(b) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime and holiday rates as follows:

(1) *Benefits rate.* The total AMS inspection or certification program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(2) *Operating rate.* The total AMS inspection or certification program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(3) *Allowance for bad debt rate.* Total AMS inspection or certification program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(c) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on the most recent Office of Management and Budget's Presidential Economic Assumptions.

■ 42. Amend § 75.42 by revising paragraph (b) to read as follows:

§ 75.42 Sampling and sealing.

* * * * *

(b) When onsite inspection services are performed by Federal employees at the request of the applicant charges will be based on the formulas in § 75.41 of this part.

■ 43. Amend § 75.43 by revising paragraphs (a) and (c) to read as follows:

§ 75.43 Laboratory testing.

* * * * *

(a) Fees assessed based on the formulas in section 75.41 of this part.

* * * * *

(c) The fee for a preliminary report issued prior to completion of testing shall be assessed in accordance with paragraph (a) of this section.

PART 91—SERVICES AND GENERAL INFORMATION (SCIENCE AND TECHNOLOGY)

■ 44. The authority citation for part 91 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

■ 45. Amend § 91.37 by:

■ a. Revising paragraphs (a) and (b);

■ b. Removing paragraph (c); and

■ c. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

The revisions read as follows:

§ 91.37 Standard hourly fee rate for laboratory testing, analysis, and other services.

(a) For each fiscal year, AMS will calculate the rate for laboratory testing, analysis, and other services, per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS laboratory service program personnel direct pay divided by direct hours which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime and holiday rates as follows:

(i) *Benefits rate.* The total AMS laboratory service program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS laboratory service program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS laboratory service program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on the most recent Office of Management and Budget's Presidential Economic Assumptions.

* * * * *

■ 46. Amend § 91.38 by revising paragraph (a) to read as follows:

§ 91.38 Additional fees for appeal of analysis.

(a) The applicant for appeal sample testing will be charged a fee based on the formulas in § 91.37 of this part.

* * * * *

■ 47. Amend § 91.39 by revising paragraph (a) to read as follows:

§ 91.39 Hourly fee rates for overtime and legal holiday service.

(a) When analytical testing in a Science and Technology facility requires the services of laboratory personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. When analytical testing in a Science and Technology facility requires the services of laboratory personnel on a Federal holiday or a day designated in lieu of such a holiday, such services are considered holiday work. Laboratory analyses initiated at the request of the applicant to be rendered on Federal holidays, and on an overtime basis will be charged fees based on the formulas in § 91.37 of this part.

* * * * *

Dated: August 29, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–21188 Filed 9–9–14; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG51

Small Business Size Standards: Industries With Employee Based Size Standards Not Part of Manufacturing, Wholesale Trade, or Retail Trade

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to increase employee based small business

size standards for 30 industries and three sub-industries (i.e., exceptions in SBA's table of size standards) and decrease them for three industries that are not part of North American Industry Classification System (NAICS) Sector 31–33 (Manufacturing), Sector 42 (Wholesale Trade), or Sector 44–45 (Retail Trade). SBA also proposes to eliminate the Information Technology Value Added Resellers sub-industry or ''exception'' under NAICS 541519 (Other Computer Related Services) and its 150-employee size standard. Similarly, SBA proposes to eliminate the Offshore Marine Air Transportation Services sub-industry or ''exception'' under NAICS 481211 and 481212 and Offshore Marine Services sub-industry or ''exception'' under NAICS Subsector 483 and their $28 million receipts based size standard. This proposed change includes removing Footnote 15 and Footnote 18 from the table of size standards. As part of its ongoing comprehensive size standards review, SBA evaluated employee based size standards for 57 industries and five sub-industries that are not in NAICS Sectors 31–33, 42, or 44–45 to determine whether they should be retained or revised. This proposed rule is one of a series of proposed rules that will review size standards of industries grouped by NAICS Sector.

DATES: SBA must receive comments to this proposed rule on or before November 10, 2014.

ADDRESSES: Identify your comments by RIN 3245–AG51 and submit them by one of the following methods: (1) Federal eRulemaking Portal: *www.regulations.gov,* following the instructions for submitting comments; or (2) Mail/Hand Delivery/Courier: Khem R. Sharma, Ph.D., Chief, Size Standards Division, 409 Third Street SW., Mail Code 6530, Washington, DC 20416. SBA will not accept comments to this proposed rule submitted by email.

SBA will post all comments to this proposed rule on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* you must submit such information to U.S. Small Business Administration, Khem R. Sharma, Ph.D., Chief, Size Standards Division, 409 Third Street SW., Mail Code 6530, Washington, DC 20416, or send an email to *sizestandards@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Jorge Laboy-Bruno, Ph.D., Economist, Size Standards Division, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

In an effort to remove possible public confusion, SBA would like to explain the changes made to the title of this rule. When SBA initially announced in the Fall 2012 Unified Agenda of Federal Regulatory and Deregulatory Actions, 78 FR 1636 at 1639 (January 8, 2013) (Item #393) that it intended to propose this rule, it was titled ''Small Business Size Standards for Other Industries With Employee Based Size Standards not Part of Manufacturing or Wholesale Trade.'' under Regulatory Information Number (RIN) 3245–AG51. SBA later realized that this proposed rule also does not address two industries with employee based size standards in Retail Trade (NAICS Sector 44–45). Those size standards will be addressed in a separate rule with industries in Wholesale Trade (NAICS Sector 42) under RIN 3245–AG49. As a result, the title of this proposed rule is changed to read ''Small Business Size Standards: Industries with Employee Based Size Standards Not Part of Manufacturing, Wholesale Trade, or Retail Trade.'' SBA believes that the title change of the rule will make it easier for affected parties to understand the scope of its coverage, and will engender more public comment and involvement.

To determine eligibility for Federal small business assistance, SBA establishes small business size definitions (referred to as size standards) for private sector industries in the United States. SBA uses two primary measures of business size—average annual receipts and average number of employees. SBA uses financial assets, electric output, and refining capacity to measure the size of a few specialized industries. In addition, SBA's Small Business Investment Company (SBIC), Certified Development Company (504), and 7(a) Loan Programs use either the industry based size standards or net worth and net income based alternative size standards to determine eligibility for those programs. At the start of the SBA's current comprehensive size standards review when the size standards were based on NAICS 2007, there were 41 different size standards covering 1,141 NAICS industries and 18 subindustry activities (''exceptions'' in SBA's table of size standards). Thirty-one of these size levels were based on average annual receipts, seven were based on average number of employees, and three were based on other measures. Presently, under NAICS 2012, there are 28 different size standards, covering 1,031 industries and 16 ''exceptions''. Of these, 533 are based on average annual receipts, 509 on number of employees (one of which also includes barrels per day total capacity), and five on average assets.

Over the years, SBA has received comments that its size standards have not kept up with changes in the economy, in particular the changes in the Federal contracting marketplace and industry structure. The last time SBA conducted a comprehensive size standards review was during the late 1970s and early 1980s. Since then, most reviews of size standards were limited to a few specific industries, mostly with receipts based size standards, in response to requests from the public and Federal agencies. SBA reviews all monetary based size standards (except for statutorily set size standards in NAICS Sector 11) for inflation at least once every five years. SBA's latest inflation adjustment to size standards was published in the **Federal Register** on June 12, 2014 (79 FR 33647). However, the vast majority of employee based size standards have not been reviewed since they were first established.

Because of changes in the Federal marketplace and industry structure since the last comprehensive size standards review, SBA recognizes that current data may no longer support some of its existing size standards. Accordingly, in 2007, SBA began a comprehensive review of all size standards to determine if they are consistent with current data, and to adjust them when necessary. In addition, on September 27, 2010, the President of the United States signed the Small Business Jobs Act of 2010 (Jobs Act). The Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18-month period from the date of its enactment. In addition, the Jobs Act requires that SBA review all size standards not less frequently than once every five years thereafter. Reviewing existing small business size standards and making appropriate adjustments based on the latest available data are also consistent with Executive Order 13563 on improving regulation and regulatory review.

Rather than review all size standards at one time, SBA is reviewing size standards on a Sector by Sector basis. A NAICS Sector generally includes 25 to 75 industries, except for NAICS Sector 31–33, Manufacturing, which has considerably more industries. As stated above, this proposed rule covers industries with employee based size standards that are not part of NAICS Sector 31–33 (Manufacturing), Sector 42 (Wholesale Trade), or Sector 44–45 (Retail Trade). These include one industry each in NAICS Sector 11 (Agriculture, Forestry, Fishing and Hunting), Sector 22 (Utilities) and Sector 52 (Finance and Insurance), 25 industries in Sector 21 (Mining, Quarrying, and Oil and Gas Extraction), 15 industries in Sector 48–49 (Transportation and Warehousing), 12 industries in Sector 51 (Information), two industries and four sub-industries (''exceptions'') in Sector 54 (Professional, Scientific and Technical Services), and one sub-industry (''exception'') in Sector 56 (Administrative and Support, Waste Management and Remediation Services) that currently have employee based size standards. Once SBA completes its review of size standards for industries in a NAICS Sector, it issues a proposed rule to revise size standards for those industries based on latest industry and program data available and other relevant factors, such as current economic climate and SBA's and other government's programs and policies to help small businesses.

Below is a discussion of SBA's size standards methodology for establishing employee based size standards that the Agency applied to this proposed rule, including analyses of industry structure, Federal contracting factors, the impact of the proposed revisions to size standards on SBA's financial assistance to small businesses, and the evaluation of whether a revised size standard would exclude dominant firms from being considered small.

Size Standards Methodology

In conjunction with the current comprehensive size standards review, SBA developed a ''Size Standards Methodology'' (methodology) for developing, reviewing, and modifying size standards when necessary. SBA published the document on its Web site at *www.sba.gov/size* for public review and comments, and has also included it as a supporting document in the electronic docket of this proposed rule at *www.regulations.gov.* It should be noted that SBA does not apply all features of its methodology to all industries because not all features are appropriate for every industry. For example, since all industries that are being reviewed in this proposed rule have employee based size standards, the methodology described in this proposed rule relates only to establishing employee based size standards. However, the methodology is available in its entirety for parties who have an interest in SBA's overall approach to establishing, evaluating, and modifying small business size standards. SBA always explains its methodology and analysis in individual proposed and final rules relating to size standards for specific industries.

SBA welcomes comments from the public on a number of issues concerning its ''Size Standards Methodology,'' that the Agency has applied in this proposed rule, such as whether there are other approaches to establishing and modifying size standards; whether there are alternative or additional factors that SBA should consider; whether SBA's approach to small business size standards makes sense in the current economic environment; whether SBA's use of anchor size standards is appropriate; whether there are gaps in SBA's methodology because the data it uses are not current or sufficiently comprehensive; and whether there are other data, facts, and/or issues that SBA should consider. Comments on SBA's size standards methodology should be submitted via: (1) The Federal eRulemaking Portal: *www.regulations.gov,* following the instructions for submitting comments; the docket number is SBA–2009–0008, or (2) Mail/Hand Delivery/Courier: Khem R. Sharma, Ph.D., Chief, Size Standards Division, 409 Third Street SW., Mail Code 6530, Washington, DC 20416. As it will do with comments to this and other proposed rules, SBA will post all comments on its methodology on *www.regulations.gov.* As of April 30, 2014, SBA has received 17 comments to its ''Size Standards Methodology.'' The comments are available to the public at *www.regulations.gov.* SBA continues to welcome comments on its methodology from interested parties. SBA will not accept comments submitted by email.

Congress granted SBA's Administrator the discretion to establish detailed small business size standards. 15 U.S.C. 632(a)(2). Specifically, Section 3(a)(3) of the Small Business Act (15 U.S.C. 632(a)(3)) requires that ''. . . the [SBA] Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.'' Accordingly, the economic structure of an industry is the basis for developing and modifying small business size standards. SBA identifies the small business segment of an industry by examining the latest available data on the economic characteristics defining the industry structure (as described below). In addition, SBA considers current economic conditions, its mission and program objectives, the Administration's current policies, suggestions from industry groups and Federal agencies, and public comments on proposed rules. SBA also examines whether a size standard based on industry and other relevant data successfully excludes businesses that are dominant in the industry.

This proposed rule includes information regarding the factors SBA evaluated and the criteria it used to propose adjustments, where necessary, to employee based size standards for 57 industries and five sub-industries (''exceptions'') covered by this rule. This proposed rule affords the public an opportunity to review and to comment on SBA's proposal to revise size standards for certain industries, as well as on the data and methodology it used to evaluate and revise the size standards.

Industry Analysis

For the current comprehensive size standards review, SBA has established three ''base'' or ''anchor'' size standards—$7.0 million in average annual receipts for industries that have receipts based size standards, 500 employees for manufacturing and other industries that have employee based size standards in nonmanufacturing sectors (except for Wholesale Trade and Retail Trade), and 100 employees for industries in the Wholesale Trade Sector. SBA established 500 employees as the anchor size standard for manufacturing industries at its inception in 1953. Shortly thereafter, SBA established $1 million in average annual receipts as the anchor size standard for nonmanufacturing industries. SBA has periodically increased the receipts based anchor size standard for inflation, and today it is $7 million. Since 1986, the size standard for all industries in the Wholesale Trade Sector for SBA's financial assistance and for most Federal programs has been 100 employees. Presently, SBA also has employee based size standards for two industries in Retail Trade, namely NAICS 441110, New Car Dealers (200 employees) and NAICS 454310, Fuel Dealers (50 employees). However, NAICS codes for the Wholesale and Retail Trade Sectors and their size standards do not apply to Federal procurement programs. Rather, for Federal procurement the size standard for all industries in Wholesale Trade (NAICS Sector 42) and for all industries in Retail Trade (NAICS Sector 44–45) is 500 employees under the SBA's non-manufacturer rule (13 CFR 121.406(b)).

These long-standing anchor size standards have stood the test of time and gained legitimacy through practice and general public acceptance. An anchor is neither a minimum nor a maximum size standard. It is a common size standard for a large number of industries that have similar economic characteristics and serves as a reference point in evaluating size standards for individual industries. SBA uses the anchor in lieu of trying to establish precise small business size standards for each industry. Otherwise, theoretically, the number of size standards might be as high as the number of industries for which SBA establishes size standards (i.e., more than 1,000). Furthermore, the data SBA analyzes are static, while the U.S. economy is not. Hence, absolute precision is impossible. Similarly, because of the disclosure problem in getting the distribution of firms by more granular size classes, the 2007 Economic Census tabulation (the latest available when this proposed rule was prepared) that SBA received from the U.S. Census Bureau for current size standards review would not allow an accurate regulatory impact analysis of size standards changes if precise, separate size standards were established for each industry. SBA presumes an anchor size standard is appropriate for a particular industry unless that industry displays economic characteristics that are considerably different from other industries with the same anchor size standard.

When evaluating a size standard, SBA compares the economic characteristics of the industry under review to the average characteristics of industries with one of the three anchor size standards (referred to as the ''anchor comparison group''). This allows SBA to assess the industry structure and to determine whether the industry is appreciably different from the other industries in the anchor comparison group. If the characteristics of a specific industry under review are similar to the average characteristics of the anchor comparison group, the anchor size standard is generally appropriate for that industry. SBA may consider adopting a size standard below the anchor when: (1) All or most of the industry characteristics are significantly smaller than the average characteristics of the anchor comparison group; or (2) other industry considerations strongly suggest that the anchor size standard would be an unreasonably high size standard for the industry.

If the specific industry's characteristics are significantly higher than those of the anchor comparison group, then a size standard higher than the anchor size standard may be appropriate. The larger the differences are between the characteristics of the industry under review and those in the anchor comparison group, the larger will be the difference between the appropriate industry size standard and the anchor size standard. To determine a size standard above the anchor size standard, SBA analyzes the characteristics of a second comparison group.

For industries with employee based size standards reviewed in this proposed rule, SBA has developed a second comparison group consisting of industries that have the highest of employee based size standards. To determine a size standard above the 500-employee anchor size standard, SBA analyzes the characteristics of this second comparison group. The industries in this group have size standards of either 1,000 employees or 1,500 employees; the weighted average size standard for the group is 1,323 employees. SBA refers to this comparison group as the ''higher level employee based size standard group.''

To examine industry structure, SBA evaluates average firm size, startup costs and entry barriers, industry competition, and distribution of firms by size. SBA also evaluates the level and small business share of total Federal contracting dollars. These are, generally, the five primary factors SBA examines when establishing or revising a size standard for an industry. However, SBA will also consider and evaluate other information that it believes is relevant to a particular industry (such as technological changes, growth trends, SBA financial assistance, other program factors, etc.). SBA also considers possible impacts of size standard revisions on eligibility for Federal small business assistance, current economic conditions, the Administration's policies, and suggestions from industry groups and Federal agencies. Public comments on a proposed rule also provide important additional information. SBA thoroughly reviews all public comments before making a final decision on its proposed size standards.

Below are brief descriptions of each of the five primary factors that SBA has evaluated for each industry and sub-industry covered by this proposed rule. A more detailed description of these factors is provided in SBA's ''Size Standards Methodology,'' available at *http://www.sba.gov/size.*

1. *Average firm size.* SBA computes two measures of average firm size: Simple average and weighted average. For industries with employee based size standards, the simple average firm size is the total number of employees in an industry divided by the total number of firms in that industry. The weighted average firm size is the sum of weighted simple average firm sizes in different employee size classes, where weights are the shares of total industry employees for respective employee size classes. The simple average firm size weighs all firms within an industry equally regardless of their size. The weighted average firm size overcomes that limitation by giving more weight to larger firms.

If the average firm size of an industry is significantly higher than the average firm size of industries in the anchor comparison industry group, this will generally support a size standard higher than the anchor size standard. Conversely, if the industry's average firm size is similar to or significantly lower than that of the anchor comparison industry group, it will be a basis to adopt the anchor size standard, or, in rare cases, a standard lower than the anchor.

2. *Startup costs and entry barriers.* Startup costs reflect a firm's initial size in an industry. New entrants to an industry must have sufficient capital and other assets to start and maintain a viable business. If new firms entering a particular industry have greater capital requirements than firms in industries in the anchor comparison group, this can be a basis for establishing a size standard higher than the anchor size standard. In lieu of actual startup cost data, SBA uses average assets as a proxy to measure the capital requirements for new entrants to an industry.

To calculate average assets, SBA begins with the sales to total assets ratio for an industry from the Risk Management Association's Annual eStatement Studies. SBA then applies these ratios to the average receipts of firms in that industry. An industry with average assets that are significantly higher than those of the anchor comparison group is likely to have higher startup costs; this in turn will support a size standard higher than the anchor. Conversely, an industry with average assets that are similar to or lower than those of the anchor comparison group is likely to have lower startup costs; this will support the anchor standard or one lower than the anchor.

3. *Industry competition.* Industry competition is generally measured by the share of total industry receipts generated by the largest firms in an industry. SBA generally evaluates the share of industry receipts generated by the four largest firms in each industry. This is referred to as the ''four-firm concentration ratio,'' a commonly used economic measure of market competition. If a significant share of economic activity within the industry is concentrated among a few relatively large companies, all else being equal, SBA will establish a size standard higher than the anchor size standard. SBA does not consider the four-firm concentration ratio as an important factor in assessing a size standard if its share of economic activity of the largest four firms within the industry is less than 40 percent. For an industry with a four-firm concentration ratio of 40 percent or more, SBA compares the average employee size of the four largest firms in the industry with the four largest firms' average employee size for the anchor and higher level size comparison groups to determine an employee size standard for that industry.

4. *Distribution of firms by size.* For employee based size standards, SBA examines the shares of industry total receipts accounted for by firms of various employment size classes in an industry. This is an additional factor SBA examines in assessing industry competition. If most of an industry's economic activity is attributable to smaller firms, this generally indicates that small businesses are competitive in that industry. This can, generally, support adopting the anchor size standard. If most of an industry's economic activity is attributable to larger firms, this indicates that small businesses are not competitive in that industry. This can support adopting a size standard above the anchor.

Concentration is a measure of inequality of distribution. To determine the degree of inequality of distribution in an industry, SBA computes the Gini coefficient by constructing the Lorenz curve. The Lorenz curve presents the cumulative percentages of units (firms) in various employee size classes along the horizontal axis and the cumulative percentages of receipts (or other measures of size) in the same employee size classes along the vertical axis. (For further detail, please refer to SBA's ''Size Standards Methodology'' on its Web site at *www.sba.gov/size.*) Gini coefficient values vary from zero to one. If receipts are distributed equally among all the firms in an industry, the value of the Gini coefficient will equal zero. If an industry's total receipts are attributed to a single firm, the Gini coefficient will equal one.

SBA compares the Gini coefficient value for an industry with that for industries in the anchor comparison group. If the Gini coefficient value for an industry is higher than it is for industries in the anchor comparison industry group this may, all else being equal, warrant a size standard higher than the anchor. Conversely, if an industry's Gini coefficient is similar to or lower than that for the anchor group, the anchor standard, or in some cases a standard lower than the anchor, may be adopted.

5. *Impact on Federal contracting and SBA loan programs.* SBA examines the possible impact a size standard change may have on Federal small business assistance. This most often focuses on the level and small business share of total Federal contracting dollars in the industry in question. In general, if the small business share of total Federal contracting dollars in an industry with significant Federal contracting is appreciably less than the small business share of the industry's total receipts, this could justify considering a size standard higher than the existing size standard. If the small business share of an industry's total Federal contracting dollars is similar to or higher than the small business share of its total receipts, this would support the existing size standard for that industry. By comparing the small business share in the Federal market with the small business share in the industry-wide market, SBA accounts for conditions in the Federal market in its size standards analysis. The disparity between the small business Federal market share and small business industry-wide share may be due to various factors, such as extensive administrative and compliance requirements associated with Federal contracts, the different skill set required for Federal contracts as compared to typical commercial contracting work, and the size of Federal contracts. Data permitting, SBA will also examine these, as well as other factors that are likely to influence the type of firms within an industry that compete for Federal contracts.

SBA considers the Federal contracting factor in an industry's size standards analysis only if the industry's total Federal contracting dollars average $100 million or more annually during the latest three fiscal years. SBA believes that this threshold reflects a significant level of contracting where a revision to a size standard may have an impact on contracting opportunities to small businesses. For industries where total contracting dollars average $100 million or more annually, SBA establishes a size standard higher than the existing size standard if the small business share of total industry receipts is 10 percent or higher than the small business share of total industry receipts. If this difference is less than 10 percent, this would support the existing size standard.

Besides the impact on small business Federal contracting, SBA also evaluates the impact of a proposed size standard revision on SBA's loan programs. For this, SBA examines the data on volume and number of its guaranteed loans within an industry and the size of firms obtaining those loans. This allows SBA to assess whether the existing, proposed, or revised size standard for a particular industry may restrict the level of financial assistance to small firms. If existing size standards are found to have impeded financial assistance to small businesses, higher size standards may be justified. However, if small businesses under existing size standards have been receiving significant amounts of financial assistance through SBA's loan programs, or if the financial assistance has been provided mainly to businesses that are much smaller than the existing size standards, SBA does not consider this factor when determining the size standard.

Sources of Industry and Program Data

SBA's primary source of industry data used in this proposed rule is a special tabulation of the 2007 Economic Census (see *www.census.gov/econ/census07/*) prepared by the U.S. Bureau of the Census (Census Bureau) for SBA. The 2007 Economic Census data are the latest Economic Census data available at the time of drafting this proposed rule. SBA expects to receive the special tabulation from the 2012 Economic Census in 2016 for the next round of comprehensive size standards review. The special tabulation provides SBA with data on the number of firms, number of establishments, number of employees, annual payroll, and annual receipts of companies by Industry (6-digit level), Industry Group (4-digit level), Subsector (3-digit level), and Sector (2-digit level). These data are arrayed by various classes of firms' size based on the overall number of employees and receipts of the entire enterprise (all establishments and affiliated firms) from all industries. The special tabulation enables SBA to evaluate average firm size, the four-firm concentration ratio, and distribution of firms by various receipts and employment size classes. It should be noted that the Economic Census tabulation data on the number of firms, number of establishments, number of employees, annual payroll, and annual receipts for a particular NAICS Industry category relate to establishments and firms that are primarily engaged in that Industry. To mitigate this limitation of the Economic Census tabulation data, SBA also examines the data from the System of Award Management (SAM) (formerly Central Contractor Registration (CCR)) and FPDS–NG which provides more recent data on Federal contract awards by NAICS code and the actual size of the concerns receiving the contract awards.

In some cases, where data are not available at the 6-digit industry level due to disclosure prohibitions in the Census Bureau's tabulation, SBA either estimates missing values using available relevant data or examines data at a higher level of industry aggregation, such as at the NAICS 2-digit (Sector), 3-digit (Subsector), or 4-digit (Industry Group) level. In some instances, SBA's analysis is based only on those factors for which data are available or estimates of missing values are possible.

The data from the Census Bureau's tabulation are limited to the 6-digit NAICS industry level and hence do not provide economic characteristics at the sub-industry level. Thus, when establishing, reviewing, or modifying size standards at the sub-industry level (that is, one of the ''exceptions'' in SBA's table of size standards), SBA evaluates the data from the U.S. General Service Administration's (GSA) Federal Procurement Data System—Next Generation (FPDS–NG) and SAM (CCR) databases, following a two-step procedure. First, using FPDS–NG, SBA identifies product service codes (PSCs) that correspond to specific sub-industry activities or ''exceptions'' within the applicable NAICS code and then identifies firms that received Federal contracts in those PSCs. Then SBA obtains those firms' revenue and employment data from the SAM/CCR database. SBA uses that data to evaluate the characteristics of businesses that FPDS–NG identifies for those procurements. In this proposed rule, SBA applied this approach to determine industry and Federal contracting factors for ''Information Technology Value Added Resellers,'' which is an exception under NAICS 541519, Other Computer Related Services, and for ''Environmental Remediation Services,'' which is an exception under NAICS 562910, Remediation Services.

Certain industries are not covered by Economic Census and not shown in the special tabulation. For those industries, SBA first identifies companies that are registered in SAM/CCR under those industry NAICS codes and then evaluates their employment and revenue data obtained from their SAM/CCR profiles. SBA applied this approach to evaluate industry factors for two industries in NAICS Sector 48–49 that are not covered by Economic Census, namely Line-Haul Railroads (NAICS 482111), and Short Line Railroads (NAICS 482112).

To calculate average assets, SBA used sales to total assets ratios from the Risk Management Association's Annual eStatement Studies, 2009–2011, available at *http://www.statementstudies.org.*

To evaluate the Federal contracting factor, SBA examined the data from FPDS–NG for fiscal years 2009–2011, available at *https://www.fpds.gov* and 2007 Economic Census tabulation, which is the latest available as stated elsewhere in the rule.

To assess the impact on financial assistance to small businesses, SBA examined its internal data on 7(a) and 504 loan programs for fiscal years 2010–2012.

Data sources and estimation procedures SBA uses in its size standards analysis are documented in detail in SBA's ''Size Standards Methodology'' White Paper, which is available at *www.sba.gov/size.*

Dominance in Field of Operation

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) defines a small business concern as one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets a specific small business definition or size standard established by SBA's Administrator. SBA considers as part of its evaluation whether a business concern at a proposed or revised size standard would be dominant in its field of operation. For this, SBA generally examines the industry's market share of firms at the proposed or revised standard. SBA also examines distribution of firms by size to ensure that a contemplated size standard derived from its size standards analysis excludes the largest firms within an industry. Market share, the size distribution and other factors may indicate whether a firm can exercise a major controlling influence on a national basis in an industry where a significant number of business concerns are engaged. If a contemplated size standard includes dominant or the largest firms in an industry, SBA will consider a lower size standard than the one suggested by the analytical results to exclude the dominant and largest firms from being defined as small.

Selection of Size Standards

Among the industries with employee based size standards not in NAICS Sector 31–33 (Manufacturing), Sector 42 (Wholesale Trade), or Sector 44–45 (Retail Trade), currently there are four size standards clusters: 500 employees, 750 employees, 1,000 employees, and 1,500 employees. In this proposed rule, SBA has applied its ''Size Standards Methodology'' for employee based size standards with two modifications. First, to be consistent with its policy of not lowering any size standards in all recent proposed and final rules on receipts based size standards, SBA is retaining the current 500-employee minimum and 1,500-employee maximum size standards for all industries in the Manufacturing Sector and other industries not in the Wholesale and Retail Trade Sectors that have employee based size standards. In its ''Size Standards Methodology,'' SBA had proposed setting the minimum employee based size standard for these industries at 250 employees and the maximum size standard at 1,000 employees. However, doing so would mean lowering existing size standards, thereby making currently small businesses ineligible to continue their participation in Federal small business programs. This would run counter to what SBA and the Administration are doing to help small businesses to create jobs and boost economic growth. Second, SBA is proposing a new 1,250-employee size standard between 1,000 employees and 1,500 employees. This new size standard level maintains the same 250-employee increment between the two successive levels that SBA has below 1,000 employees (500, 750, 1,000). SBA proposes, therefore, to apply one of these five employee based size standards to the analysis of employee based size standards for industries in the Manufacturing Sector and other industries not in the Wholesale and Retail Trade Sectors: 500 employees, 750 employees, 1,000 employees, 1,250 employees, and 1,500 employees.

To simplify size standards and for other reasons, SBA may propose a common size standard for closely related industries. Although the size standard analysis may support a separate size standard for each industry, SBA believes that establishing different size standards for closely related industries may not always be appropriate. For example, in cases where many of the same businesses operate in the same multiple industries, a common size standard for those industries might better reflect the

Federal marketplace. This might also make size standards among related industries more consistent than separate size standards for each of those industries. Whenever SBA proposes a common size standard for closely related industries it will provide its justification.

Evaluation of Industry Structure

In this proposed rule, SBA evaluated 57 industries and five sub-industries (''exceptions'') with employee based size standards that are not in NAICS Sectors 31–33, 42, or 44–45 to assess the appropriateness of their current size standards. As described above, SBA compared data on the economic characteristics of each of those industries and sub-industries to the average characteristics of industries in two comparison groups. The first comparison group consists of all industries in Manufacturing and industries not in Wholesale Trade or Retail Trade with 500-employee size standards. SBA refers this group of industries to as the ''employee based anchor comparison group.'' Because the goal of SBA's review is to assess whether a specific industry's size standard should be the same as or different from the anchor size standard, this is the most logical group of industries to analyze. In addition, this group includes a sufficient number of firms to provide a meaningful assessment and comparison of industry characteristics.

As stated previously, if the characteristics of an industry are similar to the average characteristics of industries in the anchor comparison group, the anchor size standard is generally appropriate for that industry. If an industry's structure is significantly different from industries in the anchor group, a size standard lower or higher than the anchor size standard might be appropriate. The proposed new size standard is based on the difference between the characteristics of the anchor comparison group and a second industry comparison group. As described above, the second comparison group for employee based standards consists of industries with either 1,000-employee or 1,500-employee size standards. The weighted average size standard for this group is 1,323 employees. SBA refers this group of industries to as the ''higher level employee based size standard comparison group.'' SBA determines differences in industry structure between an industry under review and the industries in the two comparison groups by comparing data on each of the industry factors, including average firm size, average assets size, the four-firm concentration ratio, and the Gini coefficient of distribution of firms by size. Table 1, Average Characteristics of Employee Based Comparison Groups, shows the average firm size (both simple and weighted), average assets size, four-firm concentration ratio, average employees of the four largest firms, and the Gini coefficient for both anchor level and higher level comparison groups for employee based size standards.

TABLE 1—AVERAGE CHARACTERISTICS OF EMPLOYEE BASED COMPARISON GROUPS

Employee based comparison group	Average firm size (number of employees)		Average assets size ($ million)	Four-firm concentration ratio (%)	Average employees of four largest firms*	Gini coefficient
	Simple average	Weighted average				
Anchor Level	51	322	$6.4	35.9	1,267	0.765
Higher Level	136	602	37.0	64.3	2,033	0.808

* To be used for industries with a four-firm concentration ratio of 40% or greater.

Derivation of Size Standards Based on Industry Factors

For each industry factor in Table 1, Average Characteristics of Employee Based Comparison Groups, SBA derives a separate size standard based on the differences between the values for an industry under review and the values for the two comparison groups. If the industry value for a particular factor is near the corresponding factor for the anchor comparison group, the 500-employee anchor size standard is appropriate for that factor.

An industry factor significantly above or below the anchor comparison group will generally imply a size standard for that industry above or below the 500-employee anchor. The new size standard in these cases is based on the proportional difference between the industry value and the values for the two comparison groups.

For example, an industry's simple average firm size of 75 employees will support a 750-employee size standard. The 75-employee level is 28.2 percent between 51 employees for the anchor comparison group and 136 employees for the higher level comparison group ((75 employees − 51 employees) ÷ (136 employees − 51 employees) = 0.282 or 28.2%). This proportional difference is applied to the difference between the size standard of 500 employees for the anchor level size standard group and average size standard of 1,323 employees for the higher level size standard group and then added to 500 employees to estimate a size standard of 733 employees ([{1,323 employees − 500 employees} * 0.282] + 500 employees = 733 employees). The final step is to round the estimated 733-employee size standard to the nearest size standard level, which in this example is 750 employees.

SBA applies the above calculation to derive a size standard for each industry factor. Detailed formulas involved in these calculations are presented in SBA's ''Size Standards Methodology'' which is available on its Web site at *www.sba.gov/size.* As stated above, SBA has also included its ''Size Standards Methodology'' as a supporting document in the electronic docket of this proposed rule at *www.regulations.gov.* (However, it should be noted that figures in the ''Size Standards Methodology'' White Paper are based on 2002 Economic Census data and are different from those presented in this proposed rule. That is because when SBA prepared its ''Size Standards Methodology,'' the 2007 Economic Census data were not yet available). Table 2, Values of Industry Factors and Supported Size Standards, below, shows ranges of values for each industry factor and the levels of size standards supported by those values.

TABLE 2—VALUES OF INDUSTRY FACTORS AND SUPPORTED SIZE STANDARDS

If simple average firm size (number of employees)	*Or if* weighted average firm size (number of employees)	*Or if* average assets size ($ million)	*Or if* average number employees of largest four firms	*Or if* Gini coefficient	Then implied size standard is (number of employees)
< 63.9	< 364.5	< 11.1	< 1,383.3	< 0.772	500
63.9 to < 89.7	364.5 to < 449.6	11.1 to < 20.3	1,383.3 to < 1,616.0	0.772 to < 0.785	750
89.7 to < 115.6	449.6 to < 534.6	20.3 to < 29.6	1,616.0 to < 1,848.7	0.785 to < 0.798	1,000
115.6 to < 141.4	534.6 to < 619.7	29.6 to < 38.9	1,848.7 to < 2,081.4	0.798 to < 0.811	1,250
≥ 141.4	≥ 619.7	≥ 38.9	≥ 2,081.4	≥ 0.811	1,500

Derivation of Size Standard Based on Federal Contracting Factor

Besides industry structure, SBA also evaluates Federal contracting data to assess the success of small businesses in getting Federal contracts under the existing size standards. For industries where Federal contract dollars average $100 million or more annually and the small business share of total Federal contracting dollars is 10 to 30 percent lower than the small business share of total industry receipts, SBA has designated a size standard one level higher than their current size standard. For industries where the small business share of total Federal contracting dollars is more than 30 percent lower than the small business share of total industry receipts, SBA has designated a size standard two levels higher than the current size standard. For industries, where this difference is less than 10 percent, SBA applies the existing size standard for the Federal contracting factor.

Because of the complex relationships among several variables affecting small business participation in the Federal marketplace, SBA has chosen not to designate a size standard for the Federal contracting factor alone that is more than two levels above the current size standard. SBA believes that a larger adjustment to size standards based on Federal contracting activity should be based on a more detailed analysis of the impact of any subsequent revision to the current size standard. In limited situations, however, SBA may conduct a more extensive examination of Federal contracting experience. This may support a different size standard than indicated by this general rule and take into consideration significant and unique aspects of small business competitiveness in the Federal contract market. SBA welcomes comments on its methodology for incorporating the Federal contracting factor in its size standard analysis and suggestions for alternative methods and other relevant information on small business experience in the Federal contract market that SBA should consider.

Of the 57 industries reviewed in this proposed rule, 14 averaged $100 million or more annually in Federal contracting during fiscal years 2009–2011 and thus, the Federal contracting factor for those industries was significant. Of the 14 industries, the difference between the small business share of total industry receipts and small business share of Federal contracting dollars was less than 10 percent for seven industries and, in this proposed rule, SBA applied the existing size standard to each. The difference was between 10 and 30 percent for three industries for which a size standard one level higher than the existing size standard was applied. Finally, in four industries, this difference was more than 30 percent and a size standard that was two levels higher than the existing size standard was applied.

New Size Standards Based on Industry and Federal Contracting Factors

Table 3, Size Standards Supported by Each Factor for Each Industry (No. of Employees), below, shows the results of analyses of industry and Federal contracting factors for each industry covered by this proposed rule. Many NAICS industries in columns 2, 3, 4, 6, and 7 show two numbers. The upper number is the value for the industry factor shown on the top of the column and the lower number is the size standard supported by that factor. For the four-firm concentration ratio, SBA estimates a size standard only if its value is 40 percent or more. If the four-firm concentration ratio for an industry is less than 40 percent, SBA does not estimate a size standard for that factor. If the four-firm concentration ratio is 40 percent or more, SBA indicates in column 6 the average size of the industry's four largest firms together with a size standard based on that average. Column 9 shows a calculated new size standard for each industry. This is the average of the size standards supported by each factor, rounded to the nearest fixed size level. However, the size standards for the simple average and weighted average firm size are averaged together, and therefore receive a single weight. Analytical details involved in the averaging procedure are described in SBA's ''Size Standards Methodology.'' For comparison with the new standards, the current size standards are in column 10 of Table 3.

TABLE 3—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (NO. OF EMPLOYEES)

[Upper Value = Calculated Factor, Lower Value = Size Standard Supported]

NAICS Code NAICS industry title	Simple average firm size (number of employees)	Weighted average firm size (number of employees)	Average assets size ($ million)	Four-firm ratio %	Four-firm average size (number of employees)	Gini coefficient	Federal contract factor (%)	Calculated size standard (number of employees)	Current size standard (number of employees)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
113310 Logging	6	31	$0.5			0.332			
	500	500	500			500		500	500
211111 Crude Petroleum and Natural Gas Extraction	28	790	$70.5	31.1		0.910	−3.3		
	500	1,500	1,500			1,500	500	1,250	500
211112 Natural Gas Liquid Extraction	65	175	$234.1	50.7	588	0.702			
	750	500	1,500		500	500		750	500

TABLE 3—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (NO. OF EMPLOYEES)—Continued

[Upper Value = Calculated Factor, Lower Value = Size Standard Supported]

NAICS Code NAICS industry title	Simple average firm size (number of employees)	Weighted average firm size (number of employees)	Average assets size ($ million)	Four-firm ratio %	Four-firm average size (number of employees)	Gini coefficient	Federal contract factor (%)	Calculated size standard (number of employees)	Current size standard (number of employees)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
212111 Bituminous Coal and Lignite Surface Mining	99	712	$34.6	36.5		0.844			
	1,000	1,500	1,250			1,500		1,250	500
212112 Bituminous Coal Underground Mining	163	1,062	$40.3	42.5	3,490	0.853			
	1,500	1,500	1,500		1,500	1,500		1,500	500
212113 Anthracite Mining	12	29	$4.5	54.2	46	0.429			
	500	500	500		500	500		500	500
212210 Iron Ore Mining	356	2,352		99.1	1,220	0.716			
	1,500	1,500			500	500		750	500
212221 Gold Ore Mining	114	2,207				0.896			
	1,000	1,500				1,500		1,500	500
212222 Silver Ore Mining	69	124				0.368			
	750	500				500		750	500
212231 Lead Ore and Zinc Ore Mining	251	457		89.6	436	0.457			
	1,500	1,000			500	500		750	500
212234 Copper Ore and Nickel Ore Mining	472	2,215		93.0	2,369	0.818			
	1,500	1,500			1,500	1,500		1,500	500
212291 Uranium-Radium-Vanadium Ore Mining	20	62		92.7	85	0.603			
	500	500			500	500		500	500
212299 All Other Metal Ore Mining	218	569		91.8	913	0.680			
	1,500	1,250			500	500		750	500
212311 Dimension Stone Mining and Quarrying	15	44		12.3		0.463			
	500	500				500		500	500
212312 Crushed and Broken Limestone Mining and Quarrying	53	398	$15.7	37.1		0.789			
	500	750	750			1,000		750	500
212313 Crushed and Broken Granite Mining and Quarrying	50	361		62.1	1,026	0.822			
	500	500			500	1,500		750	500
212319 Other Crushed and Broken Stone Mining and Quarrying	24	94	$6.1	28.5		0.693			
	500	500	500			500		500	500
212321 Construction Sand and Gravel Mining	19	96	$4.1	25.5		0.683			
	500	500	500			500		500	500
212322 Industrial Sand Mining	36	183		66.5	425	0.652			
	500	500			500	500		500	500
212324 Kaolin and Ball Clay Mining	126	258		80.5	499	0.435			
	1,250	500			500	500		750	500
212325 Clay and Ceramic and Refractory Minerals Mining	34	218		48.2	286	0.637			
	500	500			500	500		500	500
212391 Potash, Soda, and Borate Mineral Mining	245	410		76.0	537	0.295			
	1,500	750			500	500		750	500
212392 Phosphate Rock Mining	283	389				0.370			
	1,500	750				500		1,000	500
212393 Other Chemical and Fertilizer Mineral Mining	47	170				0.721			
	500	500				500			500
212399 All Other Nonmetallic Mineral Mining	21	59		29.0		0.558			
	500	500				500		500	500
213111 Drilling Oil and Gas Wells	59	1,559	$9.6	28.4		0.883			
	500	1,500	500			1,500		1,000	500
221210 Natural Gas Distribution	187	1,260	$192.6	24.6		0.771	-0.1		
	1,500	1,500	1,500			500	500	1,000	500
481111 Scheduled Passenger Air Transportation	1,197	18,348	$188.6	52.3	51,290	0.923			
	1,500	1,500	1,500		1,500	1,500		1,500	1,500
481112 Scheduled Freight Air Transportation	43	311		53.2	671	0.778	−50.3		
	500	500			500	750	1,500	750	1,500
481211 Nonscheduled Chartered Passenger Air Transportation	18	130	$4.0	38.9		0.731	−52.2		
	500	500	500			500	1,500	750	1,500
481212 Nonscheduled Chartered Freight Air Transportation	25	535		49.7	568	0.820	−81.8		
	500	1,000			500	1,500	1,500	1,000	1,500
482111 Line-Haul Railroads	2,046	36,622		54.4	111,250	0.898			
	1,500	1,500			1,500	1,500		1,500	1,500

TABLE 3—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (NO. OF EMPLOYEES)—Continued

[Upper Value = Calculated Factor, Lower Value = Size Standard Supported]

NAICS Code NAICS industry title	Simple average firm size (number of employees)	Weighted average firm size (number of employees)	Average assets size ($ million)	Four-firm ratio %	Four-firm average size (number of employees)	Gini coefficient	Federal contract factor (%)	Calculated size standard (number of employees)	Current size standard (number of employees)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
482112 Short Line Railroads	1,777	38,435		49.6	102,744	0.850			
	1,500	1,500			1,500	1,500		1,500	500
483111 Deep Sea Freight Transportation	55	270		40.0	654	0.738	−14.8		
	500	500			500	500	750	500	500
483112 Deep Sea Passenger Transportation	379	3,322		92.8	4,276	0.869			
	1,500	1,500			1,500	1,500		1,500	500
483113 Coastal and Great Lakes Freight Transportation	58	302	$42.1	28.3		0.750			
	500	500	1,500			500		750	500
483114 Coastal and Great Lakes Passenger Transportation	20	140		39.6		0.679			
	500	500				500		500	500
483211 Inland Water Freight Transportation	53	284	$17.6	46.1	1,187	0.815			
	500	500	750		500	1,500		750	500
483212 Inland Water Passenger Transportation	12	57		28.1		0.604			
	500	500				500		500	500
486110 Pipeline Transportation of Crude Oil	146	324	$41.9	55.1	917	0.360			
	1,500	500	1,500		500	500		1,000	1,500
486910 Pipeline Transportation of Refined Petroleum Products	113	292		53.3	764	0.198			
	1,000	500			500	500		500	1,500
492110 Couriers and Express Delivery Services	149	63,035	$4.5	94.0	119,867	0.973	7.8		
	1,500	1,500	500		1,500	1,500	1,500	1,250	1,500
511110 Newspaper Publishers	67	3,938	$5.5	29.4		0.929			
	750	1,500	500			1,500		1,000	500
511120 Periodical Publishers	25	373	$3.7	26.7		0.861	−14.0		
	500	750	500			1,500	750	1,000	500
511130 Book Publishers	37	1,230	$6.6	33.4		0.898			
	500	1,500	500			1,500		1,000	500
511140 Directory and Mailing List Publishers	55	1,583	$7.0	73.8	8,777	0.915			
	500	1,500	500		1,500	1,500		1,250	500
511191 Greeting Card Publishers	138	2,981		90.9	2,512	0.947			
	1,250	1,500			1,500	1,500		1,500	500
511199 All Other Publishers	15	254	$1.3	33.7		0.726	−5.2		
	500	500	500			500	500	500	500
512220 Integrated Record Production/Distribution	25	1,451		90.4	1,888	0.947			
	500	1,500			1,250	1,500		1,250	750
512230 Music Publishers	9	135		57.1	386	0.862			
	500	500			500	1,500		750	500
517110 Wired Telecommunications Carriers	255	16,436	$69.8	56.8	137,817	0.961	20.2		
	1,500	1,500	1,500		1,500	1,500	1,500	1,500	1,500
517210 Wireless Telecommunications Carriers (except Satellite)	172	10,785	$50.9	80.2	55,047	0.976	10.0		
	1,500	1,500	1,500		1,500	1,500	1,500	1,500	1,500
517911 Telecommunications Resellers	14	117	$2.4	30.2		0.731	−69.5		
	500	500	500			500	1,500	750	1,500
519130 Internet Publishing and Broadcasting and Web Search Portals	23	375	$4.0	51.6	5,407	0.889			
	500	750	500		1,500	1,500		1,000	500
524126 Direct Property and Casualty Insurance Carriers	241	5,593	$358.1	31.9		0.934			
	1,500	1,500	1,500			1,500		1,500	1,500
541711 Research and Development in Biotechnology	43	413		35.8		0.802	−16.4		
	500	750				1,250	750	1,000	500
541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)	61	942	$4.4	21.5		0.814	−2.2		
	500	1,500	500			1,500	500	1,000	500

Special Considerations

The Information Technology Value Added Resellers Sub-Industry (''Exception'') Under NAICS 541519, Other Computer Related Services

For Federal contracts that combine substantial services with the acquisition of computer hardware and software, in 2002, SBA proposed to establish a new industry category ''Information Technology Value Added Resellers (ITVAR)'' under NAICS 541519, Other Computer Related Services, with a size standard of 500 employees (67 FR 48419 (July 24, 2002)). In the final rule, SBA adopted the ITVAR industry category, as proposed, with a size standard of 150 employees (68 FR 74833 (December 29, 2003)). Presently, the size standard for rest of NAICS 541519 and other industries in NAICS Industry Group 5415, Computer Systems Design and Related Services, is $25.5 million in average annual receipts.

As stated in Footnote 18 to SBA's table of size standards, for a Federal contract to be classified under the ITVAR sub-industry or ''exception'' and its 150-employee size standard, it must consist of at least 15 percent but not more than 50 percent of value added services as measured by the total price less cost of computer hardware and software, and profit. If the contract consists of less than 15 percent of value added services, it must be classified under the appropriate manufacturing industry. If the contract consists of more than 50 percent of value added services, it must be classified under the NAICS industry that best describes the principal nature of service being procured.

SBA is proposing to eliminate the ITVAR 150-employee size standard exception under NAICS 541519 because it has created some inconsistencies, confusion, and misuse. First, contracting officers are not able to identify size standard exceptions in the FPDS–NG. Thus, the public often believes that a firm that received a contract as a small business under NAICS 541519 and has revenue in excess of the $25.5 million receipts based size standard was not eligible for the award, when in fact the firm may have been eligible if the contracting officer used the 150-employee size standard of the ITVAR exception. This leads to misunderstandings and questions concerning the small business goaling report that SBA must issue every year. Second, SBA's evaluation of FPDS–NG data and solicitations shows many cases where Federal agencies have applied the 150-employee size standard, instead of the receipts based size standard, for contracts that were predominantly for services. This may have benefited more successful, mid-size companies at the expense of those below the receipts based size standard. Additionally, as stated elsewhere in this proposed rule, the data from the Census Bureau's tabulation are limited to the 6-digit NAICS industry level and hence do not provide economic characteristics of firms that are involved in the ITVAR activities. Furthermore, data are not available on Federal ITVAR contracts, as there is no ITVAR PSC in FPDS–NG. The lack of data on characteristics of firms involved in ITVAR activities to evaluate the current 150-employee size standard also justifies SBA's proposal to eliminate the ITVAR sub-industry category.

Moreover, the use of the ITVAR exception size standard is also purely discretionary. Under the terms of the exception as stated in Footnote 18 in SBA's table of size standards, it is clear that the majority of the cost of the contract that qualify under the ITVAR 150-employee size standard will be incurred for supplies. Thus, instead of using the ITVAR 150-employee size standard under NAICS 541519, a contracting officer could use a manufacturing NAICS code and size standard, such as NAICS 334111 (Electronic Computer Manufacturing) with 1,000-employee size standard, to which the non-manufacturer size standard of 500 employees would also apply. Thus, firms may or may not be eligible as a small business for the exact same purchase simply based on the contracting officer's selection of the NAICS code and size standard. This is inconsistent with SBA's small business regulations that the contracting officer must select the NAICS code that best describes the principal purpose of the acquisition (see 13 CFR 121.402(b)). The selection of a NAICS code should never be based on the contracting officer's desire for a particular size standard or firm size.

In addition, the combination of services and supplies in an acquisition is not unique to the information technology industry. Acquisitions across many industries combine supplies and services, yet SBA has not created exceptions to the size standards for these industries. The general principle is that agencies classify procurements based on the principal purpose of the acquisition. Based on the analysis of available industry and Federal contracting data for NAICS Industry Group 5415 and comments to the proposed rule (76 FR 14323 (March 16, 2011)), in 2012, SBA established the appropriate size standard for that industry group, including NAICS 541519, at $25.5 million in average annual receipts (77 FR 7490 (February 10, 2012)). Moreover, it is also unclear from the terms of exception itself whether a contract using the ITVAR 150-employee size standard should be classified as a service contract or a supply contract. This is important because if the contract is a service contract, the offeror must perform at least 50 percent of the cost of the contract incurred for personnel with its own employees, whereas if it is a supply contract the firm must perform at least 50 percent of the cost of manufacturing the supplies, or supply the product of a small manufacturer, unless a waiver is granted under the non-manufacturer rule.

For these reasons, SBA proposes to eliminate the ITVAR sub-industry category (''exception'') under NAICS 541519 and its 150-employee size standard and apply only the $25.5 million receipts based size standard to NAICS 541519. Elimination of the exception will provide clarity to small businesses, contracting officers and the public. If a procuring agency seeks to acquire computer integration, maintenance and other computer related services as well as some computer hardware and it determines that the principal nature of procurement is for services, the agency can classify the contract as a service contract under an appropriate service NAICS code. Similarly, if an agency seeks to procure computer hardware as well as computer integration, maintenance and other computer related services and it determines that the principal nature of procurement is for supplies, the agency can classify the contract as a supply contract under an appropriate manufacturing NAICS code, and the non-manufacturer rule will apply.

SBA's analysis of 2007 Economic Census data shows that 150 employees is more or less equivalent to $25.5 million receipts in NAICS 541519 and that more than 99 percent of firms below the 150-employee level will continue to qualify as small under the $25.5 million receipts based size standard. Thus, the proposed elimination of the ITVAR sub-industry category and its 150-employee size standard, if adopted, will have very minimal impact on businesses below 150 employees. Moreover, these firms would continue to qualify as small businesses for supply contracts for computer hardware and equipment under the manufacturing size standard or under the 500-employee size standard under the non-manufacturer rule.

In view of the proposed elimination of the ITVAR exception under NAICS 541519, SBA also proposes to eliminate Footnote 18 in its entirety from SBA's table of size standards.

Exceptions Under NAICS 541712, Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)

NAICS 541712, Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology), has three sub-industries or ''exceptions''. As stated in Footnote 11 to SBA's table of size standards, for research and development (R&D) contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the corresponding manufacturing industry. The three ''exceptions'' under NAICS 541712 and their corresponding manufacturing industry counterparts and their size standards are shown in Table 4, NAICS 541712 Exceptions and Corresponding Manufacturing Industries and Size Standards, below.

TABLE 4—NAICS 541712 EXCEPTIONS AND CORRESPONDING MANUFACTURING INDUSTRIES AND SIZE STANDARDS

Exception	NAICS code and industry title	Current size standard (number of employees)	Calculated size standard (number of employees) [1]
Aircraft	336411 Aircraft Manufacturing	1,500	1,500
Aircraft Parts and Auxiliary Equipment, and Aircraft Engine Parts.	336412 Aircraft Engine and Engine Parts Manufacturing.	1,000	1,500
	336413 Other Aircraft Part and Auxiliary Equipment.	1,000	1,250
Space Vehicles and Guided Missiles, Their Propulsion Units Parts, and Their Auxiliary Equipment and Parts.	336414 Guided Missile and Space Vehicle Manufacturing.	1,000	1,250
	336415 Guided Missile and Space Vehicle Propulsion Unit and Propulsion Parts Manufacturing.	1,000	1,250
	336419 Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing.	1,000	1,000

[1] From Table 3 of the proposed rule ''Small Business Size Standards for Manufacturing'' (RIN 3245–AG50), published concurrently in the current issue of the **Federal Register**.

To better match the exceptions to the corresponding calculated industry specific size standards in manufacturing, SBA proposes to modify the three exceptions as shown in Table 5, Modified Exceptions and Their Proposed Size Standards, below.

TABLE 5—MODIFIED EXCEPTIONS AND THEIR PROPOSED SIZE STANDARDS

Current		Proposed	
Exception	Size standard (number of employees)	Exception	Size standard (number of employees)
Aircraft	1,500	Aircraft, Aircraft Engine, and Engine Parts	1,500
Aircraft Parts and Auxiliary Equipment, and Aircraft Engine Parts.	1,000	Other Aircraft Parts and Auxiliary Equipment	1,250
Space Vehicles and Guided Missiles, Their Propulsion Units Parts, and Their Auxiliary Equipment and Parts.	1,000	Guided Missiles and Space Vehicles, Their Propulsion Units and Propulsion Parts.	1,250

Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment category has been dropped from the third exception because the proposed size standard for the corresponding manufacturing industry (NAICS 336419) is the same as the calculated size standard for rest of NAICS 541712.

Footnote 11 to SBA's table of size standards concerning NAICS codes 541711and 541712 consists of an introductory paragraph and three sub-paragraphs numbered as (a), (b), and (c). The introductory paragraph states that for research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry. Sub-paragraph (a) concerns with what SBA generally means by ''Research and Development'' (R&D) under NAICS codes 541712 and 541712, while sub-paragraph (b) and (c) relate to the R&D definitions for Small Business Innovation Research program and ''guided missiles and space vehicles'', respectively. SBA has received some public inquiries on whether the requirement under the introductory paragraph is independent or it also applies to the three sub-paragraphs. While the introductory paragraph only applies to R&D contracts requiring the delivery of a manufactured product, the three sub-paragraphs can include R&D contracts that do not require the delivery of the manufactured product. However, to eliminate possible confusion and provide more clarity, SBA proposes to amend Footnote 11 by converting the introductory paragraph to a new sub-paragraph (b) and renaming existing sub-paragraphs (b) and (c) to sub-paragraphs (c) and (d), respectively, as follows:

[11] NAICS code 541711 and 541712:

(a) ''Research and Development'' means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(b) For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(c) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See § 121.701 of these regulations.

(d) ''Research and Development'' for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

The Environmental Remediation Services Sub-Industry (''Exception'') Under NAICS 562910, Remediation Services

In 1994, SBA established a 500-employee based size standard for Environmental Remediation Services (ERS) for Federal procurements involving three or more services related to restoring a contaminated environment, such as preliminary assessment, site inspection, testing, remedial investigation, remedial action, containment, and removal and storage of contaminated materials (FR 59 47236 (September 15, 1994)). At that time, ERS was designated as a sub-industry category or ''exception'' under the Standard Industrial Classification (SIC) code 8744, Facilities Support Management Services. Currently, it is a sub-industry or ''exception'' under NAICS code 562910, Remediation Services. The requirements that apply to the ERS exception and its 500-employee size standard for Federal procurement and SBA's assistance are defined in Footnote 14 to SBA's table of size standards (13 CFR 121.201).

As explained previously in the Sources of Industry and Program Data section, the data from the Census Bureau's tabulation are limited to the 6-digit NAICS industry level and hence do not provide economic characteristics for the ERS sub-industry. Thus, SBA evaluated the data from FPDS–NG and the SAM/CCR databases. First, using FPDS–NG data for fiscal years 2009 to 2011, SBA identified product service codes (PSCs) within NAICS 562910 that correspond to the ERS activity or exception and firms that participated in Federal contracts under those PSCs. Then, SBA obtained those firms' revenue and employment data from the SAM/CCR database.

The ERS contracts were predominantly classified under the three PSCs as shown in Table 6, PSCs for ERS Contracts, below.

TABLE 6—PSCS FOR ERS CONTRACTS

PSC	PSC Description
F108	Environmental Systems Protection—Environmental Remediation Includes: Toxic and Hazardous Substance Removal, Cleanup, and Disposal; Asbestos and Lead Abatement.
	Excludes: Remediation of Oil Spills (PSC F112).
F112	Environmental Systems Protection—Oil Spill Response Includes: Cleanup, Removal, Disposal and Operational Support.
F999	Other Environmental Services.

Among these three PSCs, F108 and F999 accounted for about 98 percent of nearly $1.9 billion in total contracts dollars awarded annually under these three PSCs during fiscal years 2009–2011. Thus, for this proposed rule, SBA's analysis focused only on firms that received contracts in PSCs F108 and F999. Based on FPDS–NG data for fiscal years 2009–2011, SBA identified 783 businesses receiving Federal contracts under those two PSCs. Of these, 18 identified themselves as manufacturers in SAM/CCR and were excluded from the analysis. Of the remainder, SBA was able to match about 670 firms in SAM/CCR database and obtain the data on their annual receipts and employees. The matched firms accounted for 96 percent of total contract dollars awarded in the two PSCs. The data on those firms were analyzed to evaluate industry and Federal contracting factors of the ERS sub-industry. These results and size standards supported by each of those factors are shown in Table 7, Size Standards Supported by Each Factor for the ERS Sub-industry (No. of Employees), below.

TABLE 7—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR THE ERS SUB-INDUSTRY (NO. OF EMPLOYEES)

	Simple average firm size (number of employees)	Weighted average firm size (number of employees)	Average assets size ($ million)	Four-firm ratio %	Four-firm average size (number of employees)	Gini coefficient	Federal contract factor (%)	Calculated size standard (number of employees)
Factor	832	20,583	NA	47	48,022	0.9298	37.5	
Size standard	1,500	1,500			1,500	1,500	500	1,250

NA = data not available.

Based on the above results, SBA is proposing to increase the size standard for the ERS sub-industry or exception under NAICS 562910 from the current 500 employees to 1,250 employees.

Offshore Marine Air Transportation Services and Offshore Marine Services

Offshore Marine Air Transportation Services is a sub-industry or ''exception'' under both NAICS 481211, Nonscheduled Chartered Passenger Air Transportation and NAICS 481212, Nonscheduled Chartered Freight Air Transportation. The size standards are 1,500 employees for both NAICS codes 481211 and 481212 and $28 million in average annual receipts for the Offshore Marine Air Transportation Services sub-industry or ''exception. Similarly, as indicated in Footnote 15 to SBA's table of size standards, Offshore Marine Services is a sub-industry or ''exception'' to all industries under NAICS Subsector 483, Water Transportation, with the size standard of $28 million in average annual receipts. All industries within Subsector 483 currently have a 500-employee size standard. SBA did not review the $28 million receipts exception size standard when it reviewed receipts based size standards in NAICS Sector 48–49.

As mentioned earlier, the data from the Census Bureau's tabulation are limited to the 6-digit NAICS industry level and do not provide economic characteristics of firms at the sub-industry level. For sub-industry or exception size standards, SBA generally evaluates the characteristics of firms receiving Federal contracts under product service codes (PSCs) that correspond to specific sub-industry activities or ''exceptions'' within the applicable NAICS code. However, the review of data from FPDS–NG shows no specific PSC associated with either the Offshore Marine Air Transportation Services or Offshore Marine Services sub-industries. Therefore, SBA cannot review the $28 million revenue size standard for these sub-industries to determine whether it should be retained at the current level or adjusted.

The sub-industry or ''exception'' size standards are primarily used for Federal government procurements of very specific products or services within a 6-digit NAICS industry and many of them account for a significant share of contract dollars within the industry. However, evaluations of data from FPDS–NG and a sample of solicitations from the Federal Business Opportunities Web site at *www.fbo.gov* show almost no federal contract awards to small businesses under the $28 million size standard exception to NAICS 481211 and 481212 and NAICS Subsector 483. SBA believes that contracting officers strongly favor a relatively much larger 1,500- or 500-employee size standard instead of the $28 million receipts based size standard.

For the above reasons, SBA proposes to eliminate these sub-industries or ''exceptions'' and their $28 million receipts based size standard under NAICS 481211 and 481212 and NAICS Subsector 483. SBA proposes to apply the applicable employee based size standard. SBA also proposes to eliminate Footnote 15 from SBA's table of size standards. This will not affect the eligibility of firms that are small under the $28 million receipts based size standard because they will continue to be eligible under the employee based size standard.

Proposed Changes to Size Standards

Table 8, Summary of Size Standards Analysis, below, summarizes the results of SBA's analyses from Table 3, Size Standards Supported by Each Factor for Each Industry (No. of employees). The results might support increases in size standards for 31 industries, decreases for seven industries and no change for 19 industries.

TABLE 8—SUMMARY OF SIZE STANDARDS ANALYSIS

NAICS Code	NAICS Industry title	Current size standard (number of employees)	Calculated size standard (number of employees)
113310	Logging	500	500
211111	Crude Petroleum and Natural Gas Extraction	500	1,250
211112	Natural Gas Liquid Extraction	500	750
212111	Bituminous Coal and Lignite Surface Mining	500	1,250
212112	Bituminous Coal Underground Mining	500	1,500
212113	Anthracite Mining	500	500
212210	Iron Ore Mining	500	750
212221	Gold Ore Mining	500	1,500
212222	Silver Ore Mining	500	750
212231	Lead Ore and Zinc Ore Mining	500	750
212234	Copper Ore and Nickel Ore Mining	500	1,500
212291	Uranium-Radium-Vanadium Ore Mining	500	500
212299	All Other Metal Ore Mining	500	750
212311	Dimension Stone Mining and Quarrying	500	500
212312	Crushed and Broken Limestone Mining and Quarrying	500	750
212313	Crushed and Broken Granite Mining and Quarrying	500	750
212319	Other Crushed and Broken Stone Mining and Quarrying	500	500
212321	Construction Sand and Gravel Mining	500	500
212322	Industrial Sand Mining	500	500
212324	Kaolin and Ball Clay Mining	500	750
212325	Clay and Ceramic and Refractory Minerals Mining	500	500
212391	Potash, Soda, and Borate Mineral Mining	500	750
212392	Phosphate Rock Mining	500	1,000
212393	Other Chemical and Fertilizer Mineral Mining	500	500
212399	All Other Nonmetallic Mineral Mining	500	500
213111	Drilling Oil and Gas Wells	500	1,000
221210	Natural Gas Distribution	500	1,000
481111	Scheduled Passenger Air Transportation	1,500	1,500
481112	Scheduled Freight Air Transportation	1,500	750
481211	Nonscheduled Chartered Passenger Air Transportation	1,500	750
481212	Nonscheduled Chartered Freight Air Transportation	1,500	1,000
482111	Line-Haul Railroads	1,500	1,500
482112	Short Line Railroads	500	1,500
483111	Deep Sea Freight Transportation	500	500
483112	Deep Sea Passenger Transportation	500	1,500
483113	Coastal and Great Lakes Freight Transportation	500	750
483114	Coastal and Great Lakes Passenger Transportation	500	500
483211	Inland Water Freight Transportation	500	750

TABLE 8—SUMMARY OF SIZE STANDARDS ANALYSIS—Continued

NAICS Code	NAICS Industry title	Current size standard (number of employees)	Calculated size standard (number of employees)
483212	Inland Water Passenger Transportation	500	500
486110	Pipeline Transportation of Crude Oil	1,500	1,000
486910	Pipeline Transportation of Refined Petroleum Products	1,500	500
492110	Couriers and Express Delivery Services	1,500	1,250
511110	Newspaper Publishers	500	1,000
511120	Periodical Publishers	500	1,000
511130	Book Publishers	500	1,000
511140	Directory and Mailing List Publishers	500	1,250
511191	Greeting Card Publishers	500	1,500
511199	All Other Publishers	500	500
512220	Integrated Record Production/Distribution	750	1,250
512230	Music Publishers	500	750
517110	Wired Telecommunications Carriers	1,500	1,500
517210	Wireless Telecommunications Carriers (except Satellite)	1,500	1,500
517911	Telecommunications Resellers	1,500	750
519130	Internet Publishing and Broadcasting and Web Search Portals	500	1,000
524126	Direct Property and Casualty Insurance Carriers	1,500	1,500
541711	Research and Development in Biotechnology	500	1,000
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).	500	1,000

Similarly, the results discussed under the Special Considerations section, above, support increasing the size standard for the second and third exceptions and retaining it for the first exception under NAICS 541712 and increasing the Environmental Remediation Services exception under NAICS 562910. SBA is proposing to eliminate the Information Technology Value Added Resellers exception and its 150-employee size standard under NAICS 541519. SBA is also proposing to eliminate the Offshore Marine Air Transportation Services sub-industry or ''exception'' under NAICS 481211 and 481212 and Offshore Marine Services sub-industry or ''exception'' under NAICS Subsector 483 and their $28 million receipts based size standard.

To ensure that neither an existing nor a calculated size standard includes the largest or dominant firms in any industry, besides the calculation of the Gini coefficient, SBA further assessed the distribution of firms in each industry by employee size. The analytical results in Table 3 might appear to support retaining the existing size standard of 500 employees for NAICS codes 212113 and 212291 and increasing it to 750 employees for NAICS 212222. However, the firm size distribution showed that these levels would include all firms, including the largest and possibly dominant ones, as small in each of those industries. Moreover, these levels are almost the same as or higher than the total employees for the entire industry. Accordingly, SBA is proposing to set the size standard for each of these three NAICS codes at 250 employees. This would affect only the one or two largest firms in each of those industries.

Except for lowering size standards to exclude the dominant firms, SBA believes that lowering size standards is not in the best interest of small businesses in the current economic environment. The U.S. economy was in recession from December 2007 to June 2009, the longest and deepest of any recessions since before World War II. The economy lost more than eight million non-farm jobs during 2008–2009. In response, Congress passed and the President signed into law the American Recovery and Reinvestment Act of 2009 (Recovery Act) to promote economic recovery and to preserve and create jobs. Although the recession officially ended in June 2009, the unemployment rate is still high at 6.2 percent in July 2014 (*www.bls.gov*) and is forecast to remain around this level at least through the end of 2014 (*http://www.federalreserve.gov/monetarypolicy/mpr_20140211_part3.htm*).

In 2010, Congress passed and the President signed the Jobs Act to promote small business job creation. The Jobs Act puts more capital into the hands of entrepreneurs and small business owners; strengthens small businesses' ability to compete for contracts; includes recommendations from the President's Task Force on Federal Contracting Opportunities for Small Business; creates a better playing field for small businesses; promotes small business exporting, building on the President's National Export Initiative; expands training and counseling; and provides $12 billion in tax relief to help small businesses invest in their firms and create jobs. A proposal to reduce size standards will have an immediate impact on jobs, and it would be contrary to the expressed will of the President and the Congress.

Lowering size standards would decrease the number of firms that participate in Federal financial and procurement assistance programs for small businesses. It would also affect small businesses that are now exempt or receive some form of relief from other Federal regulations that use SBA's size standards. That impact could take the form of increased fees, paperwork, or other compliance requirements for small businesses. Furthermore, size standards based solely on analytical results without any other considerations can cut off currently eligible small firms from those programs and benefits. In the seven industries for which analytical results might have supported lowering their size standards, about 40 businesses would lose their small business eligibility if their size standards were lowered based solely on the analytical results. That would run counter to what SBA and the Federal government are doing to help small businesses and create jobs. Reducing size eligibility for Federal procurement opportunities, especially under current economic conditions, would not preserve or create more jobs; rather, it would have the opposite effect. Therefore, in this proposed rule, except for three industries for which SBA is proposing to lower their size standards to exclude the largest and possibly the dominant firms from being small, SBA does not intend to reduce size standards for any industries. Accordingly, for seven industries where analyses might seem to support lowering size standards, SBA proposes to retain the current size standards.

Furthermore, as stated previously, the Small Business Act requires the SBA's Administrator to ''. . . consider other factors deemed to be relevant . . .'' to establishing small business size standards. The current economic conditions and the impact on job creation are quite relevant factors when establishing small business size standards. SBA nevertheless invites comments and suggestions on whether it should lower size standards as suggested by analyses of industry and program data or retain the current standards for those industries in view of current economic conditions.

As discussed above, except to exclude the largest or dominant firms, lowering size standards is inconsistent with what the Federal government is doing to stimulate the economy and would discourage job growth for which Congress established the Recovery Act and Jobs Act. In addition, it would be inconsistent with the Small Business Act requiring the Administrator to establish size standards based on industry analysis and other relevant factors such as current economic conditions. Thus, of the 57 industries and five sub-industries reviewed in this rule, SBA proposes to increase size standards for 30 industries and three sub-industries, retain the current size standards for 24 industries and one sub-industry and lower size standards for three industries to exclude the largest or dominant firms from being considered small. SBA also proposes to eliminate the Information Technology Value Added Resellers sub-industry or exception under NAICS 541519 (Other Computer Related Services) and its 150-employee size standard. SBA also proposes to eliminate the Offshore Marine Air Transportation Services sub-industry or ''exception'' under NAICS 481211 and 481212 and Offshore Marine Services sub-industry or ''exception'' under NAICS Subsector 483 and their $28 million receipts based size standard. The SBA's proposed changes are in Table 9, Summary of Proposed Size Standards Revisions, below.

TABLE 9—SUMMARY OF PROPOSED SIZE STANDARDS REVISIONS

NAICS Code	NAICS Industry title	Current size standard (millions of dollars)	Current size standard (number of employees)	Proposed size standard (number of employees)
211111	Crude Petroleum and Natural Gas Extraction		500	1,250
211112	Natural Gas Liquid Extraction		500	750
212111	Bituminous Coal and Lignite Surface Mining		500	1,250
212112	Bituminous Coal Underground Mining		500	1,500
212113	Anthracite Mining		500	250
212210	Iron Ore Mining		500	750
212221	Gold Ore Mining		500	1,500
212222	Silver Ore Mining		500	250
212231	Lead Ore and Zinc Ore Mining		500	750
212234	Copper Ore and Nickel Ore Mining		500	1,500
212291	Uranium-Radium-Vanadium Ore Mining		500	250
212299	All Other Metal Ore Mining		500	750
212312	Crushed and Broken Limestone Mining and Quarrying		500	750
212313	Crushed and Broken Granite Mining and Quarrying		500	750
212324	Kaolin and Ball Clay Mining		500	750
212391	Potash, Soda, and Borate Mineral Mining		500	750
212392	Phosphate Rock Mining		500	1,000
213111	Drilling Oil and Gas Wells		500	1,000
221210	Natural Gas Distribution		500	1,000
481211 Except		$30.5		Eliminate
481212 Except		$30.5		Eliminate
482112	Short Line Railroads		500	1,500
483112	Deep Sea Passenger Transportation		500	1,500
483113	Coastal and Great Lakes Freight Transportation		500	750
483211	Inland Water Freight Transportation		500	750
511110	Newspaper Publishers		500	1,000
511120	Periodical Publishers		500	1,000
511130	Book Publishers		500	1,000
511140	Directory and Mailing List Publishers		500	1,250
511191	Greeting Card Publishers		500	1,500
512220	Integrated Record Production/Distribution		750	1,250
512230	Music Publishers		500	750
519130	Internet Publishing and Broadcasting and Web Search Portals.		500	1,000
541519 Except	Information Value Added Resellers		150	Eliminate
541711	Research and Development in Biotechnology		500	1,000
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).		500	1,000
Except	Aircraft Engine and Engine Parts		1,000	1,500
Except	Other Aircraft Parts and Auxiliary Equipment		1,000	1,250
Except	Guided Missiles and Space Vehicles, Their Propulsion Units and Propulsion Parts.		1,000	1,250
562910 Except	Environmental Remediation Services		500	1,250

Maintaining current size standards when the analytical results suggested lowering them is consistent with SBA's recent final rules on NAICS Sector 44–45, Retail Trade (75 FR 61597 (October 6, 2010)); NAICS Sector 72, Accommodation and Food Services (75 FR 61604 (October 6, 2010)); NAICS Sector 81, Other Services (75 FR 61591 (October 6, 2010)); NAICS Sector 54, Professional, Scientific and Technical Services (77 FR 7490 (February 10, 2012)); NAICS Sector 48 49, Transportation and Warehousing (77 FR 10943 (February 24, 2012)); NAICS Sector 51, Information (77 FR 72702 (December 6, 2012)); NAICS Sector 53, Real Estate and Rental and Leasing (77 FR 88747 (September 24, 2012)); NAICS Sector 56, Administrative and Support, Waste Management and Remediation Services (77 FR 72691 (December 6, 2012)); NAICS Sector 61, Educational Services (77 FR 58739 (September 24, 2012)); NAICS Sector 62, Health Care and Social Assistance (77 FR 58755 (September 24, 2012)); NAICS Sector 11, Agriculture, Forestry, Fishing and Hunting (78 FR 37398 (June 20, 2013)); NAICS Subsector 213, Support Activities for Mining (78 FR 37404 (June 20, 2013)); NAICS Sector 52, Finance and Insurance and Sector 55, Management of Companies and Enterprises (78 FR 37409 (June 20, 2013)); NAICS Sector 71, Arts, Entertainment and Recreation (78 FR 37417 (June 20, 2013)), and NAICS Sector 23, Construction (78 FR 77334 (December 23, 2013)). In each of those final rules, SBA retained the existing size standards for those that it could have reduced.

Evaluation of Dominance in Field of Operation

SBA has determined that for the industries for which it has proposed revising size standards in this rule, no individual firm at or below the proposed size standard will be large enough to dominate its field of operation. At the proposed size standards, if adopted, the small business share of total industry receipts among those industries is, in average, 3.4 percent, with an interval showing a minimum of less than 0.01 percent to a maximum of 20.0 percent. These market shares effectively preclude a firm at or below the proposed size standards from exerting control over any of the industries.

Request for Comments

SBA invites public comments on this proposed rule, especially on the following issues:

1. SBA proposes five levels of employee based size standards for industries in Manufacturing and industries in other Sectors except for Wholesale Trade and Retail Trade that have employee based size standards: 500 employees, 750 employees, 1,000 employees, 1,250 employees, and 1,500 employees. SBA invites comments on whether these proposed size levels are appropriate and suggestions on alternative levels, if they would be more appropriate.

2. To be consistent with its policy of not lowering any size standards in all recent proposed and final rules on receipts based size standards in view of current economic conditions, SBA is retaining the current 500-employee minimum and 1,500-employee maximum size standards for all industries in the Manufacturing Sector and other industries not in the Wholesale and Retail Trade Sectors that have employee based size standards. In its ''Size Standards Methodology,'' available at *www.sba.gov/size,* SBA had proposed setting the minimum size standard for these industries at 250 employees and the maximum size standard at 1,000 employees. This would have resulted in lowering the existing employee based size standards for some industries. SBA invites comments on whether should SBA maintain the minimum employee based size standard at 500 employees and the maximum at 1,500 employees or should it lower them to 250 employees and 1,000 employees, respectively, as proposed in ''Size Standards Methodology'', and suggestions on alternative minimum and maximum levels, if they would be more appropriate. SBA also seeks feedback on whether it should adjust employee based size standards for labor productivity growth.

3. SBA seeks feedback on whether SBA's proposal to increase size standards for 30 industries and three sub-industries, reduce size standards for three industries to exclude the largest firms, and retain current size standards for 24 industries and one sub-industry is appropriate, given the economic characteristics of each industry and sub-industry reviewed in this proposed rule. SBA also seeks feedback and suggestions on alternative size standards, if they would be more appropriate, including whether the average annual revenue is a more suitable measure of size for certain industries and what that revenue level should be.

4. SBA invites comments on its proposal to eliminate the Information Technology Value Added Resellers sub-industry or exception under NAICS 541519 (Other Computer Related Services) and its 150-employee size standard and apply the $25.5 million receipts based size standard that is current in place for the rest of the industry.

5. SBA invites comments on its proposal to eliminate the Offshore Marine Air Transportation Services sub-industry or exception under NAICS 481211 (Nonscheduled Chartered Passenger Air Transportation) and under NAICS 481212 (Nonscheduled Chartered Freight Air Transportation) and its $28 million receipts size standard and apply the same 1,500 employee size standard that is current in place for each of those industry. Similarly, SBA seeks comments on its proposal to eliminate the Offshore Marine Services sub-industry or ''exception'' under NAICS Subsector 483, and its $28 million receipts size standard and apply the applicable employee size standard that for each industry within that Subsector. If those exceptions are to be retained, SBA invites comments on whether the current $28 million revenue size standard is appropriate, and suggestions on an alternative level with supporting data and analysis.

6. SBA has proposed to retain the current size standards for seven industries for which its analysis would support lowering them. SBA seeks comments on whether SBA should lower them solely based on its analysis or retain them at their current levels in view of current economic conditions.

7. SBA's proposed size standards are based on five primary factors—average firm size, average assets size (as a proxy of startup costs and entry barriers), four-firm concentration ratio, distribution of firms by size and, the level and small business share of Federal contracting dollars of the evaluated industries and sub-industries. SBA welcomes comments on these factors and/or suggestions on other factors that it should consider when evaluating or revising employee based size standards. SBA also seeks information on relevant data sources, other than what it uses, if available.

8. SBA gives equal weight to each of the five primary factors in all industries. SBA seeks feedback on whether it should continue giving equal weight to each factor or whether it should give more or less weight to one or more factors for certain industries. Recommendations to weigh some factors more than others should include suggested weights for each factor along with supporting information.

9. For analytical simplicity and efficiency, in this proposed rule, SBA has refined its size standard methodology to obtain a single value as a proposed size standard instead of a range of values, as in its past size regulations. SBA welcomes any comments on this procedure and suggestions on alternative methods.

Public comments on the above issues are very valuable to SBA for validating its size standard methodology and its proposed size standards revisions in this proposed rule. This will help SBA to ensure that size standards reflect industry structure and Federal market conditions. Commenters addressing SBA's proposed size standard revisions for a specific industry or a group of industries should include relevant data and/or other information supporting their comments. If comments relate to using size standards for Federal procurement programs, SBA suggests that commenters provide information on the size of contracts in their industries, the size of businesses that can undertake the contracts, startup costs, equipment and other asset requirements, the amount of subcontracting, other direct and indirect costs associated with the contracts, the use of mandatory sources of supply for products and services, and the degree to which contractors can mark up those costs.

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

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is a significant regulatory action for purposes of Executive Order 12866. Accordingly, in the next section, SBA provides a Regulatory Impact Analysis of this proposed rule. However, this rule is not a ''major rule'' under the Congressional Review Act, 5 U.S.C. 800.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

SBA believes that proposed size standards revisions in this proposed rule will better reflect the economic characteristics of small businesses in the affected industries and the Federal government marketplace. SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To determine the intended beneficiaries of these programs, SBA establishes distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegates to SBA's Administrator the responsibility for establishing small business definitions. The Act also requires that small business definitions vary to reflect industry differences. The Jobs Act also requires SBA to review all size standards and make necessary adjustments to reflect market conditions. The supplementary information section of this proposed rule explains SBA's methodology for analyzing a size standard for a particular industry.

2. What are the potential benefits and costs of this regulatory action?

The most significant benefit to businesses obtaining small business status because of this proposed rule is gaining or retaining eligibility for Federal small business assistance programs. These include SBA's financial assistance programs, economic injury disaster loans, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted opportunities for small businesses under SBA's business development programs, such as 8(a), Small Disadvantaged Businesses (SDB), small businesses located in Historically Underutilized Business Zones (HUBZone), women-owned small businesses (WOSB), economically disadvantaged women-owned small businesses (EDWOSB), and service-disabled veteran-owned small businesses (SDVOSB). Federal agencies may also use SBA's size standards for a variety of other regulatory and program purposes. These programs assist small businesses to become more knowledgeable, stable, and competitive. SBA estimates that in 30 industries and three sub-industries (''exceptions'') for which it has proposed to increase size standards more than 380 firms, not small under the existing size standards, will become small under the proposed size standards, if adopted, and therefore become eligible for these programs. That is about 0.6 percent of all firms classified as small under the current size standards in all industries and sub-industries reviewed in this proposed rule. If adopted as proposed, this will increase the small business share of total receipts in those industries from 18.3 percent to 21.3 percent. In three industries for which SBA has proposed to reduce their size standards, only the one or two largest firms will be impacted in each of those industries.

Three groups will benefit from the proposed size standards revisions in this rule, if they are adopted as proposed: (1) Some businesses that are above the current size standards may gain small business status under the higher size standards, thereby enabling them to participate in Federal small business assistance programs; (2) growing small businesses that are close to exceeding the current size standards will be able to retain their small business status under the higher size standards, thereby enabling them to continue their participation in the programs; and (3) Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs.

SBA estimates that firms gaining small business status under the proposed size standards could receive Federal contracts totaling $165 million to $175 million annually under SBA's small business, 8(a), SDB, HUBZone, WOSB, EDWOSB, and SDVOSB Programs, and other unrestricted procurements. The added competition for many of these procurements can also result in lower prices to the Government for procurements reserved for small businesses, but SBA cannot quantify this benefit.

Under SBA's 7(a) and 504 Loan Programs, based on the fiscal years 2010–2012 data, SBA estimates up to about five SBA's 7(a) and 504 loans totaling about $1.0 million could be made to these newly defined small businesses under the proposed size standards. Increasing the size standards will likely result in more small business guaranteed loans to businesses in these industries, but it is be impractical to try to estimate exactly the number and total amount of loans. There are two reasons for this: (1) Under the Jobs Act, SBA can now guarantee substantially larger loans than in the past; and (2) as described above, the Jobs Act established a higher alternative size standard ($15 million in tangible net worth and $5 million in net income after income taxes) for business concerns that do not meet the size standards for their industry. Therefore, SBA finds it difficult to quantify the actual impact of these proposed size standards on its 7(a) and 504 Loan Programs.

Newly defined small businesses will also benefit from SBA's Economic Injury Disaster Loan (EIDL) Program. Since this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact.

In addition, newly defined small businesses will also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through Federal government.

To the extent that those 380 newly defined additional small firms could become active in Federal procurement programs, the proposed changes to size standards, if adopted, may entail some additional administrative costs to the government as a result of more businesses being eligible for Federal small business programs. For example, there will be more firms seeking SBA's guaranteed loans, more firms eligible for enrollment in the System of Award Management (SAM) database, and more firms seeking certification as 8(a) or HUBZone firms or qualifying for small business, WOSB, EDWOSB, SDVOSB, and SDB status. Among those newly defined small businesses seeking SBA's assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. However, SBA believes that these added administrative costs will be minimal because mechanisms are already in place to handle these requirements.

Additionally, Federal government contracts may have higher costs. With a greater number of businesses defined as small, Federal agencies may choose to set aside more contracts for competition among small businesses only rather than using full and open competition. The movement from unrestricted to small business set-aside contracting might result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers. However, the additional costs associated with fewer bidders are expected to be minor since, by law, procurements may be set aside for small businesses or reserved for the 8(a), HUBZone, WOSB, EDWOSB, or SDVOSB Programs only if awards are expected to be made at fair and reasonable prices. In addition, there may be higher costs when more full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences.

The proposed size standards revisions, if adopted, may have some distributional effects among large and small businesses. Although SBA cannot estimate with certainty the actual outcome of the gains and losses among small and large businesses, it can identify several probable impacts. There may be a transfer of some Federal contracts to small businesses from large businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more contracts for small businesses. In addition, some Federal contracts may be awarded to HUBZone concerns instead of large businesses since these firms may be eligible for a price evaluation preference for contracts when they compete on a full and open basis.

Similarly, some businesses defined small under the current size standards may obtain fewer Federal contracts due to the increased competition from more businesses defined as small under the proposed size standards. This transfer may be offset by a greater number of Federal procurements set aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government will limit the potential transfer of contracts from large and currently defined small businesses. SBA cannot estimate the potential distributional impacts of these transfers with any degree of precision.

The proposed revisions to the existing employee based size standards for 33 industries and three sub-industries are consistent with SBA's statutory mandate to assist small business. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries have access to small business programs designed to assist them.

Executive Order 13563

Descriptions of the need for this regulatory action and benefits and costs associated with this action including possible distributional impacts that relate to Executive Order 13563 are included above in the Regulatory Impact Analysis under Executive Order 12866.

In an effort to engage interested parties in this action, SBA has presented its size standards methodology (discussed above under Supplementary Information) to various industry associations and trade groups. SBA also met with a number of industry groups and individual businesses to get their feedback on its methodology and other size standards issues. In addition, SBA presented its size standards methodology to businesses in 13 cities in the U.S. and sought their input as part of Jobs Act tours. The presentation also included information on the latest status of the comprehensive size standards review and on how interested parties can provide SBA with input and feedback on size standards review.

Additionally, SBA sent letters to the Directors of the Offices of Small and Disadvantaged Business Utilization (OSDBU) at several Federal agencies with considerable procurement responsibilities requesting their feedback on how the agencies use SBA's size standards and whether current size standards meet their programmatic needs (both procurement and non-procurement). SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in preparing this proposed rule.

The review of size standards in industries and sub-industries covered in this proposed rule is consistent with Executive Order 13563, Section 6, calling for retrospective analyses of existing rules. The last comprehensive review of size standards occurred during the late 1970s and early 1980s. Since then, except for periodic adjustments for monetary based size standards, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. The majority of employee based size standards have not been reviewed since they were first established. SBA recognizes that changes in industry structure and the Federal marketplace over time have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of its size standards to ensure that existing size standards have supportable bases and to revise them when necessary. In addition, the Jobs Act requires SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18-month period from the date of its enactment and do a complete review of all size standards not less frequently than once every 5 years thereafter.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

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

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this proposed rule will not impose any new reporting or record keeping requirements.

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this proposed rule, if adopted, may have a significant impact on a substantial number of small businesses in the industries and sub-industries covered by this rule. As described above, this rule may affect small businesses seeking Federal contracts, loans under SBA's 7(a), 504 and Economic Injury Disaster Loan Programs, and assistance under other Federal small business programs.

Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of this proposed rule addressing the following questions: (1) What are the need for and objective of the rule? (2) What are SBA's description and estimate of the number of small businesses to which the rule will apply? (3) What are the projected reporting, record keeping, and other compliance requirements of the rule? (4) What are the relevant Federal rules that may duplicate, overlap, or conflict with the rule? and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small businesses?

1. What are the need for and objective of the rule?

Changes in industry structure, technological changes, productivity growth, mergers and acquisitions, and updated industry definitions have changed the structure of many industries reviewed in this proposed rule. Such changes can be sufficient to support revisions to current size standards for some industries. Based on the analysis of the latest data available, SBA believes that the revised standards in this proposed rule more appropriately reflect the size of businesses that need Federal assistance. The Jobs Act also requires SBA to review all size standards and make necessary adjustments to reflect market conditions.

2. What are SBA's description and estimate of the number of small businesses to which the rule will apply?

If the proposed rule is adopted in its present form, SBA estimates that about 380 additional firms will become small because of increased size standards for 30 industries and three sub-industries not in NAICS Sectors 31–33, 42 and 44–45. That represents 0.6 percent of total firms that are small under current size standards in all industries reviewed by SBA in this proposed rule. This will result in an increase in the small business share of total industry receipts for those industries from 18.3 percent under the current size standards to 21.3 percent under the proposed size standards. In the three industries for which SBA has proposed to reduce their size standards, only the one or two largest firms will be impacted in each of those industries. The proposed size standards, if adopted, will enable more small businesses to retain their small business status for a longer period. Many firms may have lost their eligibility and find it difficult to compete at current size standards with companies that are significantly larger than they are. SBA believes the competitive impact will be positive for existing small businesses and for those that exceed the size standards but are on the very low end of those that are not small. They might otherwise be called or referred to as mid-sized businesses, although SBA only defines what is small; other entities are other than small.

3. What are the projected reporting, record keeping and other compliance requirements of the rule?

The proposed size standard changes impose no additional reporting or record keeping requirements on small businesses. However, qualifying for Federal procurement and a number of other programs requires that businesses register in the SAM database and certify in SAM that they are small at least once annually. Therefore, businesses opting to participate in those programs must comply with SAM requirements. However, there are no costs associated with SAM registration or certification. Changing size standards alters the access to SBA's programs that assist small businesses, but does not impose a regulatory burden because they neither regulate nor control business behavior.

4. What are the relevant Federal rules, which may duplicate, overlap or conflict with the rule?

Under § 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988 (November 24, 1995)). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The Regulatory Flexibility Act authorizes an Agency to establish an alternative small business definition, after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying size standards by industry and changing the size measures, no practical alternative exists to the systems of numerical size standards.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA proposes to amend part 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for Part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. In § 121.201, amend the table ''Small Business Size Standards by NAICS Industry'' as follows:

■ a. Revise the entries for ''211111'', ''211112'', ''212111'', ''212112'', ''212113'', ''212210'', ''212221'', ''212222'', ''212231'', ''212234'', ''212291'', ''212299'', ''212312'', ''212313'', ''212324'', ''212391'', ''212392'', ''213111'', ''221210'', ''482112'', ''483112'', ''483113'', ''483211'', ''511110'', ''511120'', ''511130'', ''511140'', ''511191'', ''512220'', ''512230'', ''519130'', ''541711'', ''541712 introductory entry and first, second and third sub-entry, and ''562910 sub-entry''.

■ b. Amend the entry for ''481211'' by removing its sub-entry ''Except,'' ''Offshore Marine Air Transportation Services'' ''$30.5''.

■ c. Amend the entry for ''481212'' by removing the sub-entry ''Except,'' ''Offshore Marine Air Transportation Services'' ''$30.5''.

■ d. Amend the entry for ''541519'' by removing the subentry ''Except,'' ''Value Added Resellers [18]'', ''150 [18]''.

■ e. Revise Footnote 11.

■ f. Remove and reserve Footnote 15.

■ g. Remove and reserve Footnote 18.

■ h. Footnote 14 is republished.

The revisions read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS Codes	NAICS U.S. Industry title	Size standards in millions of dollars	Size standards in number of employees
* *	* * *	*	*
211111	Crude Petroleum and Natural Gas Extraction		1,250
211112	Natural Gas Liquid Extraction		750
* *	* * *	*	*
212111	Bituminous Coal and Lignite Surface Mining		1,250
212112	Bituminous Coal Underground Mining		1,500
212113	Anthracite Mining		250
212210	Iron Ore Mining		750
212221	Gold Ore Mining		1,500
212222	Silver Ore Mining		250
212231	Lead Ore and Zinc Ore Mining		750
212234	Copper Ore and Nickel Ore Mining		1,500
212291	Uranium-Radium-Vanadium Ore Mining		250
212299	All Other Metal Ore Mining		750
* *	* * *	*	*
212312	Crushed and Broken Limestone Mining and Quarrying		750
212313	Crushed and Broken Granite Mining and Quarrying		750
* *	* * *	*	*
212324	Kaolin and Ball Clay Mining		750
* *	* * *	*	*
212391	Potash, Soda, and Borate Mineral Mining		750
212392	Phosphate Rock Mining		1,000
* *	* * *	*	*
213111	Drilling Oil and Gas Wells		1,000
* *	* * *	*	*
221210	Natural Gas Distribution		1,000
* *	* * *	*	*
481211	Nonscheduled Chartered Passenger Air Transportation		1,500
481212	Nonscheduled Chartered Freight Air Transportation		1,500
* *	* * *	*	*
482112	Short Line Railroads		1,500
	Subsector 483—Water Transportation		
* *	* * *	*	*
483112	Deep Sea Passenger Transportation		1,500
483113	Coastal and Great Lakes Freight Transportation		750
* *	* * *	*	*
483211	Inland Water Freight Transportation		750
* *	* * *	*	*
511110	Newspaper Publishers		1,000
511120	Periodical Publishers		1,000
511130	Book Publishers		1,000
511140	Directory and Mailing List Publishers		1,250
511191	Greeting Card Publishers		1,500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS Codes	NAICS U.S. Industry title	Size standards in millions of dollars	Size standards in number of employees
* *	* * *	*	*
512220	Integrated Record Production/Distribution		1,250
512230	Music Publishers		750
* *	* * *	*	*
519130	Internet Publishing and Broadcasting and Web Search Portals		1,000
* *	* * *	*	*
541711	Research and Development in Biotechnology [11]		[11] 1,000
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology) [11].		[11] 1,000
Except	Aircraft, Aircraft Engine, and Engine Parts		1,500
Except	Other Aircraft Parts and Auxiliary Equipment		1,250
Except	Guided Missiles and Space Vehicles, Their Propulsion Units and Propulsion Parts.		1,250
* *	* * *	*	*
562910	Remediation Services	$19.0	
Except	Environmental Remediation Services [14]		[14] 1,250
* *	* * *	*	*

Footnotes

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11. NAICS code 541711 and 541712:

(a) ''Research and Development'' means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(b) For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(c) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See § 121.701 of these regulations.

(d) ''Research and Development'' for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

* * * * *

14. NAICS 562910—Environmental Remediation Services:

(a) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(b) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore or directly support the restoration of a contaminated environment. This includes activities such as preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, remediation services, containment, and removal of contaminated materials or security and site closeouts. The general purpose of the procurement need not necessarily include remedial actions. Also, the procurement must be composed of activities in three or more separate industries with separate NAICS codes or, in some instances (e.g., engineering), smaller sub-components of NAICS codes with separate and distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Contractors; Engineering Services; Architectural Services; Management Consulting Services; Hazardous and Other Waste Collection; Remediation Services; Testing Laboratories; and Research and Development in the Physical, Engineering, and Life Sciences. If any activity in the procurement can be identified with a separate NAICS code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

* * * * *

Dated: August 25, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–20838 Filed 9–9–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0416; Airspace Docket No. 14–ASO–7]

Proposed Establishment of Class D Airspace and Amendment of Class E Airspace; Selma, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace and amend Class E airspace at Selma, AL, to accommodate the new air traffic control tower at Craig Field Airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before October 27, 2014. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.