including the definition of affiliation (the size of affiliates must be added to the size of the firm for size standard purposes).

Section 121.4 consolidates provisions relating to the application of the size standards to SBA financial assistance programs and to the minority small business and capital ownership program (including 8(a) contracts). This section notes that the applicable size standard is that of the primary activity of the firm (including affiliates). The section retains the existing general alternate small business definition for small business investment companies, development companies, and pollution bond guarantees. The existing 25 percent increase in the size standards for financial assistance when it is to be used by the firm in a labor surplus or redevelopment area is retained (this 25 percent increase does not apply to 8(a) assistance or the surety bond guarantee program). The geographic size differentials for firms in Alaska, Hawaii, and Puerto Rico are not retained.

The proposed regulation provides that size determinations for 8(a) contracting purposes would be made by SBA if necessary for program eligibility purposes or for the award of particular 8(a) contracts. The present provision in

the regulation (§ 121.3-17) indicating that size for 8(a) purposes is only determined on a general program basis is deleted.

The procedural provisions of Part 124 of the SBA regulations (minority small business and capital ownership development assistance) are being revised as part of a general revision of Part 124 which is to be published in the near future as a proposed rule. That proposal will include additional procedures regarding 8(a) size certifications and size determinations. 8(a) size determinations will be governed by those regulations, rather than by the procurement size determination procedures of Part 121.

When bidding on regular (non-8(a)) small business set-asides, 8(a) firms are subject to the same size standards and size protest procedures as other bidders.

Section 121.5 contains provisions relating to size eligibility for set-aside procurements and for subcontracting. Firms, including any affiliates must meet the size standard for the procurement (which is designated in the solicitation). The procurement size section provides that procurements are classified in the most appropriate SIC industry size standard category, giving consideration to the descriptions in the regulation and the SIC Manual, the product or service description in the solicitation, and the attachments thereto, the relative value of items in the procurement and the principal nature of the procurement. These factors presently are considered under the SBA size regulations and Size Appeals Board procedures.

The size standard for bidders not manufacturing the product being supplied for a small business set-aside is the appropriate wholesale size standard for the item being supplied, rather than the general 500 employee nonmanufacturer size standard of the present regulation. On set-aside procurements other than those under "small purchase procedures," such nonmanufacturer must furnish the product of a small manufacturer, manufactured or produced in the United States. For purposes of Certificates of Competency on unrestricted procurements, nonmanufacturers must meet the appropriate wholesale size standard.

Section 121.5 also contains size provisions relating to subcontracts on Government procurements under Section 8(d) of the Small Business Act. That section of the Act encourages Government prime contractors to subcontract to small businesses. The subcontracting size standard generally is the industry size standard for the

¹ The Federal Register, What It Is and How to Use It, National Archives and Records Service, GSA, Washington, D.C., 1980, p. 106.

service or item which the subcontractor is providing to the prime contractor. However, on subcontracts pertaining to "small purchase procedures," this proposal provides (as under the present regulation) that the subcontractor, including any affiliates, must have no more than 500 employees.

The proposed regulation also sets forth procedures for protests and size determinations. It is anticipated that other amendments will be proposed at a later time on size procedures and affiliation.

In proposed § 121.7, SBA is proposing a size standard of 500 employees for purposes of award of any funding agreement under the Small Business Innovation Development (SBID) Act of 1982 (Pub. L. 97-219, 15 U.S.C. 838(e)-(k)). The 500 employee standard is the standard currently applicable for research and development (R&D). Although the current definition of R&D is somewhat narrower than the R&D definition included in the SBID Act, SBA believes a uniform standard of 500 employees is most appropriate for this program.

The SBID Act requires certain Federal departments and agencies to set aside a portion of their R&D budgets to fund Small Business Innovation Research (SBIR) programs. Such programs are to adopt uniform, simplified, and standardized procedures to facilitate the participation of small for profit R&D firms in the programs. The legislative history of the SBID Act indicates that Congress intended that R&D firms having less than 500 employees participate in this program. In the judgment of the SBA, the goals and purpose of the SBID Act will be best served by adopting a size standard of 500 employees for participants in SBIR programs regardless of industry.

Proposed § 121.7 also specifies that the 500 employee size standard applies to all funding agreements under the SBID Act. "Funding agreement" is defined in the SBID Act as "any contract, grant or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, development or research work funded in whole or in part by the Federal Government." SBA proposes a uniform size standard for all types of

funding agreements of the SBID Act for uniformity among SBIR programs.

Summary of Results

The size standards in manufacturing, mining, and transportation are presently stated in terms of "number of employees" for purposes of the SBA procurement program. Under this proposed rule the size standards in these industries for the procurement program would be retained (unless problems have been noted). All procurement size standards will also apply to the SBA financial assistance programs. For wholesale industries, the current procurement standard based on employees would be replaced with a gross receipt size standard to be used for all SBA programs. Sufficient problems have been identified in the following four areas for the SBA to areas for the SBA to propose changing the pertinent size standard from the present procurement size standard.

SIC	Industry	Current procurement size standard (employees)	Proposed standard (million)
4131	Inter-city and rural highway passenger transportation	500	3.5
4141	Local passenger transportation charter service	500	3.5
4142	Passenger transportation charter service, except local	500	3.5
50-51	Wholesale trade	500	(*)

* \$15 million-\$35 million depending on the industry.

The size standards in construction, retail, and services are presently stated in gross receipts. Under the new approach the size standard for both the procurement and financial programs will be based on the present procurement size standard increased for inflation unless problems are known to exist. In the majority of industries in which a number of comments have been received pursuant to the Advance Notices, the inflation adjustment will accommodate the views of the commentators including the procuring agencies. However, in a few industries, specific problems are not resolved through the inflationary adjustment. These industries include the following:

SIC	Industry	Current procurement size standard (Million)	Proposed standard (Million)
1629	Heavy construction (except dredging)	\$12.0	\$21.5
1029	Dredging component	9.5	9.5
5812	Eating places (except food services)	(*)	3.5
5812	Food service component (industrial and institutional food service activities)	5.5	10.0
6911	Architectural and surveying services	2.0	3.5
8911	Engineering services (except for military and aerospace equipment and for military weapons)	7.5	3.5
8911	Engineering services for military and aerospace equipment and for military weapons (except marine engineering)	7.5	13.5
8911	Naval architecture and marine engineering services	9.0	11.0
8931 *	Accounting and auditing	2.0	5.0
8931 *	Bookkeeping and billing services	2.0	3.5

* None.

* This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664), which proposed a size standard revision of 100 employees for the accounting, auditing, and bookkeeping industry (SIC-8931).

In the Small Business Investment Company, development company, and pollution bond programs the alternate size standard of \$6 million in net worth and average net income after Federal income taxes of \$2 million will be retained.

It should be reemphasized that the vast majority of proposed adjustments in construction, retail, and services were simply the result of the inflation increase applied to the present procurement receipts size standards. These adjustments and the decision to retain the present employee procurement size standards in the manufacturing industries have resulted in size standard ranges which are sharply different from those proposed during the first and second notices. As presently proposed, these ranges are as follows:

Agriculture: \$100,000-\$1.0 million; 25-30 employees
Mining: 500 employees
Construction: \$9.0 million-\$21 million
Manufacturing: 500-1500 employees
Transportation: \$3.5-\$20.0 million; 500-1500 employees
Wholesale: \$15 million-\$35 million
Retail: \$3.5 million-\$13.5 million
Services: \$2.5 million-\$14.5 million

Compliance With Regulatory Flexibility Act and Executive Order 12291

General

SBA considers that this proposed rule, if promulgated in final form, will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. In addition, this proposed rule, if promulgated in final form, would constitute a major rule for the purpose of E.O. 12291.

We have indicated above in this supplementary material a description of the reasons why this action is being considered, a statement of the reasons for and objectives of this proposal, and a description of the significant alternatives to this proposal. The legal basis for this proposal is Sections 3 and 5(b) of the Small Business Act, 15 U.S.C. 632 and 634(b).

Immediately below we have set forth an Economic Analysis of this proposal which provides, among other things, a description and estimate of the number of small entities to which the proposal would apply, an identification of overlapping and conflicting Federal rules, a description of the benefits and costs associated with the proposal and those likely to receive such benefits and costs.

Economic Analysis.

The intent of this proposed rule is to unify all size standards, regardless of the program to which they apply, at the level currently used for SBA's procurement set-aside program.³ In addition, those size standards presently expressed in dollars, basically those for the nonmanufacturing industries, are proposed to be increased for inflation. Finally, a relatively small number of size standards would be changed due to special circumstances.

In a dynamic \$3 trillion GNP economy, the fortunes of small businesses are influenced by a great variety of economic and noneconomic forces. When one considers business cycles, changing markets, taxes, fiscal and monetary policies, technological change, foreign trade, regulations, finance, and many other influences on over 7 million small businesses, the significance of size standards can be viewed as quite modest. The basic purpose of this portion of the explanatory material is to estimate the economic impact of the proposed size standards changes on firms which use, or are likely to use, SBA assistance.

The most important consideration to keep in mind in evaluating size standards changes is the fact that only a tiny fraction of the nation's small businesses are ever in a position to use SBA assistance and, thus, be subject to a size standards test. SBA's present size standards cover or define almost 99 percent of all firms as small. Under this proposal and previous SBA proposals, the coverage has not varied by more than 1 or 2 percentage points. While the proposed changes are of broad interest to small businesses, this proposal is principally followed by those relatively few businesses which are specifically interested in SBA programs.

An assumption behind the Regulatory Flexibility Act (RFA) and Executive Order 12291 is that regulatory requirements imposed equally on all firms in an industry may result in a disproportionately heavy burden on small firms. Small businesses have repeatedly pointed out that uniform application of the same regulations to them and to larger firms may produce certain inequities. Regulatory requirements which are mandatory require firms to keep records, make reports, and alter their way of doing business in complying with provision of new rules. These burdens and costs may be disproportionately heavier on small firms than on large firms.

A particular type of regulatory impact envisioned by the RFA and the Executive Order does not apply to the SBA size standard definitions of small business. SBA size standards in and of themselves do not require any firm to do anything because participation in SBA programs is entirely voluntary. The purpose of the RFA is to require the Government to consider special treatment for small business to mitigate inequities. Size standards, however, define what a small business is. They are definitions and do not themselves regulate or control business behavior. Thus, size standards do not constitute a regulatory burden in the typical sense.

The next portion of this statement will follow the outline suggested in the SBA pamphlet, "The Regulatory Flexibility Act" (Office of Advocacy, 1980), for the purpose of presenting an economic analysis of this proposal.

Economic Impact Analysis

First, the demographic impact of this proposal is the incremental number of firms affected by the proposed change. SBA estimates that about 39,000 additional firms, excluding farms, will be considered small as a result of the proposed rule. The inclusion of these firms is necessary, the Agency believes, to restore or maintain parity with the

firms defined as small business in 1975, the date of the last general size standards adjustment. Details of this estimate are in Table 2 below. As explained above, since only a tiny fraction of small businesses are interested in SBA assistance, the actual impact will be much smaller than the potential impact indicated by the 39,000 firm estimate. If 5 percent of these newly eligible firms were interested in SBA assistance, then the net demographic effect would be 1,950 additional firms receiving SBA assistance. Out of a total small business universe of over 5 million firms, the additional firms represent four one-hundredths of 1 percent or four small businesses out of every 10,000.

Of its three major programs—financial assistance, procurement assistance, and management assistance—SBA estimates that no more than 5 percent of the Nation's small businesses use these programs. This is a crude estimate because only in its financial assistance program does SBA have an exact count of the number of participating firms. For the procurement and management assistance programs, however, indirect indicators must be employed.

For financial assistance, SBA's major program is the 7(a) bank loan guarantee program. In FY 1982, there were 12,016 guarantees of this type. Direct, Economic Opportunity Loans, and Local Development Loans together accounted for 3,185 additional loans for a grand total of 15,201 firms in the various loan programs.

Data do not exist for the number of firms receiving set-asides, although, in FY 1981, 2,377,000 prime contract actions (over \$10,000 value) were set aside.⁴ Since one firm may receive more than one contract and since the number of contract actions by far exceeds the number of actual contracts,⁵ the number of firms involved in set-asides is a fraction of the 2.4 million contract actions, and this is probably also true of subcontracts. The number of referrals for Certificates of Competency is substantially less than either of the other program potentials.

SBA's Procurement Automated Source System, PASS, lists 71,000 firms. This is a list of small firms interested in doing Government work, not a list of those actually performing it. The number of firms receiving contracts, therefore, is probably closer to 71,000 rather than 2.4 million; 71,000 is 2 percent of the 3.7 million firms currently defined as small

³ Federal Procurement Data Center Special Analysis #4.3B, pg. 1, for FY 1981.

⁴ A contract action may include the initial contract, add-ons, change orders, etc.

⁵ The size standards are described in 13 CFR 121.3-8.

for SBA procurement purposes (see Table 1).

SBA's management assistance data are recorded by number of persons helped through courses, seminars, workshops, SCORE, ACE, and so on. The number of firms is not tracked and, in any case, is far fewer than the number of persons assisted. Furthermore, when a firm rather than an individual makes use of management

assistance, the smallest firms tend to use the assistance, and so it is unlikely that many firms near the size standard would use this form of assistance. In FY 1982, 358,000 people attended management assistance courses and 191,000 received counseling.

Some examples of the estimated impact in representative industries are as follows:

SIC	Name	Total No. firms	Present (small)	Proposed (small)	Change	Change as percent present (small)
1721	Construction painting	27,311	27,133	27,285	+152	0.56
5411	Retail grocery	91,902	89,850	90,703	+853	0.95
7538	Service auto repair	39,884	39,490	39,565	+75	0.19

The second topic for analysis is *economic cost analysis*. These types of costs are inapplicable in the case of size standards. Size standards impose no reporting or recordkeeping costs by themselves. In the event that other Federal agencies decide to use SBA's size standards for regulatory purposes, any economic costs involved would be due to that agency's regulations themselves, not to the size standard.*

The *competitive effects* of size standards differ from those normally associated with regulations such as the impact on prices of goods and services, profits, growth, innovation, mergers, and foreign trade. Size standards are not anticipated to have any appreciable effect on these factors.

The aspect of competition upon which the proposed changes may have an effect is in regarding competition as business rivalry. For example, by increasing the size standard and thereby the number of eligible firms in an industry, it could work to the detriment of smaller firms by diluting SBA's fixed resources. A somewhat larger firm, compared to the current size standards may win a set-aside bid or a loan from which it previously has been excluded.

The *aggregated impact* of this proposal, which includes forecasts of firm failures, employment losses, community impact, and the effect on economic concentration is not significant.

The likelihood of firm failures and associated unemployment is very remote as a result of SBA's proposed changes. There may be some individual firms (certainly not industries) which have become overly dependent on continued SBA assistance so that a

change of eligibility for set-asides would adversely affect them.

This effect may occur in industries where size standards have been increased. With more firms eligible to bid on procurement set-asides, the somewhat larger newly eligible firms may win bids over other smaller businesses. Again, any adverse effect would occur only to firms which have become so dependent on SBA aid that they cannot exist without it.

This proposed rule generally will affect the four sectors of business in which annual receipts size standards are used: construction, wholesale, retail, and services. Based on data from the 1977 Economic Census, the latest available, SBA estimates that this proposed rule will result in additional firms being classified as small. These firms, SBA believes, are not larger in terms of employees or physical output, only in terms of receipts due to inflation. This estimate is detailed in Table 2.

Due to the fact that a very small percentage of all small businesses are concerned with SBA assistance, the number of firms actually affected will be considerably less than 39,000. It is not possible to tell in advance what this number would be, especially since there is no way to determine how many firms would use SBA assistance if the proposed rule is adopted.

Size standards are primarily used for SBA programs and are designed with this purpose in mind. They are not intended as an all-purpose definition of small business, or as appropriate definitions for non-SBA purposes. In the SBA Loan Guarantee program, 7(a), the vast majority of loans go to firms with fewer than 19 employees. Since \$2.5 million is the lowest proposed size standard (with the exception of agriculture), firms smaller than this size

are unaffected.* In FY 1982, the most recent year for such data, 82 percent of SBA loans were to firms with fewer than 19 employees.

Also, in the most recent fiscal year, SBA participated in approximately 12,000 guaranteed loans. While there are incomplete statistics on the total number of loans to small business economy-wide, SBA loans represent a tiny proportion of total small business loans. The normal commercial banking system finances the vast majority of loans to small business. Thus, SBA's presence in total small business financing is quite small.

SBA estimates that on average, 39,000 firms would generate 109 SBA loans. However, since the newly eligible firms will be larger than the currently eligible firms, they most likely will not be interested in SBA loans. This is because the smallest small businesses generate the bulk of SBA loans (85 percent of guarantee loans are to firms with fewer than 19 employees). Thus, the number of new loans generated by the proposed change are estimated to be considerably less than 109. In any case, SBA's lending authority is fixed by Congress, and the total dollars loaned cannot change through a change in the size standards. The economic impact of this proposed rule on small business lending will, therefore, be marginal.

SBA's second major form of small business assistance is the procurement set-aside program. The question raised by this proposed rule in terms of impact is: How many additional firms will be eligible to bid for small business set-asides? at the most, 22,553 firms will become newly eligible.* While there are no data on the total number of firms which bid on set-asides, it generally is believed that only a small percentage of small businesses are interested in doing work for the Government. For this reason, of the 22,553 firms, it is likely that only a few hundred might become involved in Government procurement at the prime or subcontract level.

Further, it is impossible to predict which firms or group of firms will gain or lose benefits of SBA procurement assistance. Even without any change in size standards, the group of firms participating in Government contracts this year will differ in an unpredictable

* For retail in general, 55 employees is the approximate equivalent of \$2.5 million in annual sales. For services, 65 employees is the approximate equivalent of \$2.5 million in annual sales.

* From Table 2, total firms changing status minus 13,180 retail firms (for which set-asides are not applicable) and minus 2,964 manufacturing firms whose procurement eligibility remains unchanged.

* The use of SBA size standards for regulatory purposes is optional under the Regulatory Flexibility Act (§ 601(3)).

way from the group which participated last year.

What impact will the presence of a few hundred additional firms have on the procurement assistance program? While there are several million firms eligible now, only a small percentage participate in Government procurement. The practical effect of this proposed rule, although not quantifiable, may be in having one or two additional firms offering on a particular contract or subcontract. For some contracts, then, there might be perhaps eight bidders rather than seven, with no way of knowing whether the newly designated small firm would even win the contract or how it would affect the bid price of other bidders.

In the procurement assistance program the net effect is actually zero. For example, if a firm currently eligible to bid on a set-aside is too large under the proposed size standards, then a firm below the new standard will get the contract and perform the work. One firm's loss is the other's gain, and the net result is zero.

A third possible area of impact is the extramural use of size standards, that is, their use for other than SBA purposes. These may include Federal, other government, and private sector adaptation of size standards for any number of purposes. SBA usually has no knowledge of the extramural use of its size standards and, thus, this impact is unknown to SBA but may be known to the specific agency which uses small business definitions. The use of SBA size standards as a small business definition, according to the Regulatory Flexibility Act, is advisory not mandatory when used by other Federal agencies (see Sec. 601(3)).

To conclude, the impact of this proposal on the SBA loan program may be on the order of a few million dollars in loans. Funding permitting, loans have always been made to a small firm as long as it is eligible and meets the appropriate loan requirements. For procurement assistance, the impact is indeterminate; if one small business is not awarded a contract, then another small business will get it. Thus, it offsets the firm not receiving the contract. Any impact due to the extramural use of SBA's size standards is due to that agency's regulation, not the size standard itself.

SBA Actions To Comply With the Administrative Procedure Act

The SBA actions described below, which are normally required to comply with the Administrative Procedure Act, summarize the steps taken by the Agency in developing the proposed rule.

The Agency published advance notices on March 10, 1980, and May 3, 1982, on the revision of size standards.

Another notice requesting public comment on the major issues related to the size standards was published on September 10, 1980.

Public hearings were held by SBA in each of its 10 regions in May and June 1980, and may be held again if warranted.

Over 2,000 comments were received and considered in 1980 and 1982.

Comments from over 35 Federal agencies were received and considered in 1980 and 1982.

Meetings and briefings were held with approximately 40 trade associations and both Congressional Small Business Committees in 1980 and similarly in 1982.

Response was made to specific inquiries from hundreds of phone calls and letters.

SBA filed, categorized, and took into account all the comments and inquiries submitted to the agency.

SBA has provided a very large number of trade publications, magazines, and trade association newsletters with interviews and information on the proposed size standards. There have been press releases as well as articles in such general circulation newspapers as the

Washington Post and the Wall Street Journal.

APPENDIX A.—AGENCIES WHICH HAVE ISSUED RULES DEFINING SMALL BUSINESS

Agency	Citation
Civil Aeronautics Board	14 CFR Part 399.
Commodities Futures Trading Commission	17 CFR Part 1.
Consumer Product Safety Commission	16 CFR Part 1306.
Department of Commerce	37 CFR Parts 1, 5
Department of Defense	39 CFR Part 1-39, 1-701.1, 7-2003(b), 844.512.
Department of Energy	10 CFR 600.33.
Department of Health and Human Services	41 CFR Parts 3-1, 3-7, 1-1701(a).
Department of Labor	30 CFR Parts 55, 56, 57, 75, 77.
Department of the Treasury	26 CFR Parts 1, 11, 1.1244(c)-2, 1.1371-1.
Environmental Protection Agency	40 CFR Parts 704, 713, 29 CFR Part 104.
National Aeronautics and Space Administration	41 CFR Ch. 18 Parts 1, 2, 3, 7.
Securities and Exchange Commission	17 CFR 270.3c-2 SEC Release No. 1765.

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) Federal agencies are urged to accord special consideration to small business under their regulations. These rules defining small business may differ from SBA's but they do not conflict with the size standards for SBA's programs, including procurement set asides. When participating in SBA programs, including procurement from small business, Federal agencies must use the SBA size standards as published in 13 CFR Part 121.

TABLE 1.—ESTIMATE OF NUMBER OF SMALL FIRMS COMPARED TO INDUSTRY TOTAL UNDER PROPOSED REVISIONS FOR SIZE STANDARDS—BY INDUSTRY DIVISIONS

SIC division	Total firms	Current small		Proposed small
		Loan	Proc.	
Agriculture Services and Fishing and Forestry*	96,342	95,703	95,876	95,709
Mining	23,097	22,667	22,667	22,667
Construction	1,176,135	1,166,963	1,167,233	1,173,413
Manufacturing	299,351	281,127	284,111	284,111
Transp. Comm. Util. ¹	134,775	129,086	131,365	133,024
Wholesale*	295,925	273,117	282,481	277,551
Retail	1,567,071	1,514,687	NA	1,527,867
Insurance and Real Estate*	87,686	83,163	NA	86,595
Services	1,763,992	1,752,297	1,753,709	1,756,616
Total	5,435,374	5,318,630	5,377,442	5,357,553

¹ Only those industries in which SBA makes loans are listed. Some industries in the Transportation, Communication, and Utilities division are not eligible for SBA programs. Source: 1980 D&B/USEEM, specially prepared for SBA.

* Merchants wholesalers, wholesale agents, brokers, and commission merchants are included. Sales outlets owned by manufacturers are not included as a wholesale function.

² Only those industries in which SBA makes or proposes to make loans are listed. These are (1) Fire, Casualty, and Marine Insurance Companies; (2) Insurance Agents and Brokers, and (3) Mobile Home Site Operators. Source: County Business Patterns, 1980.

³ County Business Patterns, 1980.

Sources of information: All data were derived from the various U.S. Economic Censuses of 1977, including special tabulations by the Bureau of the Census for SBA, except as noted below.

Farms are listed separately because, historically, SBA has been an insignificant source of Government farm financing, this

role being played by FmHA. Data are from 1978 Census of Agriculture.

SIC division	Total firms	Current small		Proposed small
		Loan	Proc.	
Farms	2,477,000	2,413,000	NA	2,254,000

TABLE 2.—ANALYSIS OF CHANGE

Title	SIC	Estimated number of firms changing status ¹	Percent all firms changing status	Percent small firms changing status ²
Agr. Servs., Fish., and Forestry	A	0	0	0
Mining	B	0	0	0
Construction	C	+6,450	0.55	0.55
Manufacturing	D	2,984	1.00	1.06
Transp., Commun. and Util.	E	+3,938	2.92	3.05
Wholesale	F	+4,434	1.55	1.62
Retail	G	+13,180	0.84	0.87
Insurance and Real Estate ³	H	+3,412	3.90	4.10
Services	I	+4,319	0.24	0.25
Total		36,717	0.71	0.73

Title	SIC	Estimated number of firms changing status ¹	Percent all firms changing status	Percent small firms changing status
Farms	A	-159,000	6.4	6.6

¹Using current loan size standard as a base. 500 employees used for mining as current base. If procurement size standards were used as the base, the number of firms changing status would be fewer.

²Based on current loan standard.

³Includes only Fire, Casualty, and Marine Insurance; Insurance Agents; and Mobile Homesite Operators.

List of Subjects in 13 CFR Part 121

Small businesses, Size standards.

This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664), which proposed a size standard revision of 100 employees for the accounting, auditing, and bookkeeping industry (SIC-8931).

Accordingly, pursuant to Sections 3 and 5 (b) of the Small Business Act, as amended (15 U.S.C. 632, 634), it is proposed to revise Part 121 of Title 13 of the Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

Sec.

- 121.1 Purpose and method of establishing size standards.
- 121.2 Standard industrial classifications and size standards.
- 121.3 General definitions.
- 121.4 Small business for financial programs.
- 121.5 Small business for government procurement.
- 121.6 Small business for sales or lease of government property.
- 121.7 Small business innovation research program.
- 121.8 Size determinations.
- 121.9 Protest of small business status.
- 121.10 Size standards responsibilities.
- 121.11 Appeals.
- 121.12 Small business for paying reduced patent fees under Title 35, U.S. Code.

Authority: 15 U.S.C. 632 and 634.

§ 121.1 Purpose and method of establishing size standards.

The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the

expression and growth of personal initiatives and individual judgment be assured. The preservation and expansion of such competition is basic not only to economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation. (Small Business Act, Section 2(a), (15 U.S.C. 631))

(a) To implement this policy, Congress established the Small Business Administration (SBA) in 1953 and gave it the responsibility to administer a range of programs designed to achieve these and other social goals. Eligibility for SBA programs requires that a firm be "small." The actual setting of size standards, i.e., the size specification of "small" is delegated to the Administrator of the SBA.

(b) Size standards are established primarily to define eligibility for SBA programs and Federal procurement purposes. It is clear, both from the Act itself and from the legislative history, that the specification of what is a small business has been left to administrative, rather than legislative, determination. Size standards vary by industry with particular attention to the structure of

the designated industry. Administration policy and the needs of the various Federal programs to which they apply. In its most basic sense, this is the approach of establishing size standards. Factors, among others, which are examined for the purpose of setting size standards include maximum size of firms, average firm size, the extent of industry dominance by large firms, the number of firms, the distribution by firm size of sales and employees in the industry, the presence of Federal procurement, and relation to other SBA programs. The development of size standards is not an exact quantitative procedure. No single measure or simple numerical device is the basis for establishing size standards.

(c) The process of establishing size standards is a complex one. The basic source of data used in establishing size standards include: the Standard Industrial Classification Manual, which is used as a guide in defining industries; U.S. Bureau of the Census, Economic Censuses including Concentration Ratios in Manufacturing, Enterprise Statistics; special tabulations of the Enterprise Statistics and Annual Survey of Manufactures prepared for SBA by the U.S. Bureau of the Census; U.S. Department of Commerce, U.S. Industrial Outlook, Survey of Current Business, and County Business Patterns; Internal Revenue Service, Statistics of Income; Dun and Bradstreet, DMI Market Profile; and special USEEM tabulations; Economic Information Service, Marketing Information; Federal Procurement Data System statistics, SBA's own extensive files of articles and correspondence, and information provided by trade associations.

(d) Under the Regulatory Flexibility Act (Pub. L. 96-354), Federal agencies considering and promulgating regulations relating to small businesses generally utilize small business size criteria developed pursuant to the Small Business Act. However, SBA size standards sometimes may not be appropriate for the particular regulation involved. In such cases where a Federal agency decides the SBA size standard is not appropriate, the agency may, after consultation with the SBA Office of Advocacy, establish a small business definition which is more appropriate to the activities of the agency.

(e) SBA assistance should not be regarded as permanent nor as the primary source of a firm's sales. It should be used to assist a firm to compete in the regular business world, without becoming dependent on continuing Government aid. Small businesses should not rely on Federal

assistance from the cradle to the grave, but should plan for the day when they can compete without assistance.

§ 121.2 Standard industrial classification and size standards.

(a) The following industry size standards apply to all SBA programs except the sales of government property (§ 121.6) physical disaster loans (so size standards); Small Business Investment Companies, Development Companies, and Pollution Control Bonds (see § 121.3-4(e)). The industry size standards are set forth in the table following this section. Their relationship to the various SBA programs is set forth in §§ 121.4 and 121.5 of these regulations. The table column labeled "SIC" follows the standard industrial classification code as published by the U.S. Government in the Standard Industrial Classification Manual, Office of Management and Budget, Executive Office of the President. The Standard Industrial Classification Manual is intended to cover the entire field of economic activities. It classifies and defines activities by industry categories and is the source used by SBA as a guide in defining industries for size standards. (It is available for sale from the U.S. Government Printing Office¹ and is in the reference section of most

libraries.) The number of employees or annual receipts indicates the maximum allowed for a concern (including its affiliates) to be considered small.

(b) For the purpose of these size standards, the term "number of employees" is a measure of the average employment of a business concern and means its average employment, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during each of the pay periods of the preceeding 12 months. If a business has not been in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business. If a business has acquired an affiliate during the applicable 12 month period, it is necessary, in computing the applicant's number of employees, to include the affiliate's number of employees during the entire period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern has been an affiliate during a portion of the period.

(c)(1) "Annual receipts" means the 3-year average of the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, based on its revenues entered on its regular books of account for its most recently completed 3 fiscal years (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service for Federal income tax purposes.

(2) If a concern has been in business less than 3 years, its average annual receipts for the period in which it has been in business, and multiplying such figure by 52. If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's annual receipts to include the affiliate's receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been affiliated during a portion of the applicable accounting period.

¹ Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock Number 4101-0066)

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
Division A—Agriculture				
Major Group 01—Agricultural Production—Crops				
0111 to 0191	Agricultural Production—Crops	None	¹ \$1.0	¹ \$0.1
Major Group 02—Agricultural Production—Livestock				
0211	Beef Cattle Feedlots (Custom)	None	\$10.0	\$1.0
0212 to 0291	Agricultural Production—Livestock, except 0211	None	\$1.0	\$0.1
Major Group 07—Agricultural Services				
All SIC's		None	None	50
Major Group 08—Forestry				
All SIC's		None	None	25
Major Group 09—Fishing, Hunting, and Trapping				
All SIC's		None	None	25
Division B—Mining				
Major Group 10—Metal Mining				
1011	Iron Ores	500	None	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
1021	Copper Ores	500	None	500
1031	Lead and Zinc Ores	500	None	500
1041	Gold Ores	500	None	500
1044	Silver Ores	500	None	500
1051	Bauxite and Other Aluminum Ores	500	None	500
1061	Ferroalloy Ores, Except Vanadium	500	None	500
1061	Metal Mining Services	\$2.0	None	\$3.5
1092	Mercury Ores	500	None	500
1094	Uranium-Radium-Vanadium Ores	500	None	500
1099	Metal Ores, Not Elsewhere Classified	500	None	500
Major Group 11—Anthracite Mining				
1111	Anthracite	500	250	500
1112	Anthracite Mining Services	\$2.0	250	\$3.5
Major Group 12—Bituminous Coal and Lignite Mining				
1211	Bituminous Coal and Lignite	500	None	500
1213	Bituminous Coal and Lignite Mining Services	\$2.0	250	\$3.5
Major Group 13—Oil and Gas Extraction				
1311	Crude Petroleum and Natural Gas	500	None	500
1321	Natural Gas Liquids	500	None	500
1381	Drilling Oil and Gas Wells	500	None	500
1382	Oil and Gas Field Exploration Services	\$2.0	\$2.0	\$3.5
1389	Oil and Gas Field Services, N.E.C.	\$2.0	\$2.0	\$3.5
Major Group 14—Mining and Quarrying of Non-Metallic Minerals, Except Fuels				
1411	Dimension Stone	500	None	500
1422	Crushed and Broken Limestone	500	None	500
1423	Crushed and Broken Granite	500	None	500
1429	Crushed and Broken Stone, N.E.C.	500	None	500
1442	Construction Sand and Gravel	500	None	500
1446	Industrial Sand	500	None	500
1452	Bentonite	500	None	500
1453	Fire Clay	500	None	500
1454	Fuller's Earth	500	None	500
1455	Kaolin and Ball Clay	500	None	500
1459	Clay, Ceramic, and Refractory Minerals, N.E.C.	500	None	500
1472	Barite	500	None	500
1473	Fluorspar	500	None	500
1474	Potash, Soda, and Borate Minerals	500	None	500
1475	Phosphate Rock	500	None	500
1476	Rock Salt	500	None	500
1477	Sulfur	500	None	500
1479	Chemical and Fertilizer Mineral Mining, N.E.C.	500	None	500
1481	Nonmetallic Minerals (Except Fuels) Services	\$2.0	\$2.0	\$3.5
1492	Gypsum	500	None	500
1496	Talc, Soapstone, and Pyrophyllite	500	None	500
1499	Miscellaneous Nonmetallic Minerals, N.E.C.	500	None	500
Division C—Construction				
Major Group 15—Building Construction—General Contractors and Operative Builders				
1521	General Contractors—Single-Family Houses	\$12.0	\$9.5	\$21.5
1522	General Contractors—Residential Buildings, Other Than Single-Family	\$12.0	\$9.5	\$21.5
1531	Operative Builders	\$12.0	\$9.5	\$21.5
1541	General Contractors—Industrial Buildings and Warehouses	\$12.0	\$9.5	\$21.5
1542	General Contractors—Nonresidential Buildings, Other Than Industrial Buildings and Warehouses	\$12.0	\$9.5	\$21.5
Major Group 16—Construction Other Than Building Construction—General Contractors				
1611	Highway and Street Construction, Except Elevated Highways	\$12.0	\$9.5	\$21.5
1622	Bridge, Tunnel, and Elevated Highway Construction	\$12.0	\$9.5	\$21.5
1623	Water, Sewer, Pipe Line, Communication and Power Line Construction	\$12.0	\$9.5	\$21.5
1629	Heavy Construction, Except Dredging	\$12.0	\$9.5	\$21.5
1629	Dredging and Surface Cleanup Activities	\$9.5	\$9.5	\$9.5
Major Group 17—Construction—Special Trade Contractors				
1711	Plumbing, Heating (Except Electric), and Air Conditioning	\$5.0	\$5.0	\$9.0
1721	Painting, Paper Hanging, and Decorating	\$5.0	\$5.0	\$9.0
1731	Electrical Work	\$5.0	\$5.0	\$9.0
1741	Masonry, Stone Setting, and Other Stonework	\$5.0	\$5.0	\$9.0
1742	Plastering, Drywall, Acoustical, and Insulation Work	\$5.0	\$5.0	\$9.0
1743	Terrazzo, Tile, Marble, and Mosaic Work	\$5.0	\$5.0	\$9.0
1751	Carpentering	\$5.0	\$5.0	\$9.0
1752	Floor Laying and Other Floor Work, N.E.C.	\$5.0	\$5.0	\$9.0
1761	Roofing and Sheet Metal Work	\$5.0	\$5.0	\$9.0
1771	Concrete Work	\$5.0	\$5.0	\$9.0
1781	Water Well Drilling	\$5.0	\$5.0	\$9.0
1791	Structural Steel Erection	\$5.0	\$5.0	\$9.0
1793	Glass and Glazing Work	\$5.0	\$5.0	\$9.0

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
1794	Excavating the Foundation Work	\$5.0	\$5.0	\$9.0
1795	Wrecking and Demolition Work	\$5.0	\$5.0	\$9.0
1796	Installation or Erection of Building Equipment, N.E.C.	\$5.0	\$5.0	\$9.0
1799	Special Trade Contractors, N.E.C.	\$5.0	\$5.0	\$9.0
Division D—Manufacturing ²				
Major Group 20—Food and Kindred Products				
2011	Meat Packing Plants	500	500	500
2013	Sausages and Other Prepared Meat Products	500	500	500
2016	Poultry Dressing Plants	500	500	500
2017	Poultry and Egg Processing	500	500	500
2021	Creamery Butter	500	500	500
2022	Cheese, Natural and Processed	500	500	500
2023	Condensed and Evaporated Milk	500	500	500
2024	Ice Cream and Frozen Desserts	500	500	500
2026	Fluid Milk	500	500	500
2032	Canned Specialties	1,000	1,000	1,000
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies ³	500	500	500
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes	500	500	500
2035	Pickled Fruits and Vegetables, Vegetable Sauces and Seasonings, and Salad Dressings	500	500	500
2037	Frozen Fruit, Fruit Juices, and Vegetables	500	500	500
2038	Frozen Specialties	500	500	500
2041	Flour and Other Grain Mill Products	500	500	500
2043	Cereal Breakfast Foods	1,000	1,000	1,000
2044	Rice Milling	500	250	500
2045	Blended and Prepared Flour	500	500	500
2046	Wet Corn Milling	750	750	750
2047	Dog, Cat, and Other Pet Food	500	500	500
2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, N.E.C.	500	250	500
2051	Bread and Other Bakery Products, Except Cookies and Crackers	500	250	500
2052	Cookies and Crackers	750	750	750
2061	Cane Sugar, Except Refining Only	500	250	500
2062	Cane Sugar Refining	750	750	750
2063	Beet Sugar	750	750	750
2065	Candy and Other Confectionery Products	500	250	500
2066	Chocolate and Cocoa Products	500	500	500
2067	Chewing Gum	500	500	500
2074	Cottonseed Oil Mills	500	250	500
2075	Soybean Oil Mills	500	500	500
2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	1,000	1,000	1,000
2077	Animal and Marine Fats and Oils	500	250	500
2079	Shortening, Table Oils, Margarine and Other Edible Fats and Oils, N.E.C.	750	750	750
2082	Malt Beverages	500	500	500
2083	Malt	500	250	500
2084	Wines, Brandy, and Brandy Spirits	500	250	500
2085	Distilled, Rectified, and Blended Liquors	750	750	750
2086	Bottled and Canned Soft Drinks and Carbonated Waters	500	250	500
2087	Flavoring Extracts and Flavoring Syrups, N.E.C.	500	500	500
2091	Canned and Cured Fish and Seafoods	500	250	500
2092	Fresh or Frozen Packaged Fish and Seafoods	500	250	500
2095	Roasted Coffee	500	250	500
2097	Manufactured Ice	500	250	500
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	500	250	500
2099	Food Preparations, N.E.C.	500	250	500
Major Group 21—Tobacco Manufacturers				
2111	Cigarettes	1,000	1,000	1,000
2121	Cigars	500	500	500
2131	Tobacco (Chewing and Smoking) and Snuff	500	500	500
2141	Tobacco Stemming and Redrying	500	500	500
Major Group 22—Textile Mill Products				
2211	Broad Woven Fabric Mills, Cotton	1,000	1,000	1,000
2212	Broad Woven Fabric Mills, Man-Made Fiber and Silk	500	500	500
2231	Broad Woven Fabric Mills, Wool (Including Dyeing and Finishing)	500	250	500
2241	Narrow Fabrics and Other Smallwares Mills: Cotton, Wool, Silk, and Man-Made Fiber	500	250	500
2251	Women's Full Length and Knee Length Hosiery	500	250	500
2252	Hosiery, Except Women's Full Length and Knee Length Hosiery	500	250	500
2253	Knit Outerwear Mills	500	250	500
2254	Knit Underwear Mills	500	250	500
2257	Circular Knit Fabric Mills	500	250	500
2258	Warp Knit Fabric Mills	500	250	500
2259	Knitting Mills	500	250	500
2261	Finishers of Broad Woven Fabrics of Cotton	1,000	550	1,000
2262	Finishers of Broad Woven Fabrics of Man-Made Fiber and Silk	500	500	500
2269	Finishers of Textiles, N.E.C.	500	250	500
2271	Woven Carpets and Rugs	750	750	750
2272	Tufted Carpets and Rugs	500	500	500
2279	Carpets and Rugs, N.E.C.	500	500	500
2281	Yarn Spinning Mills: Cotton, Man-Made Fibers, and Silk	500	500	500
2282	Yarn Texturizing, Throwing, and Winding Mills: Cotton, Man-Made Fibers, and Silk	500	250	500
2283	Yarn Mills, Wool, Including Carpet and Rug Yarn	500	250	500
2284	Thread Mills	500	500	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
2291	Felt Goods, Except Woven Felts and Hats	500	250	500
2292	Lace Goods	500	250	500
2293	Paddings and Upholstery Filling	500	250	500
2294	Processed Waste and Recovered Fibers and Flock	500	250	500
2295	Coated Fabrics, Not Rubberized	1,000	250	1,000
2296	Tire Cord and Fabric	1,000	1,000	1,000
2297	Nonwoven Fabrics	500	250	500
2298	Cordage and Twine	500	250	500
2299	Textile Goods, N.E.C.	500	250	500
Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials				
2311	Men's, Youths', and Boys' Suits, Coats and Overcoats	500	250	500
2321	Men's, Youths', and Boys' Shirts (Except Work Shirts) and Nightwear	500	250	500
2322	Men's, Youths', and Boys' Underwear	500	250	500
2323	Men's, Youths', and Boys' Neckwear	500	250	500
2327	Men's, Youths', and Boys' Separate Trousers	500	250	500
2328	Men's, Youths', and Boys' Work Clothing	500	250	500
2329	Men's, Youths', and Boys' Clothing, N.E.C.	500	250	500
2331	Women's, Misses', and Juniors' Blouses, Waists, and Shirts	500	250	500
2335	Women's, Misses', and Juniors' Dresses	500	250	500
2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats	500	250	500
2339	Women's, Misses', and Juniors' Outerwear, N.E.C.	500	250	500
2341	Women's, Misses', and Children's and Infants' Underwear and Nightwear	500	250	500
2342	Brasieres, Girdles, and Allied Garments	500	250	500
2351	Millinery	500	250	500
2352	Hats and Caps, Except Millinery	500	250	500
2351	Girls', Children's, and Infants' Dresses, Blouses, Waists, and Shirts	500	250	500
2363	Girls', Children's, and Infants' Coats and Suits	500	250	500
2368	Girls', Children's, and Infants' Outerwear, N.E.C.	500	250	500
2371	Fur Goods	500	250	500
2381	Dress and Work Gloves, Except Knit and All-Leather	500	250	500
2384	Robes and Dressing Gowns	500	250	500
2385	Raincoats and Other Waterproof Outer Garments	500	250	500
2396	Leather and Sheep Lined Clothing	500	250	500
2397	Apparel and Belts	500	250	500
2399	Apparel and Accessories, N.E.C.	500	250	500
2391	Curtains and Draperies	500	250	500
2392	Housefurnishings, Except Curtains and Draperies	500	250	500
2393	Textile Bags	500	250	500
2394	Canvas and Related Products	500	250	500
2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade	500	250	500
2396	Automotive Trimmings, Apparel Findings, and Related Products	500	250	500
2397	Schiffli Machine Embroideries	500	250	500
2399	Fabricated Textile Products, N.E.C.	500	250	500
Major Group 24—Lumber and Wood Products, Except Furniture				
2411	Logging Camps and Logging Contractors	500	250	500
2421	Sawmills and Planing Mills, General	500	250	500
2426	Hardwood Dimension and Flooring Mills	500	250	500
2429	Special Product Sawmills, N.E.C.	500	250	500
2431	Millwork	500	250	500
2434	Wood Kitchen Cabinets	500	250	500
2435	Hardwood Veneer and Plywood	500	250	500
2436	Softwood Veneer and Plywood	500	250	500
2439	Structural Wood Members, N.E.C.	500	250	500
2441	Nailed and Lock Corner Wood Boxes and Shook	500	250	500
2448	Wood Pallets and Skids	500	250	500
2449	Wood Containers, N.E.C.	500	250	500
2451	Mobile Homes	500	250	500
2452	Prefabricated Wood Buildings and Components	500	250	500
2491	Wood Preserving	500	250	500
2492	Particleboard	500	250	500
2499	Wood Products, N.E.C.	500	250	500
Major Group 25—Furniture and Fixtures				
2511	Wood Household Furniture, Except Upholstered	250	500	500
2512	Wood Household Furniture, Upholstered	500	250	500
2514	Metal Household Furniture	500	250	500
2515	Mattresses and Bedsprings	500	250	500
2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets	500	250	500
2519	Household Furniture, N.E.C.	500	250	500
2521	Wood Office Furniture	500	250	500
2522	Metal Office Furniture	500	500	500
2531	Public Building and Related Furniture	500	250	500
2541	Wood Partitions, Shelving, Lockers, and Office and Store Fixtures	500	250	500
2542	Metal Partitions, Shelving, Lockers, and Office and Store Fixtures	500	250	500
2591	Draper Hardware and Window Blinds and Shades	500	250	500
2599	Furniture and Fixtures, N.E.C.	500	250	500
Major Group 26—Paper and Allied Products				
2611	Pulp Mills	750	750	750
2621	Paper Mills, Except Building Paper Mills	750	750	750

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
2631	Paperboard Mills	750	750	750
2641	Paper Coating and Glazing	500	500	500
2642	Envelopes	500	250	500
2643	Bags, Except Textile Bags	500	500	500
2645	Die-Cut Paper and Paperboard and Cardboard	500	250	500
2646	Pressed and Molded Pulp Goods	750	750	750
2647	Sanitary Paper Products	500	500	500
2648	Stationery, Tablets, and Related Products	500	2500	500
2649	Converted Paper and Paperboard Products, N.E.C.	500	500	500
2651	Filing Paperboard Boxes	500	250	500
2652	Set-up Paperboard Boxes	500	250	500
2653	Corrugated and Solid Fiber Boxes	500	250	500
2654	Sanitary Food Containers	750	750	750
2655	Fiber Cans, Tubes, Drums, and Similar Products	500	250	500
2661	Building Paper and Building Board Mills	750	750	750
Major Group 27—Printing, Publishing, and Allied Industries				
2711	Newspapers: Publishing, Publishing and Printing	500	250	500
2721	Periodicals: Publishing, Publishing and Printing	500	250	500
2731	Books: Publishing, Publishing and Printing	500	250	500
2732	Book Printing	500	250	500
2741	Miscellaneous Publishing	500	250	500
2751	Commercial Printing, Letterpress, and Screen	500	250	500
2752	Commercial Printing, Lithographic	500	250	500
2753	Engraving and Plate Printing	500	250	500
2754	Commercial Printing, Gravure	500	250	500
2761	Manifold Business Forms	500	250	500
2771	Greeting Card Publishing	500	250	500
2782	Blankbooks, Looseleaf Binders and Devices	500	250	500
2789	Bookbinding and Related Work	500	250	500
2791	Typesetting	500	250	500
2793	Photoengraving	500	250	500
2794	Electrotyping and Stereotyping	500	250	500
2795	Lithographic Platemaking and Related Services	500	250	500
Major Group 28—Chemicals and Allied Products				
2812	Alkalies and Chlorine	1,000	1,000	1,000
2813	Industrial Gases	1,000	1,000	1,000
2816	Inorganic Pigments	1,000	1,000	1,000
2819	Industrial Inorganic Chemicals, N.E.C.	1,000	1,000	1,000
2821	Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	750	750	750
2822	Synthetic Rubber (Vulcanizable Elastomers)	1,000	1,000	1,000
2823	Cellulosic Man-Made Fibers	1,000	1,000	1,000
2824	Synthetic Organic Fibers, Except Cellulosic	1,000	1,000	1,000
2831	Biological Products	500	250	500
2833	Medicinal Chemicals and Botanical Products	750	250	750
2834	Pharmaceutical Preparations	750	750	750
2841	Soap and Other Detergents, Except Specialty Cleaners	750	750	750
2842	Specialty Cleaning, Polishing, and Sanitation Preparations	500	500	500
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants	500	250	500
2844	Perfumes, Cosmetics, and Other Toilet Preparations	500	500	500
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	500	250	500
2861	Gum and Wood Chemicals	500	500	500
2865	Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners)	750	750	750
2869	Industrial Organic Chemicals, N.E.C.	1,000	1,000	1,000
2873	Nitrogenous Fertilizers	1,000	1,000	1,000
2874	Phosphatic Fertilizers	500	500	500
2875	Fertilizers, Mixing Only	500	500	500
2879	Pesticides and Agriculture Chemicals, N.E.C.	500	500	500
2891	Adhesives and Sealants	500	250	500
2892	Explosives	750	750	750
2893	Printing Ink	500	250	500
2895	Carbon Black	500	500	500
2899	Chemicals and Chemical Preparations, N.E.C.	500	250	500
Major Group 29—Petroleum Refining and Related Industries				
2911	Petroleum Refining*	1,500	1,500	1,500
2951	Paving Mixtures and Blocks	500	250	500
2952	Asphalt Felts and Coatings	750	750	750
2992	Lubricating Oils and Greases	500	500	500
2999	Products of Petroleum and Coal, N.E.C.	500	250	500
Major Group 30—Rubber and Miscellaneous Plastics Products				
3011	Tires and Inner Tubes*	1,000	1,000	1,000
3021	Rubber and Plastics Footwear	1,000	1,000	1,000
3031	Reclaimed Rubber	750	750	750
3041	Rubber and Plastics Hose and Belting	500	500	500
3069	Fabricated Rubber Products, N.E.C.	500	500	500
3079	Miscellaneous Plastics Products	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
Major Group 31—Leather and Leather Products				
3111	Leather Tanning and Finishing	500	250	500
3131	Boot and Shoe Cut Stock and Findings	500	250	500
3142	House Slippers	500	250	500
3143	Men's Footwear, Except Athletic	500	500	500
3144	Women's Footwear, Except Athletic	500	500	500
3149	Footwear, Except Rubber, N.E.C.	500	500	500
3151	Leather Gloves and Mittens	500	250	500
3161	Luggage	500	250	500
3171	Women's Handbags and Purses	500	250	500
3172	Personal Leather Goods, Except Women's Handbags and Purses	500	250	500
3199	Leather Goods, N.E.C.	500	250	500
Major Group 32—Stone, Clay, Glass, and Concrete Products				
3211	Flat Glass	1,000	1,000	1,000
3221	Glass Containers	750	750	750
3229	Pressed and Blown Glass and Glassware, N.E.C.	750	750	750
3231	Glass Products, Made of Purchased Glass	500	250	500
3241	Cement, Hydraulic	750	750	750
3251	Brick and Structural Clay Tile	500	250	500
3253	Ceramic Wall and Floor Tile	500	500	500
3255	Clay Refractories	500	250	500
3259	Structural Clay Products, N.E.C.	500	250	500
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	750	500	750
3262	Vitreous China Table and Kitchen Articles	500	500	500
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	500	500	500
3264	Porcelain Electrical Supplies	500	500	500
3269	Pottery Products, N.E.C.	500	250	500
3271	Concrete Block and Brick	500	250	500
3272	Concrete Products, Except Block and Brick	500	250	500
3273	Ready-Mixed Concrete	500	250	500
3274	Lime	500	500	500
3275	Gypsum Products	1,000	1,000	1,000
3281	Cut Stone and Stone Products	500	250	500
3291	Abrasive Products	500	250	500
3292	Asbestos Products	750	750	750
3293	Gaskets, Packing, and Sealing Devices	500	500	500
3295	Minerals and Earths, Ground or Otherwise Treated	500	250	500
3296	Mineral Wool	750	750	750
3297	Nonclay Refractories	750	750	750
3299	Nonmetallic Mineral Products, N.E.C.	500	250	500
Major Group 33—Primary Metal Industries				
3312	Blast Furnaces (Including Coke Ovens), Steel Works, and Rolling Mills	1,000	1,000	1,000
3313	Electrometallurgical Products	750	750	750
3315	Steel Wire Drawing and Steel Nails and Spikes	1,000	1,000	1,000
3316	Cold Rolled Steel Sheet, Strip, and Bars	1,000	1,000	1,000
3317	Steel Pipe and Tubes	1,000	1,000	1,000
3321	Gray Iron Foundries	500	500	500
3322	Malleable Iron Foundries	500	500	500
3324	Steel Investment Foundries	500	500	500
3325	Steel Foundries, N.E.C.	500	500	500
3331	Primary Smelting and Refining of Copper	1,000	1,000	1,000
3332	Primary Smelting and Refining of Lead	1,000	1,000	1,000
3333	Primary Smelting and Refining of Zinc	750	750	750
3334	Primary Production of Aluminum	1,000	1,000	1,000
3339	Primary Smelting and Refining of Nonferrous Metals, N.E.C.	750	750	750
3341	Secondary Smelting and Refining on Non-ferrous Metals	500	250	500
3351	Rolling, Drawing, and Extruding of Copper	750	750	750
3353	Aluminum Sheet, Plate, and Foil	750	750	750
3354	Aluminum Extruded Products	750	750	750
3355	Aluminum Rolling and Drawing, N.E.C.	750	750	750
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	750	750	750
3357	Drawing and Insulating of Nonferrous Wire	1,000	1,000	1,000
3361	Aluminum Foundries (Castings)	500	250	500
3362	Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings)	500	250	500
3369	Nonferrous Foundries (Castings), N.E.C.	500	250	500
3386	Metal Heat Treating	750	750	750
3399	Primary Metal Products, N.E.C.	750	750	750
Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment				
3411	Metal Cans	1,000	1,000	1,000
3412	Metal Shopping Barrels, Drums, Kegs, and Pails	500	500	500
3421	Cutlery	500	250	500
3423	Hand and Edge Tools, Except Machine Tools and Hand Saws	500	250	500
3425	Hand Saws and Saw Blades	500	250	500
3429	Hardware, N.E.C.	500	250	500
3431	Enamelled Iron and Metal Sanitary Ware	750	750	750
3432	Plumbing Fixture Fittings and Trim (Brass Goods)	500	500	500
3433	Heating Equipment, Except Electric and Warm Air Furnace	500	500	500
3441	Fabricated Structural Metal	500	250	500
3442	Metal Doors, Sash, Frames, Molding, and Trim	500	250	500
3443	Fabricated Plate Work (Boiler Shops)	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3444.	Sheet Metal Work	500	250	500
3446.	Architectural and Ornamental Metal Work	500	250	500
3448.	Prefabricated Metal Buildings and Components	500	250	500
3449.	Miscellaneous Metal Work	500	250	500
3451.	Screw Machine Products	500	250	500
3452.	Bolts, Nuts, Screws, Rivets, and Washers	500	500	500
3462.	Iron and Steel Forgings	500	500	500
3463.	Nonferrous Forgings	500	250	500
3465.	Automotive Stampings	500	250	500
3466.	Crowns and Closures	500	250	500
3469.	Metal Stampings, N.E.C.	500	250	500
3471.	Electroplating, Plating, Polishing, Anodizing, and Coloring	500	250	500
3479.	Coating, Engraving, and Allied Services, N.E.C.	500	250	500
3482.	Small Arms Ammunition	1,000	1,000	1,000
3483.	Ammunition, Except for Small Arms, N.E.C.	1,500	1,000	1,500
3484.	Small Arms	1,000	1,000	1,000
3489.	Ordinance and Accessories, N.E.C.	500	250	500
3493.	Steel Springs, Except Wire	500	500	500
3494.	Valves and Pipe Fittings, Except Plumbers' Brass Goods	500	500	500
3495.	Wire Springs	500	250	500
3496.	Miscellaneous Fabricated Wire Products	500	250	500
3497.	Metal Foil and Leaf	500	500	500
3498.	Fabricated Pipe and Fabricated Pipe Fittings	500	250	500
3499.	Fabricated Metal Products, N.E.C.	500	500	500
Major Group 35—Machinery, Except Electrical				
3511.	Steam, Gas, and Hydraulic Turbines and Turbine Generator Set Units	1,000	1,000	1,000
3519.	Internal Combustion Engines, N.E.C.	1,000	1,000	1,000
3523.	Farm Machinery and Equipment	500	500	500
3524.	Garden Tractors and Lawn and Garden Equipment	500	500	500
3531.	Construction Machinery and Equipment	750	750	750
3532.	Mining Machinery and Equipment, Except Oil Field Machinery and Equipment	500	500	500
3533.	Oil Field Machinery and Equipment	500	500	500
3534.	Elevators and Moving Stairways	500	500	500
3535.	Conveyors and Conveying Equipment	500	250	500
3536.	Hoists, Industrial Cranes, and Monorail Systems	500	500	500
3537.	Industrial Trucks, Tractors, Trailers, and Stackers	750	750	750
3541.	Machine Tools, Metal Cutting Types	500	500	500
3542.	Machine Tools, Metal Forming Types	500	500	500
3544.	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds	500	250	500
3545.	Machine Tool Accessories and Measuring Devices	500	250	500
3546.	Power Driven Hand Tools	500	500	500
3547.	Rolling Mill Machinery and Equipment	500	500	500
3549.	Metalworking Machinery, N.E.C.	500	250	500
3551.	Food Products Machinery	500	250	500
3552.	Textile Machinery	500	250	500
3553.	Woodworking Machinery	500	250	500
3554.	Paper Industries Machinery	500	250	500
3555.	Printing Trades Machinery and Equipment	500	500	500
3559.	Special Industry Machinery, N.E.C.	500	250	500
3561.	Pumps and Pumping Equipment	500	500	500
3562.	Ball and Roller Bearings	750	750	750
3563.	Air and Gas Compressors	500	500	500
3564.	Blowers and Exhaust and Ventilation Fans	500	250	500
3565.	Industrial Patterns	500	250	500
3566.	Speed Changers, Industrial High Speed Drivers, and Gears	500	500	500
3567.	Industrial Process Furnaces and Ovens	500	250	500
3568.	Mechanical Power Transmission Equipment, N.E.C.	500	500	500
3569.	General Industrial Machinery and Equipment, N.E.C.	500	250	500
3572.	Typewriters	1,000	1,000	1,000
3573.	Electronic Computing Equipment	1,000	1,000	1,000
3574.	Calculating and Accounting Machines, Except Electronic Computing Equipment	1,000	1,000	1,000
3576.	Scales and Balances, Except Laboratory	500	250	500
3579.	Office Machines, N.E.C.	500	500	500
3581.	Automatic Merchandising Machines	500	250	500
3582.	Commercial Laundry, Dry Cleaning, and Pressing Machines	500	250	500
3585.	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment	750	750	750
3586.	Measuring and Dispensing Pumps	500	500	500
3589.	Service Industry Machines, N.E.C.	500	250	500
3592.	Carburetors, Pistons, Piston Rings, and Valves	500	250	500
3599.	Machinery, Except Electrical, N.E.C.	500	250	500
Major Group 36—Electrical and Electronic Machinery, Equipment, and Supplies				
3612.	Power, Distribution, and Specialty Transformers	750	750	750
3613.	Switchgear and Switchboard Apparatus	750	750	750
3621.	Motors and Generators	1,000	1,000	1,000
3622.	Industrial Controls	750	750	750
3623.	Welding Apparatus, Electric	500	250	500
3624.	Carbon and Graphite Products	750	750	750
3629.	Electrical Industrial Apparatus, N.E.C.	500	500	500
3631.	Household Cooking Equipment	750	750	750
3632.	Household Refrigerators and Home and Farm Freezers	1,000	1,000	1,000
3633.	Household Laundry Equipment	1,000	1,000	1,000
3634.	Electric Housewares and Fans	750	750	750

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3635	Household Vacuum Cleaners	750	750	750
3636	Sewing Machines	750	750	750
3639	Household Appliances, N.E.C.	500	500	500
3641	Electric Lamps	1,000	1,000	1,000
3643	Current-Carrying Wiring Devices	500	500	500
3644	Noncurrent-Carrying Wiring Devices	500	500	500
3645	Residential Electric Light Fixtures	500	250	500
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	500	250	500
3647	Vehicular Lighting Equipment	500	250	500
3648	Lighting Equipment, N.E.C.	500	250	500
3651	Radio and Television Receiving Sets, Except Communication Types	750	750	750
3652	Phonograph Records and Pre-recorded Magnetic Tape	750	750	750
3661	Telephone and Telegraph Apparatus	1,000	1,000	1,000
3662	Radio and Television Transmitting, Signaling, and Detection Equipment and Apparatus	750	750	750
3671	Radio and Television Receiving Type Electron Tubes, Except Cathode Ray	1,000	1,000	1,000
3672	Cathode Ray Television Picture Tubes	750	750	750
3673	Transmitting, Industrial, and Special Purpose Electron Tubes	750	750	750
3674	Semiconductors and Related Devices	500	500	500
3675	Electronic Capacitors	500	500	500
3676	Resistors, for Electronic Applications	500	500	500
3677	Electronic Coils, Transformers, and Other Inductors	500	500	500
3678	Connectors, for Electronic Applications	500	500	500
3679	Electronic Components, N.E.C.	500	500	500
3681	Storage Batteries	500	500	500
3682	Primary Batteries, Dry and Wet	1,000	1,000	1,000
3693	Radiographic X-ray, Fluoroscopic X-ray, Therapeutic X-ray, and Other X-ray Apparatus and Tubes; Electromedical and Electrotherapeutic Apparatus	500	500	500
3694	Electrical Equipment for Internal Combustion Engines	750	750	750
3699	Electrical Machinery, Equipment, and Supplies, N.E.C.	500	500	500
Major Group 37—Transportation Equipment				
3711	Motor Vehicles and Passenger Car Bodies	1,000	1,000	1,000
3713	Truck and Bus Bodies	500	250	500
3714	Motor Vehicle Parts and Accessories	500	500	500
3715	Truck Trailers	500	500	500
3718	Motor Homes	500	250	1,000
3721	Aircraft	1,500	1,500	1,500
3724	Aircraft Engines and Engine Parts	1,000	1,000	1,000
3726	Aircraft Parts and Auxiliary Equipment N.E.C.	1,000	1,000	1,000
3731	Ship Building and Repairing	1,000	1,000	1,000
3732	Boat Building and Repairing	500	250	500
3743	Railroad Equipment	1,000	750	1,000
3751	Motorcycles, Bicycles, and Parts	500	500	500
3761	Guided Missiles and Space Vehicles	1,000	250	1,000
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	1,000	1,000	1,000
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C.	1,000	1,000	1,000
3792	Travel Trailers and Campers	500	250	500
3795	Tanks and Tank Components	1,000	1,000	1,000
3799	Transportation Equipment, N.E.C.	500	250	500
Major Group 38—Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks				
3811	Engineering, Laboratory, Scientific, and Research Instruments and Associated Equipment	500	500	500
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances	500	500	500
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables, and Related Products	500	500	500
3824	totalizing Fluid Meters and Counting Device	500	500	500
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals	500	500	500
3829	Measuring and Controlling Devices, N.E.C.	500	500	500
3832	Optical Instruments and Lenses	500	250	500
3841	Surgical and Medical Instruments and Apparatus	500	250	500
3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies	500	250	500
3843	Dental Equipment and Supplies	500	250	500
3851	Ophthalmic Goods	500	250	500
3861	Photographic Equipment and Supplies	500	500	500
3873	Watches, Clocks, Clockwork Operated Devices, and Parts	500	500	500
Major Group 39—Miscellaneous Manufacturing Industries				
3911	Jewelry, Precious Metal	500	250	500
3914	Silverware, Plated Ware, and Stainless Steel Ware	500	500	500
3915	Jewelers' Findings and Materials, and Lapidary Work	500	250	500
3931	Musical Instruments	500	250	500
3942	Dolls	500	250	500
3944	Games, Toys, and Children's Vehicles; Except Dolls and Bicycles	500	250	500
3949	Sporting and Athletic Goods, N.E.C.	500	250	500
3951	Pens, Mechanical Pencils, and Parts	500	500	500
3952	Lead Pencils, Crayons, and Artists' Materials	500	250	500
3953	Marking Devices	500	250	500
3955	Carbon Paper and Inked Ribbons	500	250	500
3961	Costume Jewelry and Costume Novelties, Except Precious Metal	500	250	500
3962	Feathers, Plumes, and Artificial Trees and Flowers	500	250	500
3963	Buttons	500	250	500
3964	Needles, Pins, Hooks and Eyes, and Similar Notions	500	250	500
3991	Brooms and Brushes	500	250	500
3993	Signs and Advertising Displays	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3995	Burial Caskets	500	250	500
3996	Uncolored, Asphalted-Felt-Bases, and Other Hard Surface Floor Coverings, N.E.C.	750	750	750
3999	Manufacturing Industries, N.E.C.	500	250	500
Division E—Transportation, Communications, Electric, Gas, and Sanitary Services				
Major Group 40—Railroad Transportation				
4011	Railroad, Line-haul Operating	500	\$1.5	1,500
4013	Switching and Terminal Establishments	500	\$1.5	500
Major Group 41—Local and Suburban Transit and Interurban Highway Passenger Transportation				
4111	Local and Suburban Transit	500	\$1.5	\$3.5
4119	Local Passenger Transportation, N.E.C.	500	\$1.5	\$3.5
4121	Taxis	500	\$1.5	\$3.5
4131	Intercity and Rural Highway Passenger Transportation	500	\$1.5	\$3.5
4141	Local Passenger Transportation Charter Service	500	\$1.5	\$3.5
4142	Passenger Transportation Charter Service, Except Local	500	\$1.5	\$3.5
4151	School Buses	500	\$1.5	\$3.5
4171	Terminal and Joint Terminal Maintenance Facilities for Motor Vehicle Passenger Transportation	\$2.0	\$2.0	\$3.5
4172	Maintenance and Service Facilities for Motor Vehicle Passenger Transportation	\$2.0	\$2.0	\$3.5
Major Group 42—Motor Freight Transportation and Warehousing				
4212	Local Trucking Without Storage*	\$7.0	\$6.5	\$12.5
4213	Trucking, Except Local	\$7.0	\$6.5	\$12.5
4214	Local Trucking With Storage	\$7.0	\$6.5	\$12.5
4221	Farm Product Warehousing and Storage	\$7.0	\$6.5	\$12.5
4222	Refrigerated Warehousing	\$7.0	\$6.5	\$12.5
4224	Household Goods Warehousing and Storage	\$7.0	\$6.5	\$12.5
4225	General Warehousing and Storage	\$7.0	\$6.5	\$12.5
4226	Special Warehousing and Storage, N.E.C.	\$7.0	\$6.5	\$12.5
4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	\$2.0	\$2.0	\$3.5
Major Group 44—Water Transportation†				
4411	Deep Sea Foreign Transportation	500	\$1.5	500
4421	Transportation to and Between Non-contiguous Territories	500	\$1.5	500
4422	Coastwise Transportation	500	\$1.5	500
4423	Intercoastal Transportation	500	\$1.5	500
4431	Great Lakes-St. Lawrence Seaway Transportation	500	\$1.5	500
4441	Transportation on Rivers and Canals	500	\$1.5	500
4452	Ferries	500	\$1.5	500
4453	Lights	500	\$1.5	500
4454	Towing and Tugboat Service	\$2.0	\$2.0	\$3.5
4459	Local Water Transportation, N.E.C.	500	\$1.5	500
4463	Marine Cargo Handling	\$7.5	\$1.5	\$12.5
4464	Canal Operation	\$2.0	\$2.0	\$3.5
4469	Water Transportation Services, N.E.C.	\$2.0	\$2.0	\$3.5
Major Group 45—Transportation by Air†				
4511	Air Transportation, Certificated Carriers	1,500	1,000	1,500
4521	Air Transportation, Noncertificated Carriers*	1,500	1,000	1,500
4582	Airports and Flying Fields	\$2.0	\$2.0	\$3.5
4583	Airport Terminal Services	\$2.0	\$2.0	\$3.5
Major Group 46—Pipe Lines, Except Natural Gas				
4612	Crude Petroleum Pipe Lines	None	None	1,500
4613	Refined Petroleum Pipe Lines	None	None	1,500
4619	Pipe Lines, N.E.C.	None	None	\$20.0
Major Group 47—Transportation Services				
4712	Freight Forwarding	\$7.0	\$6.5	\$12.5
4722	Arrangement of Passenger Transportation	\$2.0	\$2.0	\$3.5
4723	Arrangement of Transportation of Freight and Cargo	\$2.0	\$2.0	\$3.5
4742	Rental of Railroad Cars With Care of Lading	\$2.0	\$2.0	\$3.5
4743	Rental of Railroad Cars Without Care of Lading	\$2.0	\$2.0	\$3.5
4782	Inspection and Weighing Services Connected With Transportation	\$2.0	\$2.0	\$3.5
4783	Packing and Crating	\$7.0	\$6.5	\$12.5
4784	Fixed Facilities for Handling Motor Vehicle Transportation, N.E.C.	\$2.0	2.0	\$3.5
4789	Services Incidental to Transportation, N.E.C.	\$2.0	\$2.0	\$3.5
Major Group 48—Communications				
4832	Radio Broadcasting	None	\$2.0	\$3.5
4833	Television Broadcasting	None	\$5.0	\$7.0
4899	Communication Services, N.E.C.	\$2.0	\$2.0	\$7.5
Major Group 49—Electric, Gas, and Sanitary Services				
4941	Water Supply	None	\$2.5	\$3.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
4952	Sewerage Systems	None	\$1.5	\$3.5
4953	Refuse Systems*	\$3.5	\$2.0	\$6.0
4959	Sanitary Services, N.E.C.	\$2.0	\$2.0	\$3.5
4961	Steam Supply	None	None	\$6.0
4971	Irrigation Systems	None	None	\$3.5

Division F—Wholesale Trade

Major Group 50—Wholesale Trade—Durable Goods

5012	Automobiles and Other Motor Vehicles	500	\$22.0	\$35.0
5013	Automotive Parts and Supplies	500	\$9.5	\$15.0
5014	Tires and Tubes	500	\$22.0	\$25.0
5021	Furniture	500	\$9.5	\$15.0
5023	Home Furnishings	500	\$9.5	\$15.0
5031	Lumber, Plywood, and Millwork	500	\$9.5	\$25.0
5039	Construction Materials, N.E.C.	500	\$14.5	\$15.0
5041	Sporting and Recreational Goods and Supplies	500	\$14.5	\$15.0
5042	Toys and Hobby Goods and Supplies	500	\$14.5	\$15.0
5043	Photographic Equipment and Supplies	500	\$9.5	\$25.0
5051	Metals Service Centers and Offices	500	\$14.5	\$35.0
5052	Coal and Other Minerals and Ores	500	\$9.5	\$35.0
5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials	500	\$22.0	\$25.0
5064	Electrical Appliances, Television and Radio Sets	500	\$14.5	\$25.0
5065	Electronic Parts and Equipment	500	\$9.5	\$15.0
5072	Hardware	500	\$9.5	\$15.0
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	500	\$9.5	\$15.0
5075	Warm Air Heating and Air Conditioning Equipment and Supplies	500	\$9.5	\$15.0
5078	Refrigeration Equipment and Supplies	500	\$9.5	\$15.0
5081	Commercial Machines and Equipment	500	\$22.0	\$25.0
5082	Construction and Mining Machinery and Equipment	500	\$14.5	\$25.0
5083	Farm and Garden Machinery and Equipment	500	\$22.0	\$25.0
5084	Industrial Machinery and Equipment	500	\$14.5	\$15.0
5085	Industrial Supplies	500	\$14.5	\$15.0
5086	Professional Equipment and Supplies	500	\$9.5	\$15.0
5087	Service Establishment Equipment and Supplies	500	\$9.5	\$15.0
5088	Transportation Equipment and Supplies, Except Motor Vehicles	500	\$9.5	\$15.0
5093	Scrap and Waste Materials	500	\$9.5	\$25.0
5094	Jewelry, Watches, Diamonds and Other Precious Stones	500	\$9.5	\$15.0
5099	Durable Goods, N.E.C.	500	\$9.5	\$15.0
5111	Printing and Writing Paper	500	\$14.5	\$35.0
5112	Stationery Supplies	500	\$9.5	\$15.0
5113	Industrial and Personal Service Paper	500	\$22.0	\$25.0
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	500	\$14.5	\$25.0
5123	Piece Goods (Woven Fabrics)	500	\$14.5	\$15.0
5134	Notions and Other Dry Goods	500	\$14.5	\$15.0
5138	Men's and Boys' Clothing and Furnishings	500	\$9.5	\$15.0
5137	Women's, Children's and Infants' Clothing and Accessories	500	\$9.5	\$15.0
5139	Footwear	500	\$14.5	\$15.0
5141	Groceries, General Line	500	\$22.0	\$35.0
5142	Frozen Foods	500	\$22.0	\$25.0
5143	Dairy Products	500	\$14.5	\$25.0
5144	Poultry and Poultry Products	500	\$9.5	\$15.0
5145	Confectionery	500	\$9.5	\$15.0
5146	Fish and Seafoods	500	\$9.5	\$15.0
5147	Meats and Meat Products	500	\$14.5	\$25.0
5148	Fresh Fruits and Vegetables	500	\$9.5	\$15.0
5149	Groceries and Related Products, N.E.C.	500	\$14.5	\$25.0
5152	Cotton	500	\$22.0	\$35.0
5153	Grain	500	\$14.5	\$35.0
5154	Livestock	500	\$14.5	\$25.0
5159	Farm-Product Raw Materials, N.E.C.	500	\$9.5	\$35.0
5161	Chemicals and Allied Products	500	\$22.0	\$25.0
5171	Petroleum Bulk Stations and Terminals	500	\$22.0	\$25.0
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	500	\$22.0	\$35.0
5181	Beer and Ale	500	\$9.5	\$15.0
5182	Wines and Distilled Alcoholic Beverages	500	\$22.0	\$35.0
5191	Farm Supplies	500	\$9.5	\$15.0
5194	Tobacco and Tobacco Products	500	\$14.5	\$25.0
5198	Paints, Varnishes, and Supplies	500	\$22.0	\$25.0
5199	Nondurable Goods, N.E.C.	500	\$9.5	\$15.0

Division G—Retail Trade

Major Group 52—Building Materials, Hardware, Garden Supply, and Mobile Home Dealers

5211	Lumber and Other Building Materials Dealers	None	\$2.0	\$3.5
5231	Paint, Glass, and Wallpaper Stores	None	\$2.0	\$3.5
5251	Hardware Stores	None	\$2.0	\$3.5
5261	Retail Nurseries, Lawn and Garden Supply Stores	None	\$2.0	\$3.5
5271	Mobile Home Dealers	None	\$3.5	\$6.5

Major Group 53—General Merchandise Stores

5311	Department Stores	None	\$7.5	\$13.5
5331	Variety Stores	None	\$3.0	\$5.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
5399	Miscellaneous General Merchandise Stores	None	\$2.0	\$3.5
Major Group 54—Food Stores				
5411	Grocery Stores	None	\$7.5	\$13.5
5422	Freezer and Locker Meat Provisioners	None	\$2.0	\$3.5
5423	Meat and Fish (Seafood) Markets	None	\$2.0	\$3.5
5431	Fruit Stores and Vegetable Markets	None	\$2.0	\$3.5
5441	Candy, Nut, and Confectionery Stores	None	\$2.0	\$3.5
5451	Dairy Products Stores	None	\$2.0	\$3.5
5462	Retail Bakeries—Baking and Selling	None	\$2.0	\$3.5
5463	Retail Bakeries—Selling Only	None	\$2.0	\$3.5
5499	Miscellaneous Food Stores	None	\$2.0	\$3.5
Major Group 55—Automotive Dealers and Gasoline Service Stations				
5511	Motor Vehicles Dealers (New and Used)	None	¹⁰ 950	\$11.5
5521	Motor Vehicle Dealers (Used Only)	None	\$6.5	\$11.5
5531	Auto and Home Supply Stores	None	\$2.0	\$3.5
5541	Gasoline Service Stations	None	\$2.0	\$3.5
5551	Boat Dealers	None	\$2.0	\$3.5
5561	Recreational and Utility Trailer Dealers	None	\$2.0	\$3.5
5571	Motorcycle Dealers	None	\$2.0	\$3.5
5599	Automotive Dealers, N.E.C. ¹¹	None	\$2.0	\$3.5
Major Group 56—Apparel and Accessory Stores				
5611	Men's and Boys' Clothing and Furnishings Stores	None	\$2.5	\$4.5
5621	Women's Ready-to-Wear Stores	None	\$2.5	\$4.5
5631	Women's Accessory and Specialty Stores	None	\$2.0	\$3.5
5641	Children's and Infants' Wear Stores	None	\$2.0	\$3.5
5651	Family Clothing Stores	None	\$2.5	\$4.5
5661	Shoe Stores	None	\$2.5	\$4.5
5681	Furriers and Fur Shops	None	\$2.0	\$3.5
5699	Miscellaneous Apparel and Accessory Stores	None	\$2.0	\$3.5
Major Group 57—Furniture, Home Furnishings, and Equipment Stores				
5712	Furniture Stores	None	\$2.0	\$3.5
5713	Floor Covering Stores	None	\$2.0	\$3.5
5714	Drapery, Curtain, and Upholstery Stores	None	\$2.0	\$3.5
5719	Miscellaneous Home Furnishing Stores	None	\$2.0	\$3.5
5722	Household Appliance Stores	None	\$2.5	\$4.5
5732	Radio and Television Stores	None	\$2.5	\$4.5
5733	Music Stores	None	\$2.0	\$3.5
Major Group 58—Eating and Drinking Places				
5812	Eating Places (Except Food Services)	None	\$2.0	\$3.5
5812	Food Services	\$5.5	\$2.0	\$10.0
5813	Drinking Places (Alcoholic Beverages)	None	\$2.0	\$3.5
Major Group 59—Miscellaneous Retail				
5912	Drug Stores and Proprietary Stores	None	\$2.0	\$3.5
5921	Liquor Stores	None	\$2.0	\$3.5
5931	Used Merchandise Stores	None	\$2.0	\$3.5
5941	Sporting Goods Stores and Bicycle Shops	None	\$2.0	\$3.5
5942	Book Stores	None	\$2.0	\$3.5
5943	Stationery Stores	None	\$2.0	\$3.5
5944	Jewelry Stores	None	\$2.0	\$3.5
5945	Hobby, Toy, and Game Shops	None	\$2.0	\$3.5
5946	Camera and Photographic Supply Stores	None	\$2.0	\$3.5
5947	Gift, Novelty, and Souvenir Shops	None	\$2.0	\$3.5
5948	Luggage and Leather Goods Stores	None	\$2.0	\$3.5
5949	Sewing, Needlework, and Piece Goods Stores	None	\$2.0	\$3.5
5961	Mail Order Houses	None	\$7.5	\$12.5
5962	Automatic Merchandising Machine Operator	None	\$2.0	\$3.5
5963	Direct Selling Establishments	None	\$2.0	\$3.5
5982	Fuel and Ice Dealers, Except Fuel Oil Dealers and Bottled Gas Dealers	None	\$2.0	\$3.5
5983	Fuel Oil Dealers	None	100	\$3.5
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	None	\$2.0	\$3.5
5992	Florists	None	\$2.0	\$3.5
5993	Cigar Stores and Stands	None	\$2.0	\$3.5
5994	New Dealers and Newsstands	None	\$2.0	\$3.5
5999	Miscellaneous Retail Stores, N.E.C.	None	\$2.0	\$3.5
Division H—Finance, Insurance, and Real Estate ¹²				
Major Group 63—Insurance				
6331	Fire, Marine, and Casualty Insurance	None	None	1,500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
Major Group 64—Insurance Agents, Brokers, and Service				
6411	Insurance Agents, Brokers, and Service	None	None	\$3.5
Major Group 65—Real Estate				
6515	Operators of Residential Mobile Home Sites	None	None	\$3.5
	Leasing of Building Space to the Federal Government by Owners ¹²	None	None	\$10.0
Division I—Services				
Major Group 70—Hotels, Rooming Houses, Camps, and Other Lodging Places				
7011	Hotels, Motels, and Tourist Courts	\$2.0	\$3.0	\$3.5
7021	Rooming and Boarding Houses	\$2.0	\$3.0	\$3.5
7032	Sporting and Recreational Camps	\$2.0	\$2.0	\$3.5
7033	Trailer Parks and Camp Sites for Transients	\$2.0	\$1.5	\$3.5
7041	Organization Hotels and Lodging Houses, on Membership Basis	\$2.0	\$2.0	\$3.5
Major Group 72—Personal Services				
7211	Power Laundries, Family and Commercial	\$4.0	\$3.0	\$7.0
7212	Garment Pressing, and Agents for Laundries and Dry Cleaners	\$2.0	\$2.0	\$3.5
7213	Linen Supply	\$2.0	\$2.0	\$7.0
7214	Diaper Service	\$4.0	\$2.0	\$7.0
7215	Coin-operated Laundries and Dry Cleaning	\$2.0	\$2.0	\$3.5
7216	Dry Cleaning Plants, Except Rug Cleaning	\$1.5	\$2.0	\$2.5
7217	Carpet and Upholstery Cleaning	\$1.5	\$2.0	\$2.5
7218	Industrial Launderers	\$4.0	\$2.0	\$7.0
7219	Laundry and Garment Services, N.E.C.	\$2.0	\$2.0	\$3.5
7221	Photographic Studios, Portrait	\$2.0	\$2.0	\$3.5
7231	Beauty Shops	\$2.0	\$2.0	\$3.5
7241	Barber Shops	\$2.0	\$2.0	\$3.5
7251	Shoe Repair Shops, Shoe Shine Parlors, and Hat Cleaning Shops	\$2.0	\$2.0	\$3.5
7261	Funeral Service and Crematories	\$2.0	\$2.0	\$3.5
7299	Miscellaneous	\$2.0	\$2.0	\$3.5
Major Group 73—Business Services				
7311	Advertising Agencies	\$2.0	\$2.0	\$3.5
7312	Outdoor Advertising Services	\$2.0	\$2.0	\$3.5
7313	Radio, Television, and Publishers' Advertising Representatives	\$2.0	\$2.0	\$3.5
7319	Advertising, N.E.C.	\$2.0	\$2.0	\$3.5
7321	Consumer Credit Reporting Agencies, Mercantile Reporting Agencies, and Adjustment and Collection Agencies	\$2.0	\$2.0	\$3.5
7331	Direct Mail Advertising Services	\$2.0	\$2.0	\$3.5
7332	Blueprinting and Photocopying Services	\$2.0	\$2.0	\$3.5
7333	Commercial Photographs, Art, and Graphics	\$2.0	\$2.0	\$3.5
7339	Stenographic Services; and Reproduction Services, N.E.C.	\$2.0	\$2.0	\$3.5
7341	Window Cleaning	\$2.0	\$2.0	\$3.5
7342	Disinfecting and Exterminating Services	\$2.0	\$2.0	\$3.5
7349	Cleaning and Maintenance Services to Dwellings and Other Buildings, N.E.C.	\$4.5	\$2.0	\$8.0
7351	News Syndicates	\$2.0	\$2.0	\$3.5
7361	Employment Agencies	\$2.0	\$2.0	\$3.5
7362	Temporary Help Supply Services	\$2.0	\$2.0	\$3.5
7369	Personnel Supply Services, N.E.C. ¹⁴ (includes base maintenance)	\$7.5	\$2.0	\$13.5
7372	Computer Programming and Other Software Services	\$4.0	\$2.0	\$7.0
7374	Data Processing Services	\$4.0	\$2.0	\$7.0
7379	Computer Related Services, N.E.C.	\$7.0	\$2.0	\$12.5
7391	Research and Development Laboratories ¹⁵	500	\$2.0	500
7392	Management, Consulting, and Public Relations Services	\$2.0	\$2.0	\$3.5
7393	Detective Agencies and Protective Services	\$4.5	\$2.0	\$6.0
7394	Equipment Rental and Leasing Services	\$2.0	\$2.0	\$3.5
7395	Photofinishing Laboratories	\$2.0	\$2.0	\$3.5
7396	Trading Stamp Services	\$2.0	\$2.0	\$3.5
7397	Commercial Testing Laboratories	\$2.0	\$2.0	\$3.5
7399	Business Services, N.E.C.	\$2.0	\$2.0	\$3.5
Major Group 75—Automotive Repair, Services, and Garages				
7512	Passenger Car Rental and Leasing, Without Drivers	\$7.0	\$2.0	\$12.5
7513	Truck Rental and Leasing, Without Drivers	\$7.0	\$2.0	\$12.5
7519	Utility Trailer and Recreational Vehicle Rental	\$2.0	\$2.0	\$3.5
7523	Parking Lots	\$2.0	\$2.0	\$3.5
7525	Parking Structures	\$2.0	\$2.0	\$3.5
7531	Top and Body Repair Shops	\$2.0	\$2.0	\$3.5
7534	Tire Retreading and Repair Shops	\$4.0	\$2.0	\$7.0
7535	Paint Shops	\$2.0	\$2.0	\$3.5
7538	General Automotive Repair Shops	\$2.0	\$2.0	\$3.5
7539	Automotive Repair Shops, N.E.C.	\$2.0	\$2.0	\$3.5
7542	Car Washes	\$2.0	\$2.0	\$3.5
7549	Automotive Services, Except Repair and Car Washes	\$2.0	\$2.0	\$3.5
Major Group 76—Miscellaneous Repair Services				
7622	Radio and Television Repair Shops	\$2.0	\$2.0	\$3.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
7623	Refrigeration and Air Conditioning Service and Repair Shops	\$2.0	\$2.0	\$3.5
7629	Electrical and Electronic Repair Shops, N.E.C.	\$2.0	\$2.0	\$3.5
7631	Watch, Clock, and Jewelry Repair	\$2.0	\$2.0	\$3.5
7641	Reupholstery and Furniture Repair	\$2.0	\$2.0	\$3.5
7692	Welding Repair	\$2.0	\$2.0	\$3.5
7694	Armature Rewinding Shops	\$2.0	\$2.0	\$3.5
7699	Repair Shops and Related Services, N.E.C.	\$2.0	\$2.0	\$3.5
Major Group 78—Motion Pictures				
7813	Motion Picture Production, Except for Television	\$8.0	\$8.0	\$14.5
7814	Motion Picture and Tape Production for Television	\$8.0	\$8.0	\$14.5
7819	Services Allied to Motion Picture Production	\$8.0	\$8.0	\$14.5
7823	Motion Picture Film Exchanges	\$8.0	\$2.0	\$14.5
7824	Film or Tape Distribution for Television	\$8.0	\$2.0	\$14.5
7829	Services Allied to Motion Picture Distribution	\$2.0	\$2.0	\$3.5
7832	Motion Picture Theaters, Except Drive-in	\$2.0	\$2.0	\$3.5
7833	Drive-in Motion Picture Theaters	\$2.0	\$2.0	\$3.5
Major Group 79—Amusement and Recreation Services, Except Motion Pictures				
7911	Dance Halls, Studios, and Schools	\$2.0	\$2.0	\$3.5
7922	Theatrical Producers (Except Motion Pictures), Bands, Orchestras, and Entertainers	\$2.0	\$2.0	\$3.5
7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups	\$2.0	\$2.0	\$3.5
7932	Billiard and Pool Establishments	\$2.0	\$2.0	\$3.5
7933	Bowling Alleys	\$2.0	\$2.0	\$3.5
7941	Professional Sports Clubs and Promoters	\$2.0	\$2.0	\$3.5
7992	Coin-operated Amusement Devices	\$2.0	\$2.0	\$3.5
7996	Amusement Parks	\$2.0	\$2.0	\$3.5
7999	Amusement and Recreation Services, N.E.C.	\$2.0	\$2.0	\$3.5
Major Group 80—Health Services				
8011	Offices of Physicians	\$2.0	\$2.0	\$3.5
8021	Offices of Dentists	\$2.0	\$2.0	\$3.5
8031	Offices of Osteopathic Physicians	\$2.0	\$2.0	\$3.5
8041	Offices of Chiropractors	\$2.0	\$2.0	\$3.5
8042	Offices of Optometrists	\$2.0	\$2.0	\$3.5
8049	Offices of Health Practitioners, N.E.C.	\$2.0	\$2.0	\$3.5
8051	Skilled Nursing Care Facilities	\$2.0	\$1.5	\$3.5
8059	Nursing and Personal Care Facilities, N.E.C.	\$2.0	\$1.5	\$3.5
8062	General Medical and Surgical Hospitals	\$2.0	1 ¹ 150	\$3.5
8063	Psychiatric Hospitals	\$2.0	1 ¹ 150	\$3.5
8069	Specialty Hospitals, Except Psychiatric	\$2.0	1 ¹ 150	\$3.5
8071	Medical Laboratories	\$2.0	\$1.5	\$3.5
8072	Dental Laboratories	\$2.0	\$1.5	\$3.5
8081	Outpatient Care Facilities	\$2.0	\$2.0	\$3.5
8091	Health and Allied Services, N.E.C.	\$2.0	\$2.0	\$3.5
Major Group 81—Legal Services				
8111	Legal Services	\$2.0	\$2.0	\$3.5
Major Group 82—Educational Services				
8299	Schools and Educational Services, N.E.C. Except Flight Training	\$2.0	\$2.0	\$3.5
8299	Flight Training Services	\$7.0	\$2.0	\$12.5
Major Group 89—Miscellaneous Services				
8911	Engineering Services, Except for Military and Aerospace Equipment and Except for Military Weapons	\$7.5	\$3.5	\$3.5
8911	Engineering Services for Military and Aerospace Equipment and for Military Weapons (Except Marine Engineering)	\$7.5	\$3.5	\$13.5
8911	Marine Engineering and Naval Architecture	\$9.0	\$3.5	\$11.0
8911	Architectural Services (Except Naval) and Surveying Services	\$2.0	\$2.0	\$3.5
8931	Accounting and Auditing Services ¹⁷	\$2.0	\$2.0	\$5.0
8931	Bookkeeping Services	\$2.0	\$2.0	\$3.5
8999	Services, N.E.C.	\$2.0	\$2.0	\$3.5

Footnotes

¹ Size standards preceded by a dollar sign (\$) are in millions of dollars. All others are in number of employees unless specified otherwise.

² SIC Division D, Manufacturing: "Rebuilding on a factory basis or equivalent." For rebuilding machinery or equipment on a factory basis, use SIC code applicable for new manufactured product. The appropriate size standard is not limited to manufacturers. Ordinary repair services or preservation operations, however, are not considered rebuilding activities.

³ SIC-2033: For purposes of Government procurement for food canning and preserving under SIC 2033, the standard of 500 employees shall be exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

⁴ SIC-2911: For purposes of Government procurement, the firm may not have more than 1500 employees nor may it have more than 50,000 barrels per day. This capacity may be measured in terms of either crude oil or bona fide feedstocks or both, but the sum total of the various petroleum-based inputs into the process may not exceed 50,000 barrels. In addition to the direct owned capacity of the concern in question, counted capacity will include any leased facilities or any facilities made available to the concern under an arrangement such as (but not limited to) an exchange agreement or a throughput or other form of processing agreement (whereby another party processes the concern's own crude or feedstocks). Such an arrangement would have the same effect as though such facilities had been leased, and this would have to be included in the concern's own capacity. Any exchanges on a refined-product-for-refined-product basis are not permitted in the satisfaction of the contract. The total product to be delivered in the performance of the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

⁵ SIC-3011: For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112, provided that (1) the value of tires within Census Classification Codes 30111 and 30112 which it manufactured during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture, (2) the value of pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period and (3) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

⁶ SIC-40212: The Component "Garbage and Refuse, Collecting and Transporting: Without Disposal" shall have a size standard of \$6.0 million. This is the same size standard as SIC-4953, Refuse Systems.

* Offshore Marine Services: The applicable size standard shall be \$14 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

* SIC-4521: Includes passenger or cargo transportation requiring the use of one or more helicopters or fixed-wing aircraft. For other services requiring the use of one or more helicopters or fixed-wing aircraft, a size standard of \$6.5 million shall apply. This does not include offshore marine transportation services as defined in footnote 7.

* SIC-4953: "Garbage and Refuse, Collecting and Transportation: Without Disposal," a component of SIC-4212, has the same size standard as SIC-4953.

10 Units.

11 SIC-5599: For retail firms whose principal line of business is the retail sale of aircraft, a \$5 million size standard shall apply.

12 Most industries in Division H—Finance, Insurance, and Real Estate—are excluded from SBA assistance.

13 Leasing of building space to the Federal Government by owners—For the purpose of Government procurement, a size standard of \$10 million in gross receipts is established for owners of building space that is leased to the Federal Government. The standard for these procurements shall apply to the owner of the property and not to those acting as an agent for the owner. There is no size standard concerning the agent.

14 If one of the activities in base maintenance, as defined in SIC-7369, can be identified with a separate industry, and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard shall be that for the particular industry, and not the base maintenance size standard.

"Base maintenance" constitutes three or more separate activities. These activities may be either service or special trade construction related activities. As services, these activities must each be in a separate industry. These activities may include but are not limited to such separate maintenance activities as Janitorial and Custodial Service, Protective Guard Service, Commissary Service, Fire Prevention Service, the Safety Engineering Service, Messenger Service, and Grounds Maintenance and Landscaping Service.

If the contract involves the use of special trade contractors (plumbing, painting, plastering, carpeting, etc.), all such specialized special trade construction activities will be considered a single activity, which is *Base Housing Maintenance*. This is only one activity of base maintenance and two additional activities must be present for the contract to be considered base maintenance.

15 SIC-7391: For research and development contracts requiring the delivery of a manufactured product, the size standard to use is that of the manufacturing industry in which the specific product is classified.

Research and development, as defined in the SIC Manual, means laboratory or other physical research and development on a contract or fee basis. Research and development for purposes of size determinations does not include the following: economic, educational, engineering, operations, systems or other nonphysical research, or computer programming, data processing, commercial and/or medical laboratory testing.

For purposes of the SBA program only, a different definition has been established by law. See Part 121.7.

16 Beds.

17 This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664) which proposed a size standard revision of 100 employees for the accounting, auditing, and bookkeeping industry (SIC-8931).

§121.3 General definitions

(a) *Affiliates*: Concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958 and the regulations issued pursuant thereto, or investment companies registered under the Investment Company Act of 1940, are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other or (2) a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: Provided, however, That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

(i) *Nature of Control*. Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since he can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party, or other parties, may be in control of the

concern at the will of the party with the power to control.

(ii) *Meaning of "party or parties."* The term "party" or "parties" includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(iii) *Control through stock ownership.*—(A) A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

(B) A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each owns, controls or has the power to control less than 50 percent of the voting stock of a concern and such minority block is (1) equal or substantially equal in size, and (2) large as compared with any other block outstanding, there is a presumption that each such party controls or has the power to control such concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(C) If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

Example. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock, but no officer or director has a

block sufficient to give him control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(iv) *Stock options, convertible debentures, and agreements to merge.* Stock options and convertible debentures exercisable at the time or within a relatively short time after a size determination and agreements to merge in the future are considered as having a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are treated as though the rights held thereunder had been exercised.

Example. If company "A" holds an option to purchase a controlling interest in company "B" and such option can be exercised at any time by company "A", the situation is treated as though company "A" had exercised its rights and had become owner of a controlling interest in company "B". Further, if company "A" has entered into an agreement to merge with company "B" in the future, the situation is treated as though the merger had taken place.

(v) *Voting trusts.* If the purpose of a voting trust, or similar agreement is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may qualify as a small business within the size regulations, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not valid within the appropriate jurisdiction. However, if a voting trust is entered into for a legitimate purpose other than that described above, and it is valid within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination, provided such consideration is determined to be in the

best interest of the small business program.

(vi) *Control through common management.* A concern may be found as controlling or having the power to control another concern when one or more of the following circumstances are found to exist, and it is reasonable to conclude that under the circumstances, such concern is directing or influencing or has the power to direct or influence the operation of such other concern.

(A) *Interlocking management.* Officers, directors, employees, or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.

(B) *Common facilities.* One concern shares common office space and/or employees and/or other facilities with another concern particularly where such concerns are in the same or related industry or field of operation, or where such concerns were formerly affiliated.

(C) *Newly organized concern.* Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, and/or other facilities, whether for a fee or otherwise.

(vii) *Control through contractual relationships.*—(A) Definition of a joint venture for size determination purposes: A joint venture for size determination purpose is an association of persons and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

(B) *Joint ventures—financial assistance.* For the purpose of financial assistance to a joint venture, the parties thereto are considered as controlling or having the power to control each other and are considered as being affiliated. For the purpose of financial assistance to a concern which has requested assistance for its own use, but which is incidentally a party to a joint venture, such concern is not considered as being affiliated with its joint venturer.

(C) *Joint venture—procurement and property sale assistance.* Concerns bidding on a particular procurement or

property sale as joint venturers are considered as affiliated and controlling or having the power to control each other with regard to performance of the contract. Moreover, as ostensible subcontractor which is to perform primary or vital requirements of a contract may have a controlling role such to be considered a joint venturer affiliated on the contract with the prime contractor. A joint venture affiliation finding is limited to particular contracts unless the SBA size determination finds general affiliation between the parties.

(D) Where a concern is not considered as being an affiliate of a concern with which it is participating in a joint venture, it is necessary, nevertheless, in computing annual receipts, etc., for the purpose of applying size standards to include such concern's share of the joint venture receipts (as distinguished from its share of the profits of such venture).

(E) *Franchise and license agreements.* If a concern operates or is to operate under a franchise (or a license) agreement, the following policy is applicable: In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the restraints imposed on a franchisee by its franchise agreement shall not be considered provided that the franchisee has the right to profit from its effort and the risk of loss or failure, commensurate with ownership. Even though a franchisee may not be controlled by the franchisor by virtue of the contractual relationship between them, the franchisee may be controlled by the franchisor or others through common ownership or common management, in which case they would be considered as affiliated.

(B) "Concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation joint venture, association, or cooperative. For the purpose of making affiliation findings (see subsection (a) of this section) any business entity whether organized for profit or not, and any foreign business entity, i.e., any entity located outside the United States, shall be included.

(c) A concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists,

consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

§ 121.4 Small business for financial programs.

(a) The provisions within this section apply to size eligibility for SBA financial assistance, which includes the following SBA programs: Financial and Guarantee Assistance, Small Business Investment Companies, Development Companies, Surety Bonding, Pollution Control, and Minority Small Business and Capital Ownership Development. Such size eligibility is determined with reference to the size standard for the primary industry of the concern (including any affiliates) under the SIC code size standards in the table contained in § 121.2. The size standards are generally in terms of four-digit industries set forth in the Standard Industrial Classification Manual. In addition to meeting the size standards of this regulation, a small business concern must be not dominant in its field of operation. (See § 121.3(c).) If a concern is engaged in a number of industries (or including its affiliates is engaged in several industries), the size standard shall be that of the concern's (or concerns') primary industry. The primary industry determination considers the distribution among industries during the most recent fiscal year and 12 month period of receipts and employees of the concern (or of an entire affiliated group if the group in its entirety has a different primary industry). The determination may also consider other factors (e.g., patents, contract awards, assets).

(b) After the appropriate size standard is ascertained, the eligibility of the concern under that size standard must be considered. In determining whether a concern is eligible under its applicable primary industry size standard, employees or receipts (or other size measurement under subsection (e) of this section, e.g., net worth) of the concern and its affiliates must be aggregated. (Section 121.3(a) sets forth the SBA affiliation definition.)

(c) A concern which applies for an SBA loan or guarantee to refinance an existing SBA loan or guarantee but which, since the date of the original financing, has by natural growth (as distinguished from, e.g., merger) grown to a size which exceeds the applicable size standard, is considered as small for the purpose of refinancing if SBA

administratively determines that refinancing is necessary to protect the Government's financial interest.

(d) The applicable size standards for the purpose of all SBA financial and guarantee programs excluding the Section 8(a) Program and the Surety Bond Guarantee Assistance Program, are increased by 25 percent whenever the concern agrees to use the assistance within a "labor surplus area," or "redevelopment area." "Redevelopment area" means a "redevelopment area" in accordance with the Public Works Economic Development Act of 1985 (Pub. L. 89-136, 79 Stat. 570, 42 U.S.C. 3211). "Labor surplus areas" are defined monthly in the Department of Labor publication "Area Trends."

(3) A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies, or pollution control guarantee assistance, is one which: (1) Together with its affiliates, does not have net worth in excess of \$6 million, and does not have an average net income after Federal income taxes for the preceding 2 years in excess of \$2 million (average net income to be computed without benefit of any carryover loss); or (2) a concern is also eligible for these programs if it otherwise qualifies under this section as a small business concern for financial assistance.

(f) The concern's size status may be determined at the SBA District Office, the SBA Regional Office, or by any other SBA office or financial institution appropriately designated. The determination may be made at the time of application for assistance. The concern's size eligibility is determined as of the time of its application or self-certification as small by the concern and the time of approval of the financing. Except for firms participating in the section 8(a) program, subsequent changes in size will not affect a firm's size status.

(g) For purposes of the Minority Small Business and Capital Ownership Development Assistance program (the program authorized by section 8(a) of the Small Business Act),

(1) In order to be eligible to participate in the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.2 of the SBA Rules and Regulations. The particular size standard to be applied will be based on the primary industry classification of the applicant concern.

(2) In order to continue to participate in the section 8(a) program once a

concern is admitted to the program, the concern must certify to SBA that it is a small business for the purpose of performing each individual contract which it is awarded. SBA, in turn, will verify such certifications.

(h) For purposes of surety bond guarantee assistance

(1) Any construction concern (general of special trade) is small if its annual receipts average for its preceding three fiscal years does not exceed \$5 million.

(2) Any concern performing a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial Classification Manual) is small if its annual receipts average for its preceding three fiscal years does not exceed \$5 million.

(3) For other surety bond guarantee assistance, the provisions of § 121.4 (a) and (b) are applicable in determining eligibility as a small business concern.

§ 121.5 Small business for government procurement.

(a) A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry, is not considered an SBA size determination.

(b)(1) The procurement is classified for size standard purposes in the most appropriate SIC code industry category (§ 121.2); giving consideration to the industry descriptions in the regulation and the SIC Manual, the product or service description in the solicitation and attachments thereto, the relative value of items in the procurement and the principal nature of the procurement. In borderline cases, consideration may be given to previous Government procurement classifications of the same or similar products or services, additional information on the industries and on the product or service being procured, and to evaluations on which industry classification would best serve the purposes of the Small Business Act. A concern which is bidding on a contract for a procurement in an SIC industry under § 121.2 must meet the size standard designated for that industry. The size standard and SIC industry designation are set forth in the solicitation.

(2) Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is deemed to be a small business when:

(i) Its average annual receipts (including affiliates) for its three most recently completed fiscal years does not exceed the size standard for the appropriate wholesale industry identified with the product being procured as defined in § 121.2, and

(ii) In the case of Government procurement reserved (i.e., set aside) for small businesses, such nonmanufacturer must furnish, in the performance of the contract, the product of a small business manufacturer or producer, which end product must be manufactured or produced in the United States. The term "nonmanufacturer" includes a concern which can manufacture or produce the product referred to in the specific procurement but does not do so in connection with that procurement. For size determination purposes there can be only one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination need not be consistent with whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act.

(iii) A concern which purchases items and packages them into a kit is considered to be a nonmanufacturer small business and can qualify as such for a given procurement if it meets the size qualifications of a small nonmanufacturer for the procurement and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.

(iv) If the procurement is subject to, and is actually processed under, "small purchase procedures" as defined in the Defense Acquisition Regulation (DAR), Federal Procurement Regulation (FPR), and the National Aeronautics and Space Administration Procurement Regulation (NASAPR), as applicable, such nonmanufacturer may furnish any domestically produced or manufactured product.

(v) For the purpose of receiving a Certificate of Competency on an unrestricted procurement, a small business nonmanufacturer may furnish any domestically produced or

manufactured product. The applicable size standard shall be that of the wholesale industry of the item being procured.

(c) If a procurement calls for two or more items with different size standards and the bidder can bid on any items, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item and a bidder is required to bid on all items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value.

(d) The determination of the appropriate classification of a product or service shall be made by the contracting officer of the procuring agency or his authorized representative. Both the SIC industry classification and the applicable size standard (number of employees, average annual receipts, etc.), shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed to SBA in the manner provided in § 121.11; provided, however, that an unclear or incomplete classification action by the contracting officer may be supplied by the SBA if necessary in connection with a size determination or size appeal.

(e) In the submission of a bid or proposal on a Government procurement, a concern which meets the designated size standard and which either has not been determined by SBA to be ineligible under the same or a lower size standard, or has been determined to be ineligible but subsequently has been recertified by SBA, may represent that it is a small business concern within the size standard designated for the procurement. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of the self-certification, a contracting officer shall accept the self-certification at face value for the particular procurement involved. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to respond to the particular allegations that it is not a small business concern within the size standard applicable to the procurement.

(f) If a concern has been determined by SBA to be ineligible as a small business under a particular size standard, and it has already self-certified as a small business on a pending procurement subject to the same or lower number of employees or

annual receipts size standard (whichever is applicable), it shall immediately notify the contracting officer of such adverse size determination.

(g) For subcontracting purposes pursuant to Section 8(d) of the Small Business Act, a concern is small

(1) in connection with subcontracts of \$10,000 or less which relate to Government procurements if, including its affiliates, its number of employees does not exceed 500 persons; and

(2) In connection with subcontracts exceeding \$10,000 which relate to Government procurements if its number of employees or average annual receipts, (including its affiliates), does not exceed the size standard under § 121.2 for the product or service it is providing on the subcontract. Concerns may self-certify their status as a small subcontractor for the procurement.

(3) The contracting officer or other affected party in connection with small business subcontracting requirements, pursuant to section 8(d) of the Small Business Act, may protest a written representation of small business status, or the refusal to accept such written representation, of a concern offering as a subcontractor on a particular procurement. The protest and related information shall be referred to the SBA Regional Office in which the concern has its principal office for a size determination or other appropriate SBA action.

§ 121.6 Small business for sales or lease of Government property.

In the submission of a bid or proposal for the purchase or lease of Government-owned property, a small business concern is one which meets the criteria provided in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry is not considered an SBA size determination. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of a concern's self-certification as a small business, a contracting officer shall accept the self-certification at face value. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to

respond to the particular allegations that it is not a small business concern for the sale or lease on which protested. If a concern has been determined by SBA to be ineligible under the applicable size standard and has not been recertified, it shall not self-certify under that size standard until it has been recertified by SBA; and shall immediately notify the contracting officer on any pending sales or leases where it had self-certified under the same size standard.

(a) *Sales of Government-owned property other than timber.* A small business concern for the purpose of the sale of Government-owned property other than timber is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can further qualify under the following criteria.

(1) *Manufacturers.* Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons: *Provided, however,* That a concern primarily engaged in SIC Industry 2911, Petroleum Refining, is small if its number of employees does not exceed 1,500 persons and it does not have more than 50,000 barrels per day crude oil or bona fide feed stock capacity * from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except on a refined-product-for-refined-product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

(2) *Other than manufacturers.* Any concern which is primarily not a manufacturer (except as specified in paragraph (a)(3) of this section) is small if its average annual receipts for its preceding 3 fiscal years do not exceed \$2 million.

(3) *Stockpile purchasers.* Any concern primarily engaged in the purchase of materials which are not domestic products is small if its annual receipts for its preceding 3 fiscal years do not exceed \$42 million.

(b) *Sales of Government-owned timber.* (1) In connection with sale of Government-owned timber, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;²

² See § 121.2 (footnotes) for definition of crude oil capacity and bona fide feed stock capacity.

³ "Forest Products Industry" means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw material.

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (b)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than 30 percent (50 percent in Alaska) of such timber. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (b)(1) of this section, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (b)(1) of this section as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government

timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the names, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and the size status of the concern manufacturing the sawlogs into lumber or timbers.

(c) *Special salvage timber sales.* (1) In connection with sale of Government-owned special salvage timber, designated by the USFS as SSTs, a small business is a concern that:

(i) Is primarily engaged in the logging or forests products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 25 persons during any pay period for the last 12 months.

(2) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small business, restricting the disposal of timber and, when the special salvage timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (c)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of paragraph (b)(1) of this section more than 30 percent of such timber (50 percent in Alaska). The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(iii) It agrees that as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees.

Significant logging of timber means using its own employees to accomplish two or more of the following element: (A) felling and bucking, (B) yarding, (C) loading. It further agrees that such SSTs sale logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTs sale.

(3) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber, and when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (c)(1) of this section, and

(ii) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at a minimum, a breakdown of the log into the rough cut of the finished product. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

(iii) It further agrees that it will accomplish the logging of SSTs timber, exclusive of hauling, with its own

employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS sale.

(4) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, the special salvage timber may be disposed of without restriction when there are less than two qualified mills in the market area.

(d) Any firm bidding to lease Government land for purposes of coal mining is classified as small if:

(1) It is independently owned and operated;

(2) It is not dominant in its field of operation;

(3) Together with its affiliates, its number of employees does not exceed 250 persons;

(4) It maintains management and control of the actual mining operation at the tract; and

(5) Any transfer of the lease from the holder of the original set-aside must be to another small business within the meaning of this paragraph.

(e) In the submission of a bid or proposal for a Government lease of uranium prospecting or mining rights, a concern whose number of employees does not exceed 100 persons may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular lease involved.

§ 121.7 Small Business Innovation Research Programs.

(a) A small business concern for purposes of award of any funding agreement under a solicitation pursuant to the Small Business Innovation Development Act of 1982 (Pub. L. 97-291, 15 U.S.C. 638(e)-(k)) is one which, including its affiliates, has a number of employees not exceeding 500. The term "affiliates" is defined in § 121.3(a) of this title. The term "number of employees" is defined in § 121.2(b) of this title.

(b) The Small business Innovation Development Act of 1982 defines "research" or "research and development" as any

... activity which is (A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studies; (B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (C) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement or prototypes and new processes to meet specific

requirements (15 U.S.C. 638, as amended by 96 Stat. 218, Sec. 4(e)(5)).

(c) SBA has issued a policy directive (Policy Directive No. 65-01; 47 FR 52986, November 24, 1982) prescribing criteria for solicitations and award of funding agreements pursuant to the Small Business Innovation Research (SBIR) Program. Under the SBIR program, the term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government.

§ 121.8 Size Determinations.

(a) Original size determinations shall be made by the regional director, or his delegate, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Finance and Investment. The regional director or his delegate, or the Associate Administrator for Finance and Investment promptly shall notify in writing, by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall become effective immediately and shall remain in full force and effect unless and until reversed by the Small Business Administration Size Appeals Board. For the purpose of Government procurements or sales, a size determination shall be made only in the event of a protest pursuant to these regulations, a request for recertification, a request for a Certificate of Competency, or if the Associate Administrator for Procurement Assistance or his delegate or a regional director or his delegate determines it necessary to question the size status of a concern for the purpose of any Small Business contracting program or Procurement Source Program, or for property sales purposes or for any other purpose relating to Government procurement or sales. For the purpose of SBA financial assistance, a formal size determination under this provision shall be made by the Regional Office only (1) where the regular review of the loan file or other substantial evidence indicates the need therefor and a request is made by the appropriate SBA financial assistance official, or (2) where an initial determination is made by the SBA financial assistance officer that the concern is other than small and a request is made by the loan applicant.

Initial nonformal financial assistance size determinations may not be appealed to the SBA Size Appeals Board.

(b) Once properly instituted (i.e., by filing of a protest or by an official request for a determination) formal size determinations may be completed, even if the particular application, bid, or offer is subsequently withdrawn, or the Government procurement or sale is cancelled or awarded.

(c) The size determination will be based primarily on facts and allegations supplied by the parties to the SBA. If deemed necessary or appropriate SBA may utilize other information in its files and may make inquiries including requests to the parties or other persons for additional specific information. The burden of establishing its small business size by submitting full information to SBA shall be upon the concern whose size status is under consideration. Specific signed factual evidence will be weighed more heavily by SBA than general unsupported allegations or opinions. In the case of refusal or failure to furnish requested information within a required time period, SBA may assume that disclosure would be contrary to the interests of the party failing to make disclosure. The SBA formal size determination shall be based upon the record, including reasonable inferences therefrom, and shall state in writing the basis for its findings and conclusions.

(d) If SBA has made a formal size determination that a particular concern is not small, the concern will not be deemed eligible within such applicable size standard for any assistance under the Small Business Act or the Small Business Investment Act of 1958, unless it is thereafter recertified by SBA as a small business. After such an adverse size determination, the concern shall not self-certify itself as small within the same or a lower employee or annual receipts size standard (whichever is applicable) unless it is recertified. Applications for recertification shall be made to the SBA Regional Office which made the original size determination. Applications for recertification shall be accompanied by a current completed SBA Form 355 and by any other pertinent information necessary to show a significant change in its ownership, management, contractual relations, or in other factors bearing on its status as a small concern. If good cause is shown in extraordinary cases, as determined by the Chairperson of the Size Appeals Boards, the original decision on the application for recertification may be made by the Size Appeals Board.

(1) Recertification shall not be required nor will the prohibition against future self-certification apply if the adverse SBA size determination is based solely on a finding of affiliation due to a joint venture (e.g., ostensible subcontracting) limited to a particular Government procurement or property sale, or is based on an ineligible nonmanufacturer size determination on a particular Government procurement.

(2) If SBA makes a size determination denying an application for recertification, such adverse size determination may be appealed to the Size Appeals Board. Recertifications have future effect only and, except as to timber sales size determinations, are not appealable to the Board by other than the concern in question (however, the concerns' later self-certification on subsequent set-aside procurements or property sales may be protested in the usual manner).

(e) Size determinations for compliance purposes. Upon request by other Government agencies, SBA size determinations under Part 121 may be made to assist in the enforcement or administration of regulations or contracts, as well as in connection with award of contracts or granting of assistance. SBA size determinations are findings on the size status of a concern (including its affiliates) as of a definite time and regarding a specific applicable SBA size standard, and do not rule on compliance, contractual or administrative matters which are handled by the other agencies.

§ 121.9 Protest of small business status.

(a) *How to protest.* Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular Government procurement or sale. Such challenge shall be made by delivering a protest to the contracting officer responsible for the particular procurement or sale involved. In order to apply to the procurement or sale in question, such protest must be filed prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening, except that in the case of negotiated procurements, a protest may be filed within 5 days exclusive of Saturdays, Sundays, and legal holidays after receipt from the contracting officer of notification of the identity of the offeror being protested. Such filing must be delivered to the contracting officer by hand, telegram, or mail within the 5-day period allotted: *Provided, however,* That a protest shall be considered timely if made by telephone to the contracting officer within the 5-day period allotted

and the contracting officer thereafter receives a confirming letter (1) within such 5-day period or (2) postmarked no later than 1 day after the date of such telephone protest. Any contracting officer who receives a protest shall promptly forward such protest to the SBA regional office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located. A contracting officer may at any time after bid opening question the small business status of any bidder or offeror for the purpose of a particular procurement or sale by filing a protest with the SBA regional office serving the area in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement or sale in question whether filed before or after award. A protest received after the time limits set forth herein shall not apply to the procurement or sale in question. A concern determined other than small business as a result of such late protest, however, shall be precluded from self-certification in any other procurement or sale in which the size standard is not higher than the standard in the procurement or sale in question. A protest must adequately set forth specific alleged grounds for the protest. A protest merely alleging that the protested concern is not small or is affiliated with unspecified other concerns will not be deemed to adequately specify grounds for the protest. Evidence supporting the protest may be submitted therewith. Protests which do not set forth specific alleged grounds for the protest will be dismissed.

(b) *Notification of protest.* Upon receipt of such protest, the SBA regional director or his delegatee shall immediately notify the contracting officer and the protestant of the date such protest has been received and that the size of the concern being protested is being considered by SBA. The regional director or his delegatee shall also advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Size Determination, by certified mail, return receipt requested. Such bidder must, within 3 working days after receipt of the copy of the protest and SBA Form 355, file the completed form as directed by SBA, must attach thereto a statement in answer to the allegations of the letter of protest, together with evidence to support such

position. If such bidder or offeror does not submit the completed SBA Form 355 within the billing period provided above, or within any additional period of time granted by SBA for cause, SBA will rule the protested concern is other than a small business. If the bidder or offeror does not submit the completed SBA Form 355 within the period provided above, or within any additional period of time provided by SBA upon application for good cause shown, SBA may assume that the disclosure of the Form or any missing part thereof would be contrary to the interests of the party failing to make such disclosure.

(c) *Notification of determination.* After receipt of a protest and responses thereto, SBA shall determine the small business status of the protested bidder or offeror and, by certified mail, return receipt requested, notify the contracting officer, the protestant, and the protested bidder or offeror of its decision within 10 working days, if possible.

(d) If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

(e) *Multiple Award Schedules.* Protests will be deemed timely if received by SBA at any time prior to the expiration of the contract period (including renewals) on a multiple award schedule procurement set aside for small business.

§ 121.10 Size standard responsibilities.

(a) Office of Size Standards Staff, Office of the Administrator, shall:

(1) Develop and recommend small business size standards to the Administrator of SBA for promulgation.

(2) Consider and take appropriate action on written requests to change existing size standards or establish new size standards.

(3) Conduct industry hearings pertaining to size standards.

(4) Perform other related functions (e.g., industry studies) as may be appropriate to administer the SBA size standards program.

(b) Requests to change the existing, or establish new, size standards should be addressed to the Director, Size Standards Staff, Office of the Administrator, 1441 L Street, N.W., Washington, D.C. 20416, and should include information on the economic conditions and structure of the entire national industry, as well as specific reasons and justifications for the change or new size standard. The methodology described in the section on "Purpose

and Method of Establishing Size Standards" (§ 121.1) provides basic criteria on the kinds of information desirable to make an appropriate request. If no size standard of an industry has been established in this part, then SBA, upon request, may issue an *ad hoc* or temporary size standard for the industry in question.

(c) The Office of General Counsel, in conjunction with other interested SBA offices, shall develop and recommend to the Administrator regulations and procedures to assist in implementing the size standards.

(d) The Size Appeals Board shall hear and resolve appeals of size determinations concerning the small business size status of individual firms. The Board also hears and resolves appeals concerning the appropriate size standard for particular small business set-aside procurements, and may issue interpretations of the size regulations.

§ 121.11 Appeals.

(a) *Organization.* The Size Appeals Board shall review appeals from all size determinations and product classifications made pursuant to these regulations and shall make final decisions as to whether such determinations or classifications should be affirmed, reversed or modified. The Size Appeals Board only has jurisdiction to consider appeals from formal determinations as to a concern's small business size status and appeals from product or service classification determinations made by contracting officers for the purpose of Government procurements. It has no jurisdiction to consider an appeal from an informal opinion or advice concerning a company's small business size status, an opinion as to a company's future small business size status based on proposed but unexecuted changes in its organization, management or contractual relations, or an appeal based on allegation that the small business size standard established by SBA for a particular industry or field of operation is improper for the purpose intended. Size Appeals Board proceedings are essentially factfinding and nonadversary in nature. The Size Appeals Board shall conduct such proceedings as it determines appropriate to enable it to discharge its duties. The Size Appeals Board shall consist of five members, to wit: The Deputy Administrator (Chairperson); the Associate Administrator for Procurement Assistance (Vice Chairperson); the Associate Administrator for Finance and Investment; the Associate Administrator for Minority Small Business and Capital

Ownership Development; and the Director of the Size Standards Staff. In the event the Vice Chairperson acts as Chairperson in the stead of the Deputy Administrator, the Director of the Office of Procurement and Technical Assistance shall become a member of the Board. Each member shall designate one alternate in writing to act in his stead, and in the event of an emergency, the Chairperson may designate a temporary additional alternate for any member. Each member or his alternate shall have one vote except that the Chairperson or the Vice Chairperson acting in his stead shall vote only in the event of a tie.

(b) *Method of appeal.*—(1) Who may appeal. An appeal may be filed by:

(i) Any concern or other interested party which has protested the small business status of another concern and whose protest has been denied by a regional director or his delegatee;

(ii) Any concern or other interested party which has been adversely affected by a decision of a regional director or his delegatee or by the Associate Administrator for Finance and Investment;

(iii) Any concern or other interested party which has been adversely affected by a decision of a contracting officer regarding product classification; and

(iv) The Small Business Administration Associate Administrator for the Small Business Administration program involved.

(2) *Where to appeal.* Written notices of appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416.

(3) *Time for appeal.*—(i) An appeal from a size determination or product classification by a regional director, or his delegatee, may be taken at any time, except that because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement must be within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Size Appeals Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned. Appeals from a size determination in a pending Government property sale must be within 5 days, exclusive of Saturdays, Sundays, and holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such

appeal is received by the Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending sale is concerned. An appeal received after the time limits set forth herein shall be acted on, but such determination shall not apply to the procurement or sale in question.

(ii) An appeal from a contracting officer's designation of the Standard Industrial Classification industry into which the product or service being procured is classified, and/or the Small Business Administration size standard applicable thereto may be taken:

(A) Not less than 10 days, exclusive of Saturdays, Sundays, and legal holidays, before bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is more than 30 days after the issuance of the invitation for bids or request for proposals or quotations, or

(B) Not less than 5 days, exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is 30 or less days after the issuance of the invitation for bids or request for proposals or quotations, and

(iii) The timeliness of an appeal shall be determined by the time of receipt of the appeal by the Size Appeals Board: *Provided, however,* That an appeal received after such time limit has expired shall be deemed to be timely and shall be considered if, in the case of mailed appeals, such appeal is sent by registered or certified mail and the postmark thereon indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant, or in the case of telegraphed appeals, the telegram date and time line indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant.

(4) *Appeal.* No particular form is prescribed for the appeal. However, the appellant shall submit to the Board an original and one legible copy of such appeal. A copy of the appeal shall be simultaneously sent by the appellant to the contracting officer, if applicable, and also a simultaneous copy to the appropriate Regional Office. The appeal should include the following information:

(i) Name and address of concern on which the size determination was made;

(ii) The character of the determination from which appeal is taken and its date;

(iii) If applicable, the IFB or contract number and date, and the name, address, and telephone number of the contracting officer;

(iv) A full and specific statement of the reasons why the decision of a regional director, or his delegatee, the contracting officer or the Associate Administrator for Finance and Investment is alleged to be erroneous;

(v) Arguments in support of such allegations; and

(vi) Action sought by the appellant. Appeals must set forth specifically the alleged ground of material error in the original classification or size determination. The Board generally will not review issues or evidence not previously presented to the SBA office making the original size determination unless such review is determined to be necessary to prevent manifest injury to a party not due to any fault or omission of such party.

(c) *Notice to interested parties.* The Size Appeals Board shall promptly acknowledge receipt of the Notice of Appeal and shall send a copy of such Notice of Appeal to the appropriate regional director or his delegatee and to the contracting officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Board shall also send a copy of the notice to such concern. The Board shall notify all known interested parties that the appeal has been filed. The Board in its discretion may also provide any of such interested parties with copies of appellant's Notice of Appeal, or parts thereof, when the Board determines that this would be in the interest of fairness or would assist in the performance of its functions.

(d) *Statement of interested parties.* After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with one legible copy thereof, as to why the appeal should or should not be denied. Such statements shall be mailed or delivered to the Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within 5 calendar days of the receipt of appropriate notification of appeal or other action in the proceeding. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements submitted in connection with the appeal or a reconsideration thereof to such appellant.

(e) *Consideration by the Size Appeals Board.*—(1) The Size Appeals Board shall consider the appeal on the written submission of the parties. The Board

may also, in its discretion, conduct an oral inquiry. After consideration of all relevant information, the Board shall promptly render a decision which shall state the reason for such decision. Time limitations on all submissions will be strictly applied. Late submissions and submissions additional to those provided for in the regulation or requested by SBA may be disregarded by the Board to avoid delay in disposition of the case. If deemed necessary the Board may request additional specific information from the parties or other persons. In the case of refusal or failure to promptly furnish such information, the Board may assume that disclosure would be contrary to the interests of the party failing to make such disclosure.

(2) *Procedures in oral inquiries.* In considering size appeals, and in reconsidering size appeals decisions, the Size Appeals Board may hold an oral inquiry to assist it in arriving at facts necessary in deciding the appeal. The following rules shall govern such oral inquiries:

(i) Oral inquiries may be held by the Size Appeals Board upon the request of any party to a size appeal or by the Board on its own motion. The Board will, in its discretion, determine whether an oral inquiry will be of assistance in its determination of a size appeal. The Board shall inform the party making a request for oral inquiry whether its request is granted. If the Board grants the request for an oral inquiry, it will so notify all other interested parties.

(ii) Oral inquiries held by the Board are investigative in nature and not adversary. Such inquiries shall be conducted informally in a manner which will facilitate the Board's factfinding function and insure fairness to all participants.

(iii) Whenever the Board permits the appearance of two or more parties before it in an oral inquiry, cross-examination shall not be permitted between or among such parties; however, any party appearing in such oral inquiry may suggest questions for the Board to direct to other parties which may assist the Board in its determination of relevant facts.

(f) *Decision of the Size Appeals Board.* The decision of the Size Appeals Board shall be predicated upon the entire record, and it shall state in writing the basis for its findings and conclusions. The Chairman shall promptly notify, in writing, the appellant and the other interested parties of the Board's decision together with the reasons therefor.

(g) *Reconsiderations.*—(1) Following a decision by the Size Appeals Board that

a firm and its affiliates are not small business within an applicable size standard, any such firm or affiliate may petition the Size Appeals Board for reconsideration upon presentation of appropriate justification therefor. Such petition must be received by the Size Appeals Board within 10 business days following receipt by the firm of the formal written Findings and Decision of the Board. The Findings and Decision of the Board will be prepared and forwarded to the parties within a short period of time following the Board's determination. The petition for reconsideration may be in any form, with an original and one copy. The Board will notify interested parties that a petition for reconsideration has been received.

(2) The Chairperson shall consider the petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Chairperson, in his discretion, deems necessary.

(3) *Grounds for reconsideration.* Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant facts not previously considered by the Board and not previously available to the petitioner;

(iii) When a request for reconsideration is made, the petitioning firm must demonstrate that the grounds for reconsideration involve facts which were not previously presented to the Board through no fault or omission of such party.

(4) If the Chairperson denies the request for reconsideration, he shall notify all parties. If the request for reconsideration is granted by the Chairperson, he shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board may, in its discretion, provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in performing its factfinding functions.

(5) Following its reconsideration of the matter, the Board will promptly render a decision pursuant to paragraph (f) of this section. The decision of the Board shall constitute the final administrative remedy afforded by this Agency.

(h) The following may be summarily dismissed by the Chairperson:

(1) Untimely appeals and untimely petitions for reconsideration;

(2) Appeals not setting forth specifically the alleged grounds of

material error in the initial size or classification determination;

(3) Appeals not within the Board's jurisdiction;

(3) Appeals where the allegation of error has no apparent ground of support in either the record before the Board or under the Regulations of this Part 121;

(5) Appeals on product or service classification/size standard determinations where the contract in question has already been awarded;

(6) Petitions for reconsideration which do not specify material errors of fact in the factual findings and conclusions of the Board's decision or do not specify relevant facts not previously presented to SBA through no fault or omission of the petitioning party; and

(7) Appeals primarily based upon issues or evidence that appellant had unreasonably failed to present to the SBA field office and there is no explanation for this failure. Failure to meet time limitations in making submissions to SBA field offices generally would not be a reasonable explanation.

Such summary dismissal by the Chairperson shall be final insofar as the pending procurement or sale is concerned. The Chairperson shall also refer size determination appeals dismissed solely by reason of untimeliness to the Board for a decision as regards eligibility for future

procurements, sales, or other small business assistance. He shall not, however, refer to the Board untimely appeals from a product or service classification or size standard determination. The parties and other interested persons shall be promptly notified of the Chairperson's action and the basis thereof.

§ 121.12 Small business for paying reduced Patent fees under Title 35, U.S.C.

(a) Pursuant to Pub. L. 97-247, a small business concern for purposes of paying reduced fees under 35 U.S.C. 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The

number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, N.W., Washington, D.C. 20416 [Attention: SBA Office of General Counsel]. The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error and the facts and arguments supporting the concern's claimed status as a small business concern under this section.

Dated: March 4, 1983.

James G. Sanders,
Administrator.

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