

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

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

ACTION: Semiannual Regulatory Agenda.

SUMMARY: This semiannual Regulatory Agenda (Agenda) is a summary of current and projected rulemakings and completed actions of the Small Business Administration (SBA). This summary information is intended to enable the public to be more aware of, and effectively participate in, SBA’s regulatory activities. Accordingly, SBA invites the public to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments or inquiries to K. Bundy, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; (202) 205–6585; kabundy@sba.gov.

Specific

Please direct specific comments and inquiries on individual regulatory activities identified in this Agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) requires SBA to publish in the **Federal Register** a semiannual regulatory

flexibility agenda describing those Agency rules that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). The summary information published in the **Federal Register** is limited to those rules. Additional information regarding all the rulemaking SBA expects to consider in the next 12 months is included in the Federal Government’s unified Regulatory Agenda, which will be available online at www.reginfo.gov in a format that offers users enhanced ability to obtain information about SBA’s rules.

Dated: September 29, 2021.

Isabella Casillas Guzman,
Administrator.

SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
398	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs	3245–AG16
399	Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade.	3245–AH09
400	Small Business Size Standards: Calculation of Number of Employees for All Programs and of Average Annual Receipts in Business Loan, Disaster Loan, and Small Business Investment Company Programs.	3245–AH26
401	National Defense Authorization Act of 2020, Credit for Lower Tier Subcontracting and Other Amendments	3245–AH28

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
402	Small Business Timber Set-Aside Program	3245–AG69
403	Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services.	3245–AG88
404	Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction.	3245–AG89
405	Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing.	3245–AG90
406	Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support and Waste Management and Remediation Services.	3245–AG91
407	Small Business Size Standards: Wholesale Trade and Retail Trade	3245–AH10
408	Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation	3245–AH17

SMALL BUSINESS ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
409	Small Business Development Center Program Revisions	3245–AE05

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

398. Small Business Size Standards; Alternative Size Standard for 7(A), 504, and Disaster Loan Programs

Legal Authority: Pub. L. 111–240, sec. 1116

Abstract: SBA will propose amendments its size eligibility criteria for Business Loans, certified

development company (CDC) loans under title V of the Small Business Investment Act (504) and economic injury disaster loans (EIDL). For the SBA 7(a) Business Loan Program and the 504 program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to

both of these programs until SBA’s Administrator establishes other alternative size standards. For the disaster loan program, the amendments will provide an alternative size standard for loan applicants that do not meet the Small Business Size Standard for their industries. SBA loan program alternative size standards do not affect other Federal Government programs, including Federal procurement.

Timetable:

Action	Date	FR cite
ANPRM	03/22/18	83 FR 12506
ANPRM Comment Period End.	05/21/18	
NPRM	09/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG16

399. Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 31-33 (Manufacturing) and industries with employee-based size standards in other sectors except Wholesale Trade and Retail Trade and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AH09

400. Small Business Size Standards: Calculation of Number of Employees for All Programs and of Average Annual Receipts in Business Loan, Disaster Loan, and Small Business Investment Company Programs

Legal Authority: 15 U.S.C. 632(a)(2); Pub. L. 115-324; Pub. L. 116-283

Abstract: In accordance with section 863 of the National Defense Authorization Act for Fiscal Year 2021, Public Law 116-238, in this rulemaking SBA proposes to change the averaging period for employee-based size standards from 12 months to 24 months. In addition, the Small Business Runway Extension Act of 2018, Public Law 115-324, amended the Small Business Act to provide for calculation of average annual gross receipts using a 5-year average, rather than the prior 3-year average, in defined circumstances. In RIN 3245-AH16, SBA implemented the Small Business Runway Extension Act in programs other than SBA's loan programs—including SBA's procurement programs—and SBA issued its final rule in that first rulemaking on December 5, 2019 (84 FR 66561). This second rulemaking would consider how to address the Small Business Runway Extension Act in SBA's business loan, disaster loan, and SBIC programs. Specifically, SBA also proposes to permit businesses in its Business Loan, Disaster Loan, and Small Business Investment Company (SBIC) Programs to use a 5-year averaging period, in addition to the existing 3-year averaging period, for the purposes of calculating annual average receipts. These proposed changes will allow larger small businesses to retain their small business size status for longer, and some mid-sized businesses to regain small business status.

Timetable:

Action	Date	FR Cite
NPRM	11/02/21	86 FR 60396
NPRM Comment Period End.	12/02/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AH26

401. National Defense Authorization Act of 2020, Credit for Lower Tier Subcontracting and Other Amendments

Legal Authority: Pub. L. 116-92

Abstract: Section 870 of the National Defense Authorization Act of 2020 (NDAA 2020) made a change that will require SBA to amend its regulations. Specifically, the language of NDAA 2020 requires SBA to alter the method and means of accounting for lower tier small business subcontracting. This proposed rule may also contain several smaller changes that might be necessary to implement this provision and other provisions in NDAA 2020.

Timetable:

Action	Date	FR Cite
NPRM	05/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda J. Fernandez, Analyst, Office of Policy, Planning and Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7337, *Email:* brenda.fernandez@sba.gov.

RIN: 3245-AH28

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

402. Small Business Timber Set-Aside Program

Legal Authority: 15 U.S.C. 631; 15 U.S.C. 644(a)

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its Small Business Timber Set-Aside Program (the Program) regulations. The Small Business Timber Set-Aside Program is rooted in the Small Business Act, which tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property. Accordingly, the Program requires Timber sales to be set aside for small business when small business participation falls below a certain amount. SBA considered comments received during the Advance Notice of Proposed Rulemaking and Notice of Proposed Rulemaking processes, including on issues such as, but not limited to, whether the saw timber volume purchased through stewardship timber contracts should be included in calculations, and whether the appraisal point used in set-aside sales should be the nearest small business mill. In addition, SBA is considering data from the timber industry to help evaluate the current program and economic impact of potential changes.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/15	80 FR 15697
ANPRM Comment Period End.	05/26/15	
NPRM	09/27/16	81 FR 66199
NPRM Comment Period End.	11/28/16	
Final Rule	09/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David W. Loines, Director, Office of Government Contracting, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 431-0472, *Email:* david.loines@sba.gov.

RIN: 3245-AG69

403. Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this rule, SBA has evaluated size standards for all industries in North American Industry Classification System (NAICS) Sector 61 (Educational Services), Sector 62 (Health Care and Social Assistance), Sector 71 (Arts, Entertainment and Recreation), Sector 72 (Accommodation and Food Services), and Sector 81 (Other Services) and made necessary adjustments to size standards in these sectors. This is one of a series of rules that examines groups of NAICS sectors. SBA has applied its Size Standards Methodology to this rule.

Timetable:

Action	Date	FR Cite
NPRM	11/27/20	85 FR 76390
NPRM Comment Period End.	01/26/21	
Final Rule	06/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG88

404. Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction

Legal Authority: 15 U.S.C. 632(a)
Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this rule, SBA has evaluated each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 11 (Agriculture, Forestry, Fishing and Hunting), Sector 21 (Mining, Quarrying, and Oil and Gas Extraction), Sector 22 (Utilities), and Sector 23 (Construction), and made necessary adjustments to size standards in these sectors. This is one of a series of rules that examines groups of NAICS sectors. SBA has applied its Size Standards Methodology to this rule.

Timetable:

Action	Date	FR Cite
NPRM	10/02/20	85 FR 62239
NPRM Comment Period End.	12/01/20	
Final Rule	07/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG89

405. Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing

Legal Authority: 15 U.S.C. 632(a)
Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this rule, SBA has evaluated each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 48-49 (Transportation and Warehousing), Sector 51 (Information), Sector 52 (Finance and Insurance), and Sector 53 (Real Estate and Rental and Leasing) and made necessary adjustments to size

standards in these sectors. This is one of a series of rules that examines groups of NAICS sectors. SBA has applied its Size Standards Methodology to this rule.

Timetable:

Action	Date	FR Cite
NPRM	10/02/20	85 FR 62372
NPRM Comment Period End.	12/01/20	
Final Rule	08/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG90

406. Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support and Waste Management and Remediation Services

Legal Authority: 15 U.S.C. 632(a)
Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this rule, SBA has evaluated each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 54 (Professional, Scientific and Technical Services), Sector 55 (Management of Companies and Enterprises), and Sector 56 (Administrative and Support, Waste Management and Remediation Services) and made necessary adjustments to size standards in these sectors. This is one of a series of rules that examines groups of NAICS sectors. SBA has applied its Size Standards Methodology to this rule.

Timetable:

Action	Date	FR Cite
NPRM	11/13/20	85 FR 72584
NPRM Comment Period End.	01/12/21	
Final Rule	06/00/22	

Regulatory Flexibility Analysis Required: Yes.

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20416, Phone: 202 205-7189, Fax: 202 205-6390, Email: khem.sharma@sba.gov.

RIN: 3245-AG91

407. Small Business Size Standards: Wholesale Trade and Retail Trade

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 42 (Wholesale Trade) and Sector 44-45 (Retail Trade) and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/25/21	86 FR 28012
NPRM Comment Period End.	07/26/21	
Final Rule	06/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7189, Fax: 202 205-6390, Email: khem.sharma@sba.gov.

RIN: 3245-AH10

408. Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation

Legal Authority: 15 U.S.C. 632(a)

Abstract: In this final rule, the U.S. Small Business Administration (SBA or Agency) adjusts all monetary based industry size standards (i.e., receipts, assets, net worth, and net income) for inflation since the last adjustment in 2014. In accordance with its regulations in 13 CFR 121.102(c), SBA is required to review the effects of inflation on its monetary standards at least once every five years and adjust them, if necessary. In addition, the Small Business Jobs Act of 2010 (Jobs Act) also requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. This action will restore the small business eligibility of businesses that have lost that status due to inflation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/19	84 FR 34261
Interim Final Rule Effective.	08/19/19	
Interim Final Rule Comment Period End.	09/16/19	
Final Action	07/00/22	

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3245-AH17

SMALL BUSINESS ADMINISTRATION (SBA)

Long-Term Actions

409. Small Business Development Center Program Revisions

Legal Authority: 15 U.S.C. 634(b)(6); 15 U.S.C. 648

Abstract: This rule proposes to update the Small Business Development Center (SBDC) Program regulations by proposing to amend: (1) Procedures for approving when a new Lead SBDC Center Director is selected; (2) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (3) procedures regarding the determination to affect suspension, termination or non-renewal of an SBDC's cooperative agreement; and (4) provisions regarding the collection and use of the individual SBDC client data.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/15	80 FR 17708
ANPRM Comment Period End.	06/01/15	
NPRM	11/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rachel Newman-Karton, Phone: 202 619-1816, Email: rachel.newman-karton@sba.gov.

RIN: 3245-AE05

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