

drug studies occur in physicians' offices where there is either a total ban on radioactivity or the facilities do not possess a license to use radioactive substances. The petitioner contends that the market size for the ERMBT is much smaller than that of the exempted urea test. Estimates by the petitioner are that less than 10,000 patients would receive the ERMBT between two to five times in clinical studies each year (less than 100,000 tests). The petitioner states that the C14-urea test encompassed 600,000 people who could be tested two or three times including diagnosis and follow-up testing. Without a regulatory exemption, the petitioner believes that the market size would be too small to be economically feasible to pursue FDA approval for the use of the ERMBT.

The Petitioner's Conclusions

The petitioner concludes that dosimetry information of the C14-erythromycin will be very similar to that of the exempted C14-urea. Also, the petitioner concludes that exempting the C14-erythromycin from regulatory control will make the ERMBT more widely available and reduce clinical trial expenses. Lastly, the petitioner concludes that the exemption would not present a radiation risk to the general public any higher than the risk associated with the distribution exemption for drug capsules that contain one microcurie of C14-urea.

The petitioner requests that the NRC grant a regulatory distribution exemption for the ERMBT similar to the current exemption for C14-urea capsules. This would require amending the regulations pertaining to use of radioactive drugs in 10 CFR Parts 30 and 32.

Dated at Rockville, Maryland, this 28th day of April, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Health Services Industries

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to increase the size standards for eleven of the nineteen industries under Standard Industrial Classification (SIC) Major Group 80, Health Services. The current size standard is \$5 million in average annual receipts for all health services industries. Depending on the industry, the proposed size standards are \$7.5

million, \$10 million, or \$25 million. The proposed revisions are being made to better define the size of business in those industries that the SBA believes should be eligible for Federal small business assistance programs.

DATES: Submit comments on or before July 6, 1999.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, SW., Mail Code 6880, Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Office of Size Standards, (202) 205-6618.

SUPPLEMENTARY INFORMATION: The SBA has historically applied a common size standard for all industries under SIC Major Group 80, Health Services. The current size standard of \$5 million for all nineteen SIC codes in this major group was established on April 22, 1994 (58 FR 16513), at which time it was increased from \$3.5 million. In response to requests from Federal agencies and small businesses, the SBA analyzed the size standards for the health services industries and, on the basis of that review, believes that size standards higher than \$5 million should be established for eleven of the nineteen SIC codes in the health services industries. The table below lists the health services industries for which the SBA is proposing revised size standards:

SIC Code	Industry	Proposed size standard (millions of dollars)
8011	Offices and Clinics of Doctors of Medicine	\$7.5
8051	Skilled Nursing Care Facilities	10.0
8052	Intermediate Care Facilities	7.5
8062	General Medical and Surgical Hospitals	25.0
8063	Psychiatric Hospitals	25.0
8069	Specialty Hospitals, Except Psychiatric	25.0
8071	Medical Laboratories	10.0
8082	Home Health Care Services	10.0
8092	Kidney Dialysis Centers	25.0
8093	Specialty Outpatient Facilities, N.E.C.	7.5
8099	Health and Allied Services, N.E.C.	7.5

For the following eight health services industries, the SBA believes the current \$5 million is appropriate:

SIC Code	Industry	Size standard (millions of dollars)
8021	Offices and Clinics of Dentists	\$5.0
8031	Offices and Clinics of Doctors of Osteopathy	5.0
8041	Offices and Clinics of Chiropractors	5.0
8042	Offices and Clinics of Optometrists	5.0
8043	Offices and Clinics of Podiatrists	5.0
8049	Offices and Clinics of Health Practitioners, N.E.C.	5.0
8059	Nursing and Personal Care Facilities, N.E.C.	5.0
8072	Dental Laboratories	5.0

Below is a discussion of the SBA's size standards methodology and the analyses leading to the proposed size standards. As part of this discussion, the SBA will explain why it has decided to retain the \$5 million size standard for eight of the health services industries. SBA also discusses its analysis to determine whether any firm under a proposed size standard would be considered dominant within an industry. This is followed by a discussion of an alternative size standard approach considered by SBA.

Size Standards Methodology

In considering the appropriateness of a size standard the SBA evaluates the structural characteristics of an industry and the participation of small businesses in SBA programs. For the analysis of the size standards for the health services industries, five evaluation factors describing the structural characteristics of an industry and small business participation in SBA programs were assessed. These evaluation factors were: (1) Average firm size, (2) distribution of firms by size, (3) start-up costs, (4) industry competition, and (5) the competition for Federal procurements. The SBA generally considers these five to be the most important evaluation factors in establishing or revising a size standard for an industry. It will consider and evaluate other information shown to be relevant to the decision on the size standard. Below is a brief description of the five evaluation factors.

1. Average firm size is total industry revenues (or number of employees) divided by the total number of firms operating in the industry. If an industry has an average firm size significantly higher than the average firm size of a group of comparative industries (in this case, industries with the anchor size standard of \$5 million in revenues), this fact may support establishing a higher size standard than the one in effect for the group of related industries. Conversely, data showing an industry with a lower average firm size relative to the related group of industries tends to support a lower size standard.

2. The distribution of firms by size examines the proportion of industry sales, employment, or other economic activity accounted for by firms of different sizes in an industry. If the preponderance of an industry's output is by smaller firms, this may support a low size standard. The opposite is the case for an industry in which the distribution of firms indicates that output is concentrated among the largest firms in an industry.

3. Start-up costs affect a firm's initial size because entrants into an industry must have sufficient capital to start a viable business. To the extent that firms in an industry have greater start-up capital requirements than firms in other industries, the SBA is justified in considering a higher size standard. As a proxy measure for start-up costs, SBA examines the average level of assets for firms in an industry. An industry with a relatively high level of average assets per firm as compared with the average assets per firm of the group of comparative industries with \$5 million size standards is likely to be a capital intensive industry in which start-up costs tend to be higher for firms entering the industry. For those types of industries, that circumstance may support the need for a relatively high size standard.

4. The SBA assesses industry competition by measuring the proportion or share of industry sales obtained by firms above a relatively large firm size. In this proposed rule, SBA analyzes the proportion of industry sales generated by the four largest firms in an industry—generally referred to as the “four-firm concentration ratio.” If a significant proportion of economic activity within an industry is concentrated among a few relatively large producers, SBA tends to set a higher size standard to assist firms in a broader size range to compete with firms that are clearly dominant in the industry.

5. Competition for Federal procurements. The SBA also evaluates the impact of a size standard on its programs and other applications of size standards to determine whether small businesses defined under the existing size standard are receiving a reasonable level of assistance. This assessment mainly focuses on the proportion or share of Federal contract dollars awarded to small businesses. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal procurement revenues, the greater is the justification for a size standard higher than the existing one. As another factor to evaluate the impact of a proposed size standard on SBA programs, the volume of guaranteed loans within an industry and the size of firms obtaining loans in its financial assistance plans is sometimes assessed to determine whether the current size standard may inappropriately restrict the level of financial assistance to firms in that industry. If small businesses receive ample assistance through these programs, a change to the size standard may not be appropriate. Since the SBA

reviewed the health services size standards primarily because of the concerns about the application of the size standard to Federal procurement, the proposed rule reviews Federal contract awards to small businesses to assess the program impact of proposed size standards.

The SBA has established “anchor” size standards of 500 employees for the manufacturing and mining industries and \$5 million for the nonmanufacturing industries. If the structural characteristics of an industry are significantly different from the average characteristics of industries with the anchor size standard, a size standard higher or lower than the anchor size standard may be supportable. For the industries under review in this proposed rule, the SBA compares the characteristics of the five evaluation factors for each industry to the average characteristics of the nonmanufacturing industries which have the anchor size standard of \$5 million (hereafter referred to as the nonmanufacturing anchor group). If the characteristics of an industry are similar to the average characteristics of the nonmanufacturing anchor group, then the anchor size standard of \$5 million is considered an appropriate size standard for that industry. If, however, the industry characteristics significantly differ from the average characteristics of the nonmanufacturing anchor group, then a size standard above or below \$5 million may be appropriate.

Evaluation of Industry Size Standards

The SBA analyzed the size standards for the health services industries by comparing their industry characteristics to the average characteristics of the nonmanufacturing anchor group. A review of these factors leads to a recommended size standard for each industry. The five tables below show the characteristics for each industry and for the nonmanufacturing anchor group. SBA examined economic data on these industries from a special tabulation of the 1992 Economic Census prepared on contract by the U.S. Bureau of the Census, asset data from Dun and Bradstreet's 1998 Industry Norms and Key Business Ratios, and Federal contract award data for fiscal years 1996 and 1997 from the Federal Procurement Data Center.

Offices and Clinics of Health Practitioners (SIC Codes 8011–8049):

The SBA is retaining the \$5 million size standard for six (SIC codes 8021, 8031, 8041, 8042, 8043, 8049) of the seven industries comprising offices and clinics of health practitioners. For the

seventh industry, Offices and Clinics of Doctors of Medicine (SIC code 8011), the SBA proposes a \$7.5 million size standard. Table 1 shows the characteristics of these seven industries.

TABLE 1.—INDUSTRY CHARACTERISTICS OF OFFICES AND CLINICS OF HEALTH PRACTITIONERS AND THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size (mil. dol.)	Percent of industry sales by firms of			Average assets per firm (mil. dol.)	Four-firm concentration ratio	Percent of Gov't procurement dollars to small business
		<\$5Mil.	<\$10Mil.	<\$25Mil.			
Nonmanufacturing Anchor Group	0.85	51.0	61.0	67.0	0.5	15.0	NA
Doctors of Medicine (8011)	0.83	67.7	75.3	81.3	0.3	5.2	9.4
Dentists (8021)	0.34	98.3	99.1	99.7	0.1	0.3	77.3
Doctors of Osteopathy (8031)	0.44	97.0	99.1	99.2	0.3	0.8	(*)
Chiropractors (8041)	0.22	99.6	99.9	99.9	0.1	0.4	(*)
Optometrists (8042)	0.32	95.5	97.6	99.9	0.1	1.2	(*)
Podiatrists (8043)	0.26	99.2	99.9	99.9	0.2	1.0	(*)
Health Practitioners, N.E.C. (8049)	0.30	90.3	94.8	96.5	0.1	1.2	75.6

NA = not available.

*Insignificant amount of Federal contracting.

Except for Offices and Clinics of Doctors of Medicine (SIC 8011), the characteristics of each of the industries of Offices and Clinics of Health Practitioners provide no basis for a higher size standard than \$5 million. Specifically, the average firm size of these industries is significantly below the average firm size of the nonmanufacturing anchor group. The percent of industry sales by firms of \$5 million and less, \$10 million and less, and \$25 million and less shows that small firms dominate these industries. The low four-firm concentration ratios also indicate that small businesses are highly competitive in these industries. For the two industries that have a significant amount of Federal contracting activity, Offices and Clinics of Dentists and Health Practitioners Not Elsewhere Classified (SIC codes 8021 and 8049), small clinics and offices received more than three-fourths of the dollar value of Federal contracts, which also indicates no need for a change to the current size standards. The Federal procurement competition factor was not evaluated for the other four industries since the amount of Federal contracts awarded in fiscal years 1996–97 is

insufficient to draw any meaningful conclusions on effect of the size standard on small business participation in Federal procurement.

A \$7.5 million size standard is proposed for the industry of Offices and Clinics of Doctors of Medicine (SIC code 8011). Four of the five evaluation factors are similar to the average characteristics of the nonmanufacturing anchor group and do not support a change to the current size standard. However, the share of Federal contracts awarded to small Offices and Clinics of Doctors of Medicine, supports an increase to the current size standard. Small Offices and Clinics of Doctors of Medicine received only 9.4 percent of the dollar value of Federal contracts awarded during fiscal years 1996–97. A review of Federal contract awards for the services of medical doctors reveals a significant amount of contract awards to non-business entities and institutional providers such as Native American tribes, educational institutions, and hospitals. The large discrepancy between the participation of small businesses in the Federal market versus the share of total industry revenues obtained by small Offices and Clinics of

Doctors of Medicine occurs because of the non-business and institutional providers competing for and obtaining Federal contracts for physician care. To strengthen the abilities of these small businesses to compete with these other types of providers, the SBA proposes a \$7.5 million size standard. This should allow existing small businesses to grow to a more substantial size without losing their small business status. The SBA expects that a size standard moderately higher than the current size standard will help small firms in this industry to compete for Federal contracts without including businesses so large that they could harm the opportunities of much smaller-sized small businesses to compete successfully for Federal contracts.

Nursing and Personal Care Facilities (SIC Codes 8051, 8052, and 8059)

The three industries comprising nursing and personal care facilities display sufficiently different industry characteristics to warrant different size standards. Table 2 shows the industry characteristics. A discussion of the size standard for each industry follows.

TABLE 2.—INDUSTRY CHARACTERISTICS OF NURSING AND PERSONAL CARE FACILITIES AND THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size (mil. dol.)	Percent of industry sales by firms of			Average assets per firm (mil. dol.)	Four-firm concentration ratio	Percent of Gov't procurement dollars to small business
		<\$5Mil.	<\$10Mil.	<\$25Mil.			
Nonmanufacturing Anchor Group	0.85	51.0	61.0	67.0	0.5	15.0	NA
Skilled Nursing Care Facilities (8051)	5.57	25.8	42.7	57.3	4.2	11.9	29.1
Intermediate Care Facilities (8052)	2.36	46.8	61.3	76.8	2.1	6.7	30.8

TABLE 2.—INDUSTRY CHARACTERISTICS OF NURSING AND PERSONAL CARE FACILITIES AND THE NONMANUFACTURING ANCHOR GROUP—Continued

Category	Average firm size (mil. dol.)	Percent of industry sales by firms of			Average assets per firm (mil. dol.)	Four-firm concentration ratio	Percent of Gov't procurement dollars to small business
		<\$5Mil.	<\$10Mil.	<\$25Mil.			
Nursing and Personal Care Facilities, N.E.C. (8059)	1.04	52.8	70.6	82.8	0.7	5.9	25.8

NA = not available.

The characteristics of Skilled Nursing Facilities (SIC code 8051) support a size standard of \$10 million. Four of the five evaluation factors—average firm size, average assets per firm, distribution of sales by firm size, and competition in Federal procurement—support a size standard higher than \$5 million.

Average firm size is over six times higher than the average firm size of the nonmanufacturing anchor group, indicating that a size standard among SBA's highest receipts-based size standards (\$20 million to \$25 million) may be appropriate for this industry. Similarly, average assets per firm are more than eight times higher than that of the nonmanufacturing anchor group, and supports the highest receipts-based size standard. The distribution of sales by firm size supports a size standard higher than \$5 million, but much lower than \$25 million. The level of small business participation in Federal contracting (29.1 percent) also supports a small increase to the size standard. The four-firm concentration ratio is the only factor that does not support a size standard above \$5 million. Although two factors support a very high receipts-based size standard, that level would not be a reasonable size standard since businesses with sales of \$25 million or less capture well over half of total industry sales. In consideration of these factors taken together, the SBA proposes a \$10 million size standard for this industry.

The characteristics of the Intermediate Care Facilities industry (SIC code 8052) support a size standard of \$7.5 million. The average size firm in this industry is

over twice the nonmanufacturing anchor group average and supports a size standard about twice the \$5 million anchor size standard. Average assets per firm is over four times the average for the nonmanufacturing group and supports a size standard among SBA's highest receipts-based size standards (\$20 million to \$25 million). The distribution of sales by firms in this industry supports a size standard at the anchor size standard of \$5 million. The four firm concentration ratio supports a size standard no higher than \$5 million. The difference between the level of small business participation in Federal contracting (30.8 percent) and the share of total industry revenues obtained by small businesses also indicates that a small increase to the size standard is appropriate to better take into consideration Federal contracting patterns. In consideration of each of these factors taken together, the SBA is proposing a \$7.5 million size standard for this industry.

The SBA is retaining the \$5 million size standard for the industry of Nursing and Personal Care Facilities, Not Elsewhere Classified (SIC code 8059). None of the industry factors reviewed support a size standard above the \$5 million since they are similar to those of the nonmanufacturing anchor group. A small increase to the size standard could be supported based on the percentage of Federal contracting dollars obtained by small business (25.8 percent). However, without any of the four evaluation factors pertaining to industry-wide characteristics also supporting an increase to the size

standard, the SBA is reluctant to increase a size standard above its current level based solely on the small business share of Federal contract dollars of an industry unless that share were significantly below the overall Federal small business share of 21 percent. Here, small businesses received about a quarter of Federal contract dollars in fiscal years 1996 and 1997.

Hospitals (SIC Codes 8062, 8063, and 8069)

The SBA proposes a \$25 million size standard for each of the three hospital industries—General Medical and Surgical Hospitals (SIC code 8062), Psychiatric Hospitals (SIC code 8063) and Specialty Hospitals (SIC code 8069). The industry data in Table 3 show that these industries are comprised predominately of large businesses, in which the average firm size and average asset size per firms are in the multimillion dollar levels and small hospitals under the \$5 million size standard account for one percent or less of industry revenues. Further, the low percentage of Federal contract dollars to small General and Surgical Hospitals (3.5 percent) supports a significant increase to the size standard for this industry. The four-firm concentration ratio is the only factor that does not support a size standard above \$5 million; however, the unique structure of the hospital industries renders this factor inconsequential. Accordingly, the SBA considers its highest receipts-based size standard of \$25 million appropriate for the three hospital industries.

TABLE 3.—INDUSTRY CHARACTERISTICS OF HOSPITALS AND THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size (mil. dol.)	Percent of industry sales by firms of			Average assets per firm (mil. dol.)	Four-firm concentration ratio	Percent of Gov't procurement dollars to small business
		<\$5 Mil.	<\$10 Mil.	<\$25 Mil.			
Nonmanufacturing Anchor Group	0.85	51.0	61.0	67.0	0.5	15.0	NA
General Medical and Surgical Hospitals (8062)	83.99	0.4	1.3	4.8	89.0	5.8	3.5
Psychiatric Hospitals (8063)	27.61	1.0	4.4	20.9	21.0	16.5	(*)

TABLE 3.—INDUSTRY CHARACTERISTICS OF HOSPITALS AND THE NONMANUFACTURING ANCHOR GROUP—Continued

Category	Average firm size (mil. dol.)	Percent of industry sales by firms of			Average assets per firm (mil. dol.)	Four-firm concentration ratio	Percent of Gov't procurement dollars to small business
		<\$5 Mil.	<\$10 Mil.	<\$25 Mil.			
Specialty Hospitals, Except Psychiatric (8069)	40.76	0.9	2.8	11.2	44.8	5.2	(*)

NA = not available.

* Insignificant amount of Federal contracting.

Medical and Dental Laboratories (SIC Codes 8071 and 8072)

The Medical Laboratory Industry (SIC code 8071) has significantly different characteristics from the Dental Laboratory Industry (SIC code 8072). These differing characteristics support different size standards for these two industries. Table 4 shows the characteristics of these two industries. The average size firm and average assets per firm of Medical Laboratories are two times or more than the nonmanufacturing anchor group

averages, and therefore, supports a twice the anchor size standard of \$5 million. The distribution of sales by firm size in this industry and the relatively low percent of the dollar value of Federal Government contract awards to small businesses support a size standard moderately above \$5 million. The four-firm concentration ratio is the only factor that does not support a size standard above \$5 million. In consideration of these factors, the SBA proposes a \$10 million size standard for this industry. The \$5 million size standard is being retained for Dental

Laboratories. None of the four of the evaluation factors related to industry structure support a size standard above \$5 million, since the characteristics are below those of the nonmanufacturing anchor group for each factor. The Federal procurement competition factor was not evaluated for this industry because the amount of Federal contracts awarded in fiscal years 1996–97 is insufficient to draw any meaningful conclusions on effect of the size standard on small business participation in Federal procurement.

TABLE 4.—INDUSTRY CHARACTERISTICS OF MEDICAL AND DENTAL LABORATORIES AND THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size (mil. dol.)	Percent of industry sales by firms of			Average assets per firm (mil. dol.)	Four-firm concentration ratio	Percent of Gov't procurement dollars to small business
		<\$5 Mil.	<\$10 Mil.	<\$25 Mil.			
Nonmanufacturing Anchor Group	0.85	51.0	61.0	67.0	0.5	15.0	NA
Medical Laboratories (8071)	2.01	29.7	38.4	NA	1.0	26.5	18.3
Dental Laboratories (8072)	0.26	91.2	95.3	99.9	0.1	4.7	(*)

NA = not available.

* Insignificant amount of Federal contracting.

Miscellaneous Health & Allied Services, Not Elsewhere Classified (SIC Codes, 8082, 8092, 8093 and 8099)

The four miscellaneous health and allied services industries display

differing characteristics. Table 5 shows the characteristics of these four

industries. A discussion of the size standard for each industry follows.

TABLE 5.—INDUSTRY CHARACTERISTICS OF THE MISCELLANEOUS HEALTH & ALLIED SERVICES (NOT ELSEWHERE CLASSIFIED) INDUSTRIES AND THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size (mil. dol.)	Percent of industry sales by firms of			Average assets per firm (mil. dol.)	Four-firm concentration ratio	Percent of Gov't procurement dollars to small business
		<\$5Mil.	<\$10Mil.	<\$25Mil.			
Nonmanufacturing Anchor Group	0.85	51.0	61.0	67.0	0.5	15.0	NA
Home Health Care Services (8082)	2.55	27.4	36.7	52.4	0.9	13.9	(*)
Kidney Dialysis Centers (8092)	5.59	23.5	30.1	3.75	4.3	46.6	(*)
Specialty Outpatient Facilities, N.E.C. (8093)	1.24	50.6	67.5	78.7	0.8	2.9	4.3
Health and Allied Services N.E.C. (8099)	1.28	37.7	48.8	67.1	0.7	9.1	7.6

NA=not available.

* Insignificant amount of Federal contracting.

Two factors support a size standard higher than \$5 million for the Home Health Care Services industry. The average size firm in this industry is three times the nonmanufacturing anchor group average and supports a size standard about double the anchor size standard. Also, the distribution of sales by firm size in this industry and the average assets per firm support a size standard about twice the anchor size standard. Average assets per firm and the four firm concentration ratio do not support a size standard above \$5 million. The Federal procurement competition factor was not evaluated for this industry since the amount of Federal contracts awarded in fiscal years 1996–97 is insufficient to draw any meaningful conclusions on effect of the size standard on small business participation in Federal procurement. In consideration of these evaluation factors, the SBA is proposing a \$10 million size standard for this industry.

The SBA proposes a size standard of \$25 million for Kidney Dialysis Centers (SIC code 8092). All four industry structure factors support establishing a size standard at or near the SBA's highest receipts-based size standard (\$25 million). Average firm size and average assets per firm are between six to eight times the average of the nonmanufacturing anchor group. The concentration ratio shows that almost half of industry sales are by the four largest firms in the industry; and the distribution of sales by firm size shows that smaller firms in the industry account for less than one-third of total industry sales. The Federal procurement competition factor was not evaluated for this industry since the amount of Federal contracts awarded in fiscal years 1996–97 is insufficient to draw any meaningful conclusions on effect of the size standard on small business participation in Federal procurement. Accordingly, the SBA is proposing a \$25 million size standard for this industry.

SBA proposes a \$7.5 million size standard for Specialty Outpatient Facilities (SIC 8093) and for Health and Allied Services, Not Elsewhere Classified (SIC code 8099). Four of the evaluation factors do not support a higher size standard than \$5 million since their levels are similar to those of the nonmanufacturing anchor group averages. However, the Federal procurement competition factor strongly supports a higher size standard for these two industries. During fiscal years 1996–97, small businesses in the industries of Specialty Outpatient Facilities and Health and Allied Services, Not Elsewhere Classified, received only 4.3 percent and 7.6

percent, respectively, of total dollar value of Federal contract awards. A review of Federal contract awards in these two industries shows that a significant amount of Federal contracts were awarded to non-business entities and institutional providers (Native American tribes, educational institutions, and hospitals). The large discrepancy between the share of Federal contracts awarded to small businesses and the share of total industry revenues obtained by small businesses may be attributed primarily to non-business and institutional providers competing for and obtaining Federal contracts under these two SIC codes. As with the proposed size standard for Offices and Clinics of Doctors of Medicine, the SBA believes that a higher size standard will strengthen small businesses by allowing them to become more competitive and to grow to a more substantial size without losing small business status. The SBA expects that a size standard moderately higher than the current size standard will help small businesses to compete for Federal contracts without harming smaller-size small businesses which also compete for Federal contracts.

Dominant in Field of Operation

Section 3(a) of the Small Business Act defines a small concern as one that is: (1) Independently owned and operated, (2) not dominant in its field of operation, and (3) within detailed definitions or size standards established by the SBA Administrator. The SBA considers as part of its evaluation of a size standard whether a business concern at or below a recommended size standard would be considered dominant in its field of operation. This assessment generally considers the market share of firms at a proposed size standard or other factors that may show whether a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged.

The SBA has determined that no firm at or below the proposed size standards for each of the health services industries would be of a sufficient size to dominate its field of operation. The largest firm at the proposed size standard level generates less than 0.11 percent of total industry sales in every industry with a proposed size standard revision. This level of market share effectively precludes any ability for a firm to exert a controlling effect on an industry.

Alternative Size Standards

The SBA considered as an alternative size standard retaining a common size

standard for all nineteen health services under Major Group 80. As the industry evaluations show, significant differences exist among the structures of the various health services industries. The SBA believes that these differences are significant, and warrant different size standards for these industries. These differences are especially apparent for the industries in the Hospitals and Miscellaneous Health and Allied Services (Not Elsewhere Classified) industry groups. Thus, a common size standard for all nineteen industries would not adequately identify all small businesses engaged in a variety of health services.

The SBA welcomes public comments on its proposed size standards for the health services industries. Comments on alternatives to the proposal, including the common size standard discussed above, should present the reasons that make them preferable to the proposed size standards.

The SBA is particularly interested in comments on the proposed \$7.5 million size standards for the Offices and Clinics of Doctors of Medicine (SIC 8011), Specialty Outpatient Facilities (SIC 8093) and Health and Allied Services, Not Elsewhere Classified (SIC 8099). As discussed above, the SBA proposal to increase size standards for these industries is based on existing small business participation in Federal contracting. Comments are welcome on this single factor providing a sufficient basis for increasing these industries' size standards. A related question concerns whether the proposal to increase size standards in these industries will be effective. If the size standards are increased, would small businesses in these industries have more opportunities in the Federal procurement market or are there other factors, such as the types of health services the Federal Government purchases, that would continue to prevent small businesses from getting a larger proportion of Federal contracts? In addition, if the size standards are increased will the smallest firms be able to compete effectively for Federal contracts? Another related concern is that the proposed size standards for these industries would also be used for other program purposes (e.g., regulatory flexibility analyses as performed for regulatory actions, state and local procurement programs, and SBA financial assistance programs), not just for defining a small business for Federal procurement programs. For those industries where Federal procurement has influenced our selection of a size standard, is the proposed size standard still considered reasonable for other

program uses or would it be inappropriate for other applications? These are important issues in which SBA would appreciate comments.

SBA is also concerned whether different business relationships in the Health Services Industries, such as networks and alliances, have any implications for its small business size standards. In calculating the size of a firm, a firm must include the revenues of all its affiliates. Affiliation is defined in 13 CFR 121.103 and basically means that any firm that controls or has the power to control another is considered an affiliate. Is SBA's definition of affiliation still adequate under these new and varied arrangements? If not, how should SBA treat these arrangements to ensure a workable small business size standard?

Finally, SBA notes that small businesses in the Health Services Industries receive a substantial portion of their revenues from Medicare and Medicaid reimbursement payments. SBA has proposed size standards based on an analysis of industry data from all sources of revenues (which includes Medicare and Medicaid revenues as well as all other sources of revenues), and for some industries, on how small businesses have performed in the Federal market. However, as explained above, competition for Federal procurements was not evaluated for several industries because the amount of total Federal contract dollars awarded within an industry was "insufficient to draw any meaningful conclusions on the effect of the size standard on small business participation in Federal procurement." However, in these cases there may have been significant Medicare/Medicaid revenues. For three industries, the proposed size standard was based solely on the basis of competition for Federal procurements. Since Medicare and Medicaid expenditures comprise a large proportion of industry revenues, should SBA consider the distribution of these types of revenues to small businesses in evaluating size standards for the Health Services Industries? If so, in what ways should Medicare and Medicaid revenues affect size standards and what data exist that SBA could use to evaluate different size standards? Also, are there any other aspects of the Medicare and Medicaid programs pertaining to small businesses that should influence SBA's assessment of the Health Services size standards? If so, how and what are the implications on these size standards?

Compliance With Executive Orders 12612, 12788, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601-12), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The SBA certifies that this rule, if adopted, would be a significant rule within the meaning of Executive Order 12866. Immediately below, the SBA sets forth the analysis required by E.O. 12866 and the Regulatory Flexibility Act for this proposed rule.

(1) Description of Entities to Which the Rule Applies

The SBA estimates that 4,700 additional firms would be considered small as a result of this rule, if adopted. These firms would be eligible to seek available SBA assistance provided that they meet other program requirements. Of the additional firms gaining eligibility, more than half would be Offices and Clinics of Doctors of Medicine, and Skilled Nursing Care Facilities. Firms becoming eligible for SBA assistance as a result of this rule cumulatively generate more than \$50 billion in annual sales; total sales in all eleven industries receiving a size standards increase are \$540 billion.

(2) Description of Potential Benefits of the Rule

The most significant benefits to businesses that would obtain small business status as a result of adoption of this rule are: (1) Eligibility for the Federal Government's procurement preference programs for small businesses, 8(a) firms, small disadvantaged businesses and small businesses located in Historically Underutilized Business Zones; and (2) eligibility for SBA's financial assistance programs. The SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth \$220 million per year under the small business set-aside program, the 8(a) program or unrestricted contracts. This represents approximately seven percent of the \$3.2 billion the Federal Government awarded in these eleven health services industries during fiscal year 1997. The added competition for many of these procurements also would likely result in a lower price to the government for procurements set aside for small businesses, but the SBA is not able to quantify this benefit. Under the SBA's 7(a) Guaranteed Loan Program and Certified Development Company (504) Program, SBA estimates that \$4 million in new loans could be made to these newly defined small businesses. During fiscal year 1997, SBA guaranteed \$683 million in loans to these two

financial programs for firms in the health services industries. Because of the size of the loan guarantees, most loans are made to small businesses well below the size standard. For example, more than 95 percent of the 1997 loans were made to firms with less than \$3.5 million in revenues. Thus, increasing the size standard will likely result in only a small increase in small business guaranteed loans to businesses in these health services industries.

(3) Description of Potential Costs of the Rule

The changes in size standards as they affect Federal procurement is not expected to add any significant costs to the Government. As a matter of policy, procurements may be set aside for small business or under the 8(a) program only if awards are expected to be made at reasonable prices. Similarly, the rule should not result in any added costs associated with the 7(a) and 504 loan programs. The amount of lending authority SBA can make or guarantee is established by appropriation.

The competitive effects of size standard revisions differ from those normally associated with other regulations which typically burden smaller firms to a greater degree than larger firms in areas such as prices, costs, profits, growth, innovation, and mergers. The change to size standards is not anticipated to have any appreciable effect on any of these factors, although small businesses, 8(a) firms, or small disadvantaged businesses much smaller than the size standard for their industries may be less successful in competing for some Federal procurement opportunities due to the presence of larger, newly defined small businesses. On the other hand, with more and larger small businesses competing for small business set-aside and 8(a) procurements, contracting agencies are likely to increase the overall number of contracting opportunities available under these programs. The new size standards, if adopted, would not impose a regulatory burden because they do not regulate or control business behavior.

(4) Description of the Potential Net Benefits From the Rule

Based on the above discussion, the SBA believes that, because the potential costs of this rule are minimal, the potential net benefits would be approximately equal to the total potential benefits. Most of the impact of this rule will be on Federal procurement.

(5) Description of Reasons Why This Action Is Being Taken and Objectives of Rule

The SBA has provided in the supplementary information a statement of the reasons why these new size standards should be established and a statement of the reasons for and objectives of this rule.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch.35, the SBA certifies that this rule would not impose new reporting or record keeping requirements, other than those required of SBA. For purposes of Executive Order 12612, the SBA certifies that this rule

does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12778, the SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of this order.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, SBA proposed to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation of part 121 continues to read as follows:

Authority: Pub. L. 105–135 sec. 601 et. seq., 111 Stat. 2592; 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

2. Amend (121.201, in the table “Size Standards by SIC Industry”, under the heading DIVISION I—SERVICES, to add the following entries after “7822 Motion Picture and Video Tape Production” to read as follows:

8011	Offices and Clinics of Doctors of Medicine	\$7.5
8051	Skilled Nursing Care Facilities	10.0
8052	Intermediate Care Facilities	7.5
8062	General Medical and Surgical Hospitals	25.0
8063	Psychiatric Hospitals	25.0
8069	Specialty Hospitals, Except Psychiatric	25.0
8071	Medical Laboratories	10.0
8082	Home Health Care Services	10.0
8092	Kidney Dialysis Centers	25.0
8093	Specialty Outpatient Facilities, N.E.C	7.5
8099	Health and Allied Services, N.E.C	7.5

Dated: April 28, 1999.

Aida Alvarez,
Administrator.

[FR Doc. 99–11080 Filed 5–3–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 99–AGL–25]

Proposed Modification of the Legal Description of the Class D Airspace; Cincinnati, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the legal description of the Class D airspace at Cincinnati Municipal Airport Lunken Field, OH. The legal description for this airspace includes a reference to excluding that airspace within the Cincinnati/Northern Kentucky International Airport, KY, Class C airspace area. This Class C airspace designation is being revoked, and effective at 0901 UTC, July 15, 1999, a Class B airspace area for the Cincinnati/Northern Kentucky International Airport will be established (Airspace Docket No. 93–AWA–5, final rule published in the **Federal Register** on November 30, 1998, 63 FR 65972, effective date delayed on December 14,

1998, 63 FR 68675, and confirmation of effective date on April 12, 1999, 64 FR 17934). The reference to Class C airspace in the legal description for the Class D airspace at Cincinnati Municipal Airport Lunken Field will be invalid, and this action changes that reference to Class B airspace.

DATES: Comments must be received on or before June 21, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–25, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views,

or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

“Comments to Airspace Docket No. 99–AGL–25.” The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.