

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
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Sector 72—Accommodation and Food Services			
Subsector 721—Accommodation			
721110	Hotels (except Casino Hotels) and Motels	\$30.0	
721120	Casino Hotels	30.0	
721191	Bed-and-Breakfast Inns	7.0	
721199	All Other Traveler Accommodation	7.0	
721211	RV (Recreational Vehicle) Parks and Campgrounds	7.0	
721214	Recreational and Vacation Camps (except Campgrounds)	7.0	
721310	Rooming and Boarding Houses	7.0	
Subsector 722—Food Services and Drinking Places			
722110	Full-Service Restaurants	7.0	
722211	Limited-Service Restaurants	10.0	
722212	Cafeterias	25.5	
722213	Snack and Nonalcoholic Beverage Bars	7.0	
722310	Food Service Contractors	35.5	
722320	Caterers	7.0	
722330	Mobile Food Services	7.0	
722410	Drinking Places (Alcoholic Beverages)	7.0	

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Dated: October 9, 2009.

Karen G. Mills,
Administrator.

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SMALL BUSINESS ADMINISTRATION**13 CFR Part 121****RIN: 3245-AF69****Small Business Size Standards: Retail Trade**

AGENCY: U.S. Small Business Administration.

ACTION: Proposed Rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to increase small business size standards for 48 industries in North American Industry Classification System (NAICS) Sector 44-45, Retail Trade, and retain the current standards for the remaining 28 industries in the Sector. As part of its ongoing initiative to review all size standards, SBA has evaluated each industry in Sector 44-45 to determine whether the existing size standards should be retained or revised. This proposed rule is one of a series of proposals that will examine industries grouped by an NAICS Sector. As part of this series of proposed rules SBA is publishing concurrently in this issue of the **Federal Register** a proposed rule to modify small business size standards in Sector 72, Accommodation and Food Services, and in Sector 81, Other Services. SBA has established its "Size

Standards Methodology" and published elsewhere in this issue of the **Federal Register** a notice of its availability on SBA's Web site at <http://www.sba.gov/size>. SBA has applied "Size Standards Methodology" to this proposed rule.

DATES: SBA must receive comments to this proposed rule on or before December 21, 2009.

ADDRESSES: You may submit comments, identified by RIN 3245-AF69 by one of the following methods: (1) Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments; or (2) Mail/Hand Delivery/Courier: Khem R. Sharma, Chief, Size Standards Division, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416.

SBA will post all comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information to U.S. Small Business Administration, Khem R. Sharma, Chief, Size Standards Division, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416, or send an e-mail 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 the information and make the final determination of whether it will publish the information or not.

FOR FURTHER INFORMATION CONTACT: Carl J. Jordan, Program Analyst, Size Standards Division, (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance programs, SBA establishes small business definitions (referred to as size standards) for private sector industries in the U.S. SBA's existing size standards use two primary measures of business size—receipts and number of employees. Financial assets, electric output, and refining capacity are used as size measures for a few specialized industries. In addition, SBA's Small Business Investment Company (SBIC) and the Certified Development Company (CDC) Programs determine small business eligibility using either the industry based size standards or net worth and net income size standards. Currently, SBA's size standards consist of 45 different size levels, covering 1,141 NAICS industries and 17 sub-industry activities. Of these size levels, 32 are based on average annual receipts, eight are based on number of employees, and five are based on other measures. In addition, SBA has established 11 other size standards for its financial and procurement programs.

Over the years, SBA has received comments that its size standards have not kept up with changes in the economy and, in particular, that they do not reflect the changes in the Federal contracting marketplace. The last overall review of size standards occurred during the late 1970s to early 1980s. Since then, most reviews of size standards have been limited to in-depth analyses of specific industries in response to requests from the public and Federal agencies. SBA also makes

periodic inflation adjustments to its monetary based size standards. The latest inflation adjustment to size standards was published in the **Federal Register** on July 18, 2008 (73 FR 41237).

The evaluation of the size standards in the Retail Trade is also necessary to account for changes in the industry classification. The development of NAICS in 1997 included a significant change in the definition of industries in the Retail and Wholesale Trade Sectors. Many businesses engaged in retail trade activities that had been classified in the Wholesale Trade Sector under the earlier Standard Industrial Classification (SIC) System were reclassified into the Retail Trade Sector under NAICS (see NAICS Clarification Memorandum No. 1, "NAICS Sector 42—Wholesale Trade Scope and Implementation Guidelines for U.S. Statistical Agencies"). Furthermore, the NAICS codes used in the 2002 Economic Census included a different set of businesses in the Retail Trade Sector than that in the 1997 Economic Census. For example, the 2002 NAICS included 11 new industries in Retail Trade. These changes in the industry classification have led SBA to evaluate if the existing size standards for the Retail Trade industries are appropriate. Most of the Retail Trade size standards have not been reviewed since the 1980s, and many have not been changed since the 1960s, except for periodic adjustments for inflation.

SBA recognizes that industrial changes over time have rendered existing size standards for some industries no longer supportable by current data. Accordingly, SBA has begun a comprehensive review of its size standards to ensure that existing size standards have supportable bases and, where necessary, to make revisions to current size standards. This proposed rule affords the public an opportunity to review and comment on the data and methodology SBA uses to evaluate and revise a size standard.

Rather than review all size standards at one time, SBA believes that a more manageable approach would be to examine a group of related industries within an NAICS Sector in phases. Except for manufacturing, an NAICS Sector generally consists of 25 to 75 industries. Once a review of size standards for industries within an NAICS Sector is completed, SBA will issue a proposed rule for those industries in which the analysis of industry data supports a change to the existing size standards. SBA expects to complete a review of all NAICS Sectors in two years.

Below is a discussion of SBA's size standards methodology, including

analyses of industry structure, Federal procurement trends and other factors for industries within Sector 44–45, Retail Trade, and the impact of the proposed revisions to size standards on Federal small businesses assistance.

Size Standards Methodology

SBA has recently developed a "Size Standards Methodology" that it uses for developing and modifying size standards when necessary. SBA has published the document which is available at <http://www.sba.gov/size>. SBA does not apply all features of its "Size Standards Methodology" to all cases because not all are appropriate. However, SBA does make it available in its entirety for parties with an interest in SBA's overall approach to evaluating, establishing and modifying small business size standards. SBA always explains its analysis in the proposed and final rules that relate to size standards for specific industries. The following discussion is of SBA's size standard analysis applied to industries in Sector 44–45, Retail Trade.

SBA welcomes comments from the public on a number of issues. SBA is aware that different choices among size standards can involve complex tradeoffs among relevant variables; SBA invites comments on how to identify and weigh those variables. Suggestions are invited on alternative methodologies for determining small businesses; on how these size standards affect competition in general and within the specific industry; on alternative or additional factors that SBA should consider; on whether SBA's approach to small business size standards makes sense in the current economic environment; on whether SBA's using anchor size standards is appropriate in the current economy; on whether there are gaps in SBA's methodology because of the lack of comprehensive data; and on alternative datasets SBA should consider for a specific sector.

Congress granted SBA's Administrator discretion to establish detailed small business size standards (15 U.S.C. 632(a)(2)). Section 3(a)(3) of the Small Business Act (15 U.S.C. 632 (a)(3)) requires that size standards vary by industry to the extent necessary to reflect differing characteristics among various industries. Accordingly, the economic structure of an industry serves as the underlying basis for developing and modifying small business size standards. By examining data on economic characteristics defining the industry structure (as described below), the small business segment of an industry is identified. In addition to the industry structure, SBA also takes into

consideration its program objectives and whether a size standard successfully excludes businesses that are dominant in the industry. Discussed below is SBA's analysis of the economic characteristics of each industry in Sector 44–45, Retail Trade, the impact of proposed size standards on SBA programs, and the evaluation of whether a revised size standard would exclude dominant firms in the industry from being considered as small.

Industry Analysis

For the current comprehensive size review, SBA has established three "base" or "anchor" size standards that apply to most industries—\$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 (except for Wholesale Trade), and 100 employees for industries in the Wholesale Trade Sector. SBA established 500 employees as the anchor size standard for the manufacturing industries at SBA's inception in 1953 and shortly thereafter established a receipts based anchor size standard of \$1 million in average annual receipts for the nonmanufacturing industries. The receipts based anchor size standard has been adjusted periodically for inflation. The inflation adjustment over the years has increased it to \$7.0 million today. Since 1986, all industries in the Wholesale Trade Sector have had the 100-employee size standard for non-procurement SBA programs. The size standard for a non-manufacturer in Federal procurement is 500 employees. A procuring agency must classify a procurement for supplies with a manufacturing NAICS code, not a wholesale or retail NAICS code. 13 CFR 121.402(b).

These long standing anchor size standards have gained legitimacy through practice and general public acceptance. An anchor size standard 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, that could require that the number of size standards be as high as the number of industries for which SBA establishes size standards. SBA presumes an anchor size standard is appropriate for a particular industry unless that industry displays significantly different economic characteristics, as compared

to the characteristics of industries with the anchor size standard, thereby suggesting a need for revision to an existing size standard.

When evaluating a size standard, the economic characteristics of a specific industry under review are compared to the average characteristics of industries with one of the three anchor size standards (referred to as “anchor comparison group”) to assess industry structure and to determine whether the industry displays significant differences relative to the industries in the anchor size standard 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 would be considered appropriate for that industry. SBA will consider adopting a size standard below the anchor size standard only 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, a size standard higher than the anchor size standard may be considered 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 the level of a size standard above the anchor size standard, the characteristics of a second comparison group are analyzed. For industries with receipts based size standards, SBA has developed a second comparison group consisting of industries with the highest levels of receipts based size standards. The size standards for this group of industries range from \$23 million to \$35.5 million in average receipts, with the weighted average size standard for the group equaling \$29 million. SBA refers to this comparison group as the “higher level receipts based size standard group.”

The primary factors that SBA evaluates in analyzing the structural characteristics of an industry include average firm size, startup costs and entry barriers, industry competition, and distribution of firms by size (13 CFR 121.102(a) and (b)). SBA also evaluates the possible impact of both existing and revised size standards on Federal contracting assistance to small

businesses as an additional primary factor. SBA generally considers these five factors as the most important ones for establishing or revising a size standard for an industry. However, SBA will also consider and evaluate other information that it believes relevant to the decision on a size standard for a particular industry (such as technological changes, growth trends, SBA financial assistance and other program factors, *etc.*). Public comments on a proposed size standard rule also provide important additional information. SBA thoroughly reviews all public comments before making a final decision on its proposed size standard. Below is a brief description of each of the five primary evaluation factors. A more detailed description of this analysis is provided in “SBA Size Standards Methodology” paper which is available at <http://www.sba.gov/size>.

1. *Average firm size.* SBA computes two measures of average firm size: simple average firm size and weighted average firm size. For industries with receipts based standards (including Retail Trade industries), the simple average firm size is calculated as total receipts of an industry divided by the total number of firms in that industry. The weighted average firm size is computed as the sum of weighted simple average firm size in different receipts size classes where weights are the shares of total industry receipts for respective size classes. The simple average firm size weighs all firms within an industry equally regardless of their size. The weighted average overcomes that limitation by giving more weights to larger firms.

If the average firm size of an industry under review is significantly higher than the average firm size of industries in the anchor comparison industry group, this would 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 would be a basis to adopt the anchor size standard or, in rare cases, a standard lower than the anchor.

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

levels of capital requirements for new entrants to an industry.

SBA calculates the average assets size within a particular industry by applying the sales to total assets ratios from the Risk Management Association’s Annual Statement Studies, 2006–2008 to the average receipts size of firms in that industry. An industry with a significantly higher level of average assets size than that of the anchor comparison group is likely to have higher startup costs, which would support a size standard higher than the anchor size standard. Conversely, if the industry has a significantly smaller average assets size compared to the anchor comparison group, the anchor size standard, or in rare cases one lower than the anchor, would be considered appropriate.

3. *Industry competition.* Industry competition is generally assessed by measuring the share of total industry receipts obtained by firms that are among the largest in an industry. In this proposed rule, SBA evaluates the share of industry receipts generated by the four largest firms in the industry. This is referred to as the “four-firm concentration ratio.” SBA then compares the four-firm concentration ratio for an industry under review to the average four-firm concentration ratio for industries in the anchor comparison group. If a significant share of economic activity within the industry is concentrated among a few relatively large companies, SBA would establish a size standard relatively higher than the anchor size standard. SBA would not consider the four-firm concentration ratio as an important factor in assessing a size standard if its value for an industry under review is less than 40 percent. For industries in which the four largest firms account for 40 percent or more of an industry’s total receipts, SBA examines the average size of the four largest firms in determining a size standard.

4. *Distribution of firms by size.* SBA examines the shares of industry total receipts accounted for by firms of different receipts and employment size classes in an industry. This is an additional factor SBA evaluates in assessing competition within an industry. If the preponderance of an industry’s economic activity is attributable to smaller firms, this would indicate that small businesses are competitive in that industry and supports adopting the anchor size standard. A size standard higher than the anchor size standard would be supported for an industry in which the distribution of firms indicates that most

of the economic activity is concentrated among the larger firms.

Concentration among firms is a measure of inequality of distribution. To evaluate the degree of inequality of distribution within an industry, SBA computes the Gini coefficient by constructing the Lorenz curve. The Gini coefficient values vary between zero and one. If receipts are distributed perfectly equally among all the firms in an industry, the value of the Gini coefficient would equal to zero. If an industry's total receipts are attributed to a single firm, the Gini coefficient would equal to one.

SBA compares the degree of inequality of distribution for an industry under review with that for industries in the anchor comparison group. If an industry shows a higher degree of inequality of distribution (*i.e.*, higher Gini coefficient) compared to industries in the anchor comparison industry group this would, all else being equal, warrant a higher size standard than the anchor. Conversely, for industries with similar or more equal distribution (*i.e.*, similar or lower Gini coefficient values) than the anchor group, the anchor standard, or in some cases a standard lower than the anchor, would be adopted.

5. *Impact on SBA programs.* SBA examines the possible impact a size standard change may have on the level of Federal small business assistance. This assessment most often focuses on the share of Federal contracting dollars awarded to small businesses in the industry in question. In general, if the share of Federal contracting dollars awarded to small businesses in an industry that receives a significant amount of Federal assistance is significantly less than the small business share of the industry's total receipts, a justification would exist for considering a size standard higher than the existing size standard. The disparity between the small business Federal market share and industry-wide share may be attributed to a variety of reasons, such as extensive administrative and compliance requirements associated with Federal contracts, the different skill set required on Federal contracts as compared to typical commercial contracting work, and the size of contracting requirements of Federal customers. These, as well as other factors, are likely to influence the type of firms within an industry that compete for Federal contracts and, hence, the firms receiving such contracts are expected to possess different characteristics than the average characteristics for all firms in that industry. By comparing the small

business Federal contracting share with the industry-wide small business share, SBA includes in its size standards analysis the latest Federal contracting trends. This analysis may indicate a size standard larger than the current standard.

For this proposed rule, SBA considered Federal procurement trends in the size standards analysis only if (1) the small business share of Federal contracting dollars is at least 10 percentage points lower than the small business share of total industry receipts and (2) the amount of total Federal contracting averages \$100 million or more during fiscal years 2006–2008 (the latest years for which complete Federal procurement data are available). SBA has selected these thresholds because they reflect a significant level of contracting in which a revision to a size standard may have an impact on expanding small business opportunities.

Another factor that SBA evaluates is the impact of a proposed size standard on SBA's loan programs, that is, the volume of SBA guaranteed loans within an industry and the size of firms obtaining those loans. This factor is examined to assess whether the existing or the proposed size standard for a particular industry may be restricting the level of financial assistance to small firms in that industry. If the analysis shows a reduction in financial assistance to small businesses, a higher size standard would be supportable. If small businesses have already 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 in size than the existing size standard, consideration of this factor for determining the size standard may not be necessary.

Sources of Industry and Program Data

The primary source of data for SBA's industry analysis is a special tabulation of the 2002 Economic Census (*see* <http://www.census.gov/econ/census02/>) prepared by the U.S. Bureau of the Census (Census Bureau) for SBA. The special tabulation provides SBA with industry-specific data on the number of firms, number of establishments, number of employees, annual payroll and annual receipts of companies by the size of firm reporting the data to Census. That is, the data are by the size class of the total company; however, the data itself, within a particular size class, represents the company's total data in that industry only. The special tabulation enables SBA to evaluate average firm size, the four-firm

concentration ratio, and distribution of firms by receipts and employment size.

In some cases, where Census data were not available due to disclosure prohibitions, SBA either estimated missing values using available relevant data, or examined data at a higher level of industry aggregation, such as at the 2- or 3-digit NAICS level. In some instances, SBA had to base its analysis only on those factors for which data were available or missing values could be estimated. Data sources and estimation procedures SBA uses in its size standards analysis are documented in detail in the "SBA Size Standards Methodology" paper, which is available at <http://www.sba.gov/size>.

Sales to total assets ratios used to calculate average assets size are from the Risk Management Association's Annual Statement Studies, 2006–2008.

To evaluate Federal contracting trends, SBA examined Federal contract award data for fiscal years 2006–2008 from the U.S. General Service Administration's Federal Procurement Data System—Next Generation (FPDS–NG). SBA's internal data on its guaranteed loan programs for fiscal years 2006–2008 were analyzed to assess the impact on financial assistance to small businesses.

Dominant in Field of Operation

Section 3(a) of the Small Business Act (15 U.S.C. § 632(c)) defines a small business concern as one that is (1) independently owned and operated, (2) not dominant in its field of operation, and (3) within a specific small business definition or size standard established by the SBA Administrator. SBA considers as part of its evaluation of a size standard whether a business concern at a proposed size standard would be considered dominant in its field of operation. For this, SBA generally examines the industry's market share of firms at the proposed standard or other factors that may indicate whether a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged. If SBA's analysis indicates that a proposed size standard would include a dominant firm, a lower size standard would be considered to exclude the dominant firm from being defined as small.

Selection of Size Standards

To simplify size standards, for the ongoing comprehensive size standards review, SBA has proposed to select a size standard for an industry from a limited number of receipts based size standard levels. For many years, SBA

has been concerned about the complexity of determining small business status caused by a large number of varying receipts based size standards (*see* 69 FR 13130, March 4, 2004, and 57 FR 62515, December 31, 1992). Currently, there are 32 different levels of receipts based size standards, ranging from \$0.75 million to \$35.5 million, with many of those levels applying to one or just a few industries only. SBA believes that such a large number of variations with small variations are both unnecessary and difficult to justify analytically. Simplifying the administration of SBA's size standards to a fewer number of size standard levels will produce more common size standards for businesses operating in multiple related industries and greater consistency in the size standards among industries that are similar in their economic characteristics.

This proposed rule, therefore, applies one of eight receipts based size standards to each industry in Sector 44–45, Retail Trade. These eight “fixed” size standard levels are \$5 million, \$7 million, \$10 million, \$14 million, \$19 million, \$25.5 million, \$30.0 million and \$35.5 million. These eight receipts based size standard levels are established by taking into consideration the minimum, maximum, and the more commonly used receipts based size standards. Currently, the more commonly used receipts based size standards cluster around the following six levels—\$2.5 million to \$4.5 million, \$7 million, \$9.0 million to \$10 million, \$12.5 million to \$14.0 million, \$25.0 million to \$25.5 million, and \$33.5 million to \$35.5 million. SBA has selected \$7 million as one of eight fixed levels of receipts based size standards because this is also an anchor standard for receipts based standards. A lower or minimum receipts based size level is established at \$5 million. Excluding monetary standards for agriculture and those based on net commissions (such as real estate brokers and travel agents), \$5 million is in the close neighborhood of the current minimum receipts based standard of \$4.5 million. Among the

higher levels size clusters, \$10 million, \$14 million, \$25.5 million, and \$35.5 million are selected as other four levels of the fixed size standards. Because of a large gap between two of the size standard intervals, SBA has established intermediate levels of \$19 million between \$14 million and \$25.5 million, and \$30 million between \$25.5 million and \$35.5 million. These two intermediate size levels reflect roughly similar proportional differences between the two successive size standard levels.

In a further effort to simplify size standards, SBA may propose a common size standard for certain closely related group of industries. Although the size standard analysis may support a specific size standard level for each industry, SBA believes that establishing different size standards for closely related industries may not be appropriate. For example, in cases where many of the same businesses operate in the same two industries, establishing the common size standard would better reflect the industry marketplace than establishing separate size standards for each of those industries. This situation has led SBA to establish a common size standard for the information technology (IT) services industries (NAICS 541511, NAICS 541112, NAICS 541513 and NAICS 541519), even though the industry data might support a distinct size standard for each industry. Businesses engaged in IT related services typically perform activities in two or more other related industries. Whenever SBA proposes a common size standard for closely related industries it will provide a justification for that in the proposed rule.

Evaluation of Industry Structure

SBA has evaluated the structure of each industry in the Retail Trade Sector to assess the appropriateness of the current size standards. As described above, SBA compared data on the economic characteristics of each industry in that Sector to the average characteristics of industries in two comparison groups. The first comparison group is comprised of all

industries with \$7.0 million size standards—referred to as the “receipts based anchor comparison group.” Because the goal of SBA's size review is to assess whether a specific industry's size standard should be at or different from the anchor size standard, this is the most logical set of industries to group together for the industry analysis. In addition, this group includes a sufficient number of firms to provide a meaningful assessment and comparison of industry characteristics.

If the characteristics of an industry under review are similar to the average characteristics of industries in the anchor comparison group, the anchor size standard would be considered an appropriate standard for that industry. If an individual industry's structure is significantly different from that of the anchor group, a size standard lower or higher than the anchor size standard would be selected. The level of the new size standard is determined 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 receipts based standards consists of industries with the highest receipts based size standards, ranging from \$23 million to \$35.5 million, with the average size standard for the group equaling \$29 million. SBA refers to this group of industries as the “higher level receipts based size standard comparison group.” Differences in industry structure between an industry under review and the industries in the two comparison groups are determined by comparing data on each of the industry factors, including average firm size, average assets size, four-firm concentration ratio, and the Gini coefficient of distribution of firms by size. Table 1 shows two measures of the average firm size (simple and weighted), average assets size, four-firm concentration ratio, average receipts of the four largest firms, and the Gini coefficient for both anchor level and higher level comparison groups for receipts based size standards.

TABLE 1—AVERAGE CHARACTERISTICS OF RECEIPTS BASED COMPARISON GROUPS

Receipts Based Comparison Group	Avg. Firm Size (\$ million)		Avg. Assets Size (\$ million)	Avg. Four-firm Concentration Ratio (%)	Avg. Receipts of Four Largest Firms (\$ million) ^a	Gini Coefficient
	Simple Average	Weighted Average				
Anchor Level	1.19	17.64	0.71	18.7	189.9	0.599
Higher Level	4.77	52.27	2.05	22.3	639.4	0.725

^a 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 of the industry factors shown in Table 1, SBA derives a separate size standard based on the amount of differences between their values for an industry under review and those for the two comparison groups. An estimated size standard that is supported by each industry factor is derived by comparing its value for a specific industry under review to the corresponding value for the two comparison groups. If the industry value for a particular factor is near that for the anchor comparison group, the \$7.0 million anchor size standard would be considered appropriate for that factor.

If an industry's value for a factor is significantly above or below the anchor

comparison group value, a size standard above or below the \$7.0 million anchor size would be warranted. The level of the new size standard in these cases is derived based on the proportional difference between the industry value and the values for the two comparison groups.

For example, if an industry's simple average receipts size equals \$3.0 million, SBA's analysis would support a size standard of \$19 million. The \$3.0 million level is 50.6 percent between the average firm size of \$1.19 million for the anchor comparison group and \$4.77 million for the higher level comparison group $((\$3.00 \text{ million} - \$1.19 \text{ million}) \div (\$4.77 \text{ million} - \$1.19 \text{ million}) = 0.506 \text{ or } 50.6\%)$. This proportional difference is applied to the difference between the \$7.0 million anchor size standard and

average size standard of \$29 million for the higher level size standard group and then added to \$7.0 million to estimate a size standard of \$18.12 million $((\{\$29.0 \text{ million} - \$7.0 \text{ million}\} * 0.506) + \$7.0 \text{ million} = \$18.12 \text{ million})$. The final step rounds the estimated size standard of \$18.12 million to the nearest fixed size standard level, in this case to \$19 million.

SBA applies the above method of calculation to derive a size standard for each industry factor. Detailed formulas involved in these calculations are presented in "SBA Size Standards Methodology" which is available at <http://www.sba.gov/size>. Table 2 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 avg. receipts size (\$ million)	Or if weighted avg. receipts size (\$ million)	Or if avg. assets size (\$ million)	Or if avg. receipts of largest four firms (\$ million)	Or if gini coefficient	Then size standard is (\$ million)
<1.03	<16.07	<0.65	<169.4	<0.593	5.0
1.03 to 1.43	16.07 to 20.00	0.65 to 0.80	169.4 to 220.5	0.593 to 0.608	7.0
1.44 to 2.00	20.01 to 25.51	0.81 to 1.02	220.6 to 292.0	0.609 to 0.628	10.0
2.01 to 2.74	25.52 to 32.59	1.03 to 1.29	292.1 to 384.0	0.629 to 0.653	14.0
2.75 to 3.67	32.60 to 41.65	1.30 to 1.64	384.1 to 501.5	0.654 to 0.686	19.0
3.68 to 4.57	41.66 to 50.30	1.65 to 1.97	501.6 to 613.8	0.687 to 0.718	25.5
4.58 to 5.38	50.31 to 58.17	1.98 to 2.28	613.9 to 716.1	0.719 to 0.746	30.0
> 5.38	>58.17	>2.28	>716.1	>0.746	35.5

Table 3 shows the results of analyses of industry data and latest Federal contracting trends for each industry in Sector 44–45, Retail Trade. It is important to note, however, that the Federal procurement of supplies must be classified under the appropriate manufacturing NAICS code. See 13 CFR 121.402(b). However, because there were Federal procurements during the years analyzed that were classified in the Retail Sector, SBA is including the data because they affect its evaluation of size standards for the Retail Trade Sector. Each NAICS industry row in columns 2, 3, 4, 6, 7 and 8 shows two numbers. The upper number is the value for the industry factor shown on

the top of the column, while the lower number is the size standard supported by that factor. For the four-firm concentration ratio, a size standard is estimated based on the average receipts of the top four firms if its value is 40 percent or more. If the four-firm concentration ratio for an industry is less than 40 percent, no size standard is estimated for that factor and column 5 is left blank. The value for Federal contracting factor in column 8 is shown only for industries that averaged \$100 million or more annually in Federal contracting dollars during fiscal years 2006–2008. A size standard for that factor is derived only if the small business share of total Federal

contracting dollars is 10 percentage points less than the small business share of industry's total receipts. Otherwise column 8 is also left blank. Column 9 shows the proposed or revised size standard for each industry in the Retail Trade Sector, calculated as the average of size standards supported by each industry factor and rounded to the nearest fixed size level. Analytical details involved in the averaging procedure are described in the SBA "Size Standards Methodology" paper which is available at <http://www.sba.gov/size>. For comparison, the current size standards for industries in Sector 44–45 are also shown in column 10 of Table 3.

TABLE 3—SIZE STANDARDS SUPPORTED BY EACH INDUSTRY FACTOR
[Millions of dollars]

(1) NAICS	(2) Simple average firm size	(3) Weighted average firm size	(4) Average assets size	(5) Four-firm ratio (%)	(6) Four-firm average size	(7) Gini coefficient	(8) Federal contract factor (%)	(9) Revised size standard	(10) Current size standard
441110	\$27.4	\$102.6	\$7.6	5.6	\$9,110.3	0.638	.....	\$30.0	\$29.0
New Car Dealers	35.5	35.5	35.5	.....	.....	\$14.0	.....	.....	.....
441120	2.0	14.7	0.5	7.1	854.7	0.561	.....	5.0	23.0
Used Car Dealers	10.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
441210	5.2	45.2	2.2	10.5	388.7	0.702	72.4	30.0	7.0
Recreational Vehicle Dealers	30.0	25.5	30.0	.....	.....	25.5	.....	.....	.....
441221	3.4	10.4	1.4	2.4	97.8	0.576	.....	14.0	7.0

TABLE 3—SIZE STANDARDS SUPPORTED BY EACH INDUSTRY FACTOR—Continued

[Millions of dollars]

(1) NAICS	(2) Simple average firm size	(3) Weighted average firm size	(4) Average assets size	(5) Four-firm ratio (%)	(6) Four-firm average size	(7) Gini co-efficient	(8) Federal contract factor (%)	(9) Revised size standard	(10) Current size standard
Motorcycle, ATV, and Personal Watercraft Dealers	19.0	5.0	19.0	.....	.....	5.0	.....	.....	.....
441222	2.6	23.3	1.4	10.1	310.7	0.624	.....	14.0	7.0
Boat Dealers	14.0	10.0	19.0	.....	.....	10.0	.....	.....	.....
441229	1.8	11.1	0.7	8.6	85.3	0.545	.....	5.0	7.0
All Other Motor Vehicle Dealers Except	10.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Aircraft Dealers, Retail	3.8	.....	1.3	.....	.....	.....	.....	.....	.....
441310	25.5	.....	19.0	.....	.....	.....	.....	25.5	10.0
Automotive Parts and Accessories Stores	1.6	109.5	0.6	30.7	3,004.6	0.643	.....	14.0	7.0
441320	10.0	35.5	5.0	.....	.....	14.0	.....	.....	.....
Tire Dealers	2.0	92.0	0.6	25.9	1,399.2	0.647	.....	14.0	7.0
442110	14.0	35.5	5.0	.....	.....	14.0	.....	.....	.....
Furniture Stores	2.4	66.4	0.9	8.1	1,017.8	0.683	.....	19.0	7.0
442210	14.0	35.5	10.0	.....	.....	19.0	.....	.....	.....
Floor Covering Stores	1.3	6.4	0.4	2.1	93.7	0.441	.....	5.0	7.0
442291	7.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Window Treatment Stores	0.6	5.6	.....	20.9	58.9	0.341	.....	5.0	7.0
442299	5.0	5.0	.....	.....	.....	5.0	.....	.....	.....
All Other Home Furnishings Stores	1.8	146.4	0.6	39.1	2,175.8	0.776	.....	19.0	7.0
443111	10.0	35.5	5.0	.....	.....	35.5	.....	.....	.....
Household Appliance Stores	1.6	40.2	0.5	16.8	584.6	0.630	.....	10.0	9.0
443112	10.0	19.0	5.0	.....	.....	14.0	.....	.....	.....
Radio, Television and Other Electronics Stores	3.6	575.9	1.0	68.9	8,351.1	0.869	.....	25.5	9.0
443120	19.0	35.5	14.0	.....	35.5	35.5	.....	.....	.....
Computer and Software Stores	2.2	285.2	0.6	52.5	2,192.0	0.782	9.7	25.5	9.0
443130	14.0	35.5	5.0	.....	35.5	35.5	.....	.....	.....
Camera and Photographic Supplies Stores	2.6	423.0	0.7	54.3	427.9	0.770	.....	19.0	7.0
444110	14.0	35.5	7.0	.....	19.0	35.5	.....	.....	.....
Home Centers	37.3	4,210.0	13.2	91.1	21,591.9	0.960	.....	35.5	7.0
444120	35.5	35.5	35.5	.....	35.5	35.5	.....	.....	.....
Paint and Wallpaper Stores	2.7	302.7	0.9	47.3	943.7	0.767	.....	25.5	7.0
444130	14.0	35.5	10.0	.....	35.5	35.5	.....	.....	.....
Hardware Stores	1.3	21.7	0.5	13.4	556.5	0.496	-10.2	7.0	7.0
444190	7.0	10.0	5.0	.....	.....	5.0	10.0	.....	.....
Other Building Material Dealers	3.3	36.9	1.1	8.7	2,100.2	0.695	.....	19.0	7.0
444210	19.0	19.0	14.0	.....	.....	25.5	.....	.....	.....
Outdoor Power Equipment Stores	1.1	3.3	0.4	2.1	23.4	0.391	.....	5.0	7.0
444220	7.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Nursery and Garden Centers	1.9	22.1	0.7	12.1	800.1	0.634	.....	10.0	7.0
445110	10.0	10.0	7.0	.....	.....	14.0	.....	.....	.....
Supermarkets and Other Grocery (except Convenience) Stores	9.3	852.4	1.8	32.5	32,122.8	0.915	66.3	30.0	27.0
445120	35.5	35.5	25.5	.....	.....	35.5	.....	.....	.....
Convenience Stores	0.8	15.9	0.2	15.5	791.3	0.353	.....	5.0	27.0
445210	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Meat Markets	0.8	4.4	0.2	6.5	71.6	0.336	.....	5.0	7.0
445220	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Fish and Seafood Markets	0.8	3.1	.....	5.3	19.9	0.340	.....	5.0	7.0
445230	5.0	5.0	.....	.....	.....	5.0	.....	.....	.....
Fruit and Vegetable Markets	0.9	5.5	0.1	5.4	37.6	0.428	26.1	5.0	7.0
445291	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Baked Goods Stores	0.5	19.6	0.2	36.1	126.0	0.499	.....	5.0	7.0
445292	5.0	7.0	5.0	.....	.....	5.0	.....	.....	.....
Confectionery and Nut Stores	0.7	25.4	0.3	41.2	139.3	0.627	.....	7.0	7.0
445299	5.0	10.0	5.0	.....	5.0	10.0	.....	.....	.....
All Other Specialty Food Stores	0.4	3.5	0.1	11.3	46.4	0.264	.....	5.0	7.0
445310	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Beer, Wine and Liquor Stores	1.1	14.9	0.3	8.3	583.0	0.403	.....	5.0	7.0
446110	7.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
Pharmacies and Drug Stores	7.8	376.9	1.6	52.8	20,311.0	0.804	-20.2	25.5	7.0
446120	35.5	35.5	19.0	.....	35.5	35.5	10.0	.....	.....
Cosmetics, Beauty Supplies and Perfume Stores	1.2	162.6	0.5	56.8	892.5	0.748	.....	25.5	7.0
446130	7.0	35.5	5.0	.....	35.5	35.5	.....	.....	.....
Optical Goods Stores	1.1	88.3	0.4	44.1	733.0	0.642	.....	19.0	7.0
446191	7.0	35.5	5.0	.....	35.5	14.0	.....	.....	.....
Food (Health) Supplement Stores	0.8	67.5	.....	31.1	361.8	0.527	.....	14.0	7.0
446199	5.0	35.5	.....	.....	.....	5.0	.....	.....	.....
All Other Health and Personal Care Stores	1.1	5.3	.....	11.4	188.2	0.492	.....	7.0	7.0
	7.0	5.0	.....	.....	.....	5.0	.....	.....	.....

TABLE 3—SIZE STANDARDS SUPPORTED BY EACH INDUSTRY FACTOR—Continued
[Millions of dollars]

(1) NAICS	(2) Simple average firm size	(3) Weighted average firm size	(4) Average assets size	(5) Four-firm ratio (%)	(6) Four-firm average size	(7) Gini co-efficient	(8) Federal contract factor (%)	(9) Revised size standard	(10) Current size standard
447110	4.2	150.8	0.7	10.4	4,854.2	0.723	.....	25.5	27.0
Gasoline Stations with Convenience Stores	25.5	35.5	7.0	.....	.....	30.0	.....	.....	.....
447190	2.7	35.7	0.4	19.2	2,993.6	0.645	.....	14.0	9.0
Other Gasoline Stations	14.0	19.0	5.0	.....	.....	14.0	.....	.....	.....
448110	1.4	41.5	0.6	27.6	546.9	0.635	.....	10.0	9.0
Men's Clothing Stores	10.0	19.0	5.0	.....	.....	14.0	.....	.....	.....
448120	2.2	180.2	0.8	30.5	2,334.0	0.812	.....	25.5	9.0
Women's Clothing Stores	14.0	35.5	7.0	.....	.....	35.5	.....	.....	.....
448130	2.5	176.3	.....	58.5	1,035.4	0.851	.....	30.0	7.0
Children's and Infants' Clothing Stores	14.0	35.5	.....	.....	35.5	35.5	.....	.....	.....
448140	8.1	526.1	3.1	47.5	7,579.2	0.930	.....	35.5	9.0
Family Clothing Stores	35.5	35.5	35.5	.....	35.5	35.5	.....	.....	.....
448150	1.1	46.1	0.4	52.9	360.9	0.728	.....	14.0	7.0
Clothing Accessories Stores	7.0	25.5	5.0	.....	14.0	30.0	.....	.....	.....
448190	1.1	59.7	0.4	43.6	868.0	0.663	.....	19.0	7.0
Other Clothing Stores	7.0	35.5	5.0	.....	35.5	19.0	.....	.....	.....
448210	3.3	256.6	1.4	39.9	2,292.5	0.842	.....	25.5	9.0
Shoe Stores	19.0	35.5	19.0	.....	.....	35.5	.....	.....	.....
448310	1.2	113.2	0.8	23.8	1,385.1	0.625	.....	14.0	7.0
Jewelry Stores	7.0	35.5	7.0	.....	.....	10.0	.....	.....	.....
448320	2.0	61.0	.....	49.8	192.3	0.750	.....	25.5	7.0
Luggage and Leather Goods Stores	14.0	35.5	.....	.....	7.0	35.5	.....	.....	.....
451110	1.4	102.4	0.6	18.1	1,134.1	0.636	54.4	14.0	7.0
Sporting Goods Stores	7.0	35.5	5.0	.....	.....	14.0	.....	.....	.....
451120	2.7	488.2	1.0	71.7	2,903.1	0.853	.....	25.5	7.0
Hobby, Toy and Game Stores ..	14.0	35.5	14.0	.....	35.5	35.5	.....	.....	.....
451130	1.1	194.2	.....	59.4	580.9	0.700	.....	25.5	7.0
Sewing, Needlework and Piece Goods Stores	7.0	35.5	.....	.....	25.5	25.5	.....	.....	.....
451140	1.4	69.6	0.7	30.2	378.2	0.580	.....	10.0	7.0
Musical Instrument and Supplies Stores	7.0	35.5	7.0	.....	.....	5.0	.....	.....	.....
451211	2.7	406.2	1.1	65.6	2,469.3	0.846	.....	25.5	7.0
Book Stores	19.0	35.5	14.0	.....	35.5	35.5	.....	.....	.....
451212	0.5	6.1	.....	17.1	34.6	0.354	.....	5.0	7.0
News Dealers and Newsstands ..	5.0	5.0	.....	.....	.....	5.0	.....	.....	.....
451220	2.2	259.4	.....	57.7	1,042.1	0.836	.....	30.0	7.0
Prerecorded Tape, Compact Disc and Record Stores	14.0	35.5	.....	.....	35.5	35.5	.....	.....	.....
452111	2,227.1	3,926.7	890.8	72.1	15,654.5	0.434	.....	30.0	27.0
Department Stores (except Discount Department Stores)	35.5	35.5	35.5	.....	35.5	5.0	.....	.....	.....
452112	3,433.0	8,326.5	.....	95.0	31,807.8	0.588	.....	25.5	27.0
Discount Department Stores	35.5	35.5	.....	.....	35.5	5.0	.....	.....	.....
452910	11,953.3	17,358.4	.....	92.1	44,059.2	0.312	.....	25.5	27.0
Warehouse Clubs and Superstores	35.5	35.5	.....	.....	35.5	5.0	.....	.....	.....
452990	3.5	359.5	1.4	50.3	4,178.7	0.869	.....	30.0	11.0
All Other General Merchandise Stores	19.0	35.5	19.0	.....	35.5	35.5	.....	.....	.....
453110	0.3	1.1	0.1	1.7	27.9	0.112	.....	5.0	7.0
Florists	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
453210	4.3	632.4	1.2	78.1	4,027.6	0.875	5.7	30.0	7.0
Office Supplies and Stationery Stores	25.5	35.5	14.0	.....	35.5	35.5	.....	.....	.....
453220	0.6	14.9	0.2	12.3	491.1	0.464	.....	5.0	7.0
Gift, Novelty and Souvenir Stores	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
453310	0.6	5.2	0.3	9.9	191.5	0.457	.....	5.0	7.0
Used Merchandise Stores	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
453910	1.4	452.3	0.3	55.4	1,050.8	0.684	.....	19.0	7.0
Pet and Pet Supplies Stores	7.0	35.5	5.0	.....	35.5	19.0	.....	.....	.....
453920	0.7	10.5	0.5	8.9	94.2	0.462	.....	5.0	7.0
Art Dealers	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
453930	2.6	48.7	1.3	20.2	481.0	0.592	.....	14.0	13.0
Manufactured (Mobile) Home Dealers	14.0	25.5	14.0	.....	.....	5.0	.....	.....	.....
453991	1.6	7.0	0.3	11.7	190.7	0.531	.....	5.0	7.0
Tobacco Stores	10.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
453998	0.8	6.9	0.3	6.9	206.9	0.443	4.2	5.0	7.0
All Other Miscellaneous Store Retailers (except Tobacco Stores)	5.0	5.0	5.0	.....	.....	5.0	.....	.....	.....
454111	4.5	70.3	1.4	.....	.....	0.822	.....	30.0	25.0
Electronic Shopping	25.5	35.5	19.0	.....	.....	35.5	.....	.....	.....

TABLE 3—SIZE STANDARDS SUPPORTED BY EACH INDUSTRY FACTOR—Continued
[Millions of dollars]

(1) NAICS	(2) Simple average firm size	(3) Weighted average firm size	(4) Average assets size	(5) Four-firm ratio (%)	(6) Four-firm average size	(7) Gini co-efficient	(8) Federal contract factor (%)	(9) Revised size standard	(10) Current size standard
454112	13.4	320.7	.....	.....	.....	0.933	.....	35.5	25.0
Electronic Auctions	35.5	35.5	.....	.....	.....	35.5	.....	.....	.....
454113	10.0	249.6	3.1	.....	.....	0.907	.....	35.5	25.0
Mail Order Houses	35.5	35.5	35.5	.....	.....	35.5	.....	.....	.....
454210	1.4	30.6	0.5	20.7	365.5	0.658	.....	10.0	7.0
Vending Machine Operators	7.0	14.0	5.0	.....	.....	19.0	.....	.....	.....
454319	0.3	0.7	.....	15.3	2.5	0.098	.....	5.0	7.0
Other Fuel Dealers	5.0	5.0	.....	.....	.....	5.0	.....	.....	.....
454390	1.1	22.3	0.3	15.0	807.0	0.596	.....	7.0	7.0
Other Direct Selling Establishments	7.0	10.0	5.0	.....	.....	7.0	.....	.....	.....

As can be seen in Table 3, the results of SBA analyses of industry and Federal contracting data would support reducing the current size standards for 23 of 76 industries in the Retail Trade Sector. However, SBA believes that lowering size standard for those industries would not be in the best interests of small businesses in these difficult times when the economy is in a deep recession.

Aiming to promote economic recovery and to preserve and create jobs the U.S. Congress passed and the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act). The purposes and goals of the Recovery Act are to promote economic recovery and to preserve and create jobs. Under the Recovery Act, SBA has changed its various programs to assist small businesses, including the following: (1) Temporary reduction or elimination of fees in the 7(a) and 504 loan guarantee programs; (2) creation of a temporary 90 percent guarantee loan program; (3) creation of a temporary Secondary Market Guarantee Authority to provide a Federal guarantee for pools of first lien 504 loans that are to be sold to third-party investors; (4) new authority for refinancing community development loans under the 504 program; (5) revision of the job creation goals of the 504 program; (6) simplification of the maximum leverage limits and aggregate investment limits required of Small Business Investment Companies; (7) temporary authority to provide loans on a deferred basis to viable small business concerns that have a qualifying small business loan and are experiencing immediate financial hardship; (8) temporary increase in the surety bond maximum amount; (9) establishment of a Secondary Market Lending Authority to make loans to systemically important broker dealers in SBA's 7(a) secondary market; and (10) application of SBA's Certified Development Company (CDC)

alternative size standard to its 7(a) Business Loan Program (*see* 13 CFR 121.301).

SBA believes that to reduce size standards and thereby reduce the number of firms that can participate in its financial and other assistance programs would run counter to what it is trying to do for small businesses. Again, the non-manufacturer size standard of 500 employees applies for purposes of Federal procurement of supplies. Reducing size eligibility for Federal financial and other assistance would not preserve or create more jobs; rather, it would have the opposite effect. SBA intends for the proposed size standards, if adopted, to remain in effect unless and until it receives information or data that suggests a change is needed.

Evaluation of Federal Contracting and SBA Loan Data

Besides industry structure, SBA also evaluates Federal contracting data to assess the extent to which small businesses are successful in getting Federal contracts under the existing size standards. However, the available data on Federal contracting are limited to identifying businesses as small or other than small, with no information on exact size of businesses receiving Federal contracts in order to conduct a more precise analysis. Moreover, a procurement for supplies should be classified under a manufacturing NAICS code. Consequently, the available data pertains to procurements that have been misclassified by procuring agencies.

Given limited data, for the current comprehensive size review, SBA has decided to designate a size standard at one level higher than their current size standard for industries where the small business share of total Federal contracting dollars is between 10 and 30 percentage points lower than their shares in total industry receipts and at two levels higher than the current size standard if the difference is higher than 30 percentage points.

SBA has chosen not to designate a size standard for the Federal contracting factor alone that is higher than two levels above the current size standard because doing so would result in most cases of designating a size standard more than twice the current size standard. Given the limitations of the FPDS data, and the complex relationships among a number of variables affecting small business participation in the Federal marketplace, 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 to support a different size standard than indicated by this general rule to take into consideration significant and unique aspects of small business competitiveness in the Federal contract market. SBA welcomes comment on its methodology of incorporating the Federal contracting factor in the size standard analysis and suggestions for alternative methods and other relevant information on small business experience in Federal contract market.

Only nine industries in Sector 44–45, Retail Trade, received an average of \$100 million or more annually in Federal contracting dollars during fiscal years 2006–2008. Those are the industries that have a Federal contracting factor in column 8 of Table 3. In seven of these nine industries, because the small business share of Federal contracting dollars was already higher than the small business share of industry's total receipts (positive values in column 8 of Table 3), no size standard was estimated for the Federal contracting factor. However, in two of these nine industries, namely NAICS 444130, Hardware Stores, and NAICS 446110, Pharmacies and Drug Stores, for

which small business share of Federal contracting dollars was more than 10 percent lower than small business share of industry's total receipts, a separate size standard was estimated for the Federal contracting factor. The latest data show that Federal contracting activity is insignificant for most of the industries in Sector 44–45 and, for a few industries where it is significant small businesses seem to be doing well in most cases in terms of their share in the Federal marketplace relative to their share in industry's total sales.

Before deciding on an industry's size standard, SBA also considers the impact of new or revised standards on SBA's loan programs. SBA examined 7(a) Loan Program data for fiscal years 2006–2008 to assess whether the existing or proposed size standards need further adjustments to ensure credit opportunities for small businesses through that program. For the Retail Trade industries, primarily small businesses that are much smaller than the current size standards use the 7(a) Loan Program. Based on that analysis, no size standard in Sector 44–45, Retail Trade, needs an adjustment based on this factor.

Other Considerations

Alternative Size Standards for New Car (NAICS 441110) and Used Car Dealers (NAICS 441120) Industries: SBA proposes to increase to the existing size standard for the New Car Dealers industry from \$29 million to \$30 million in annual receipts and to retain the current standard of \$23 million in annual receipts for the Used Car Dealers industry.

However, based on industry data, SBA believes that an employee-based size standard might also be appropriate for these two industries, in lieu of one based on annual receipts. Industry associations have also suggested this as an alternative. They cite the variation in prices of car models for creating inequity in size eligibility under the receipt-based standard. For example, two dealers selling the same number of units will have different receipt levels depending on the models they sell.

SBA has traditionally applied a receipts-based measure to determine the size of a small business for most industries, including Retail Trade. Receipts is the preferred measure because it represents the value of a firm's output. Other measures of size are used for industries where receipts may skew the value added contributed by the firm in the production of goods and services. For example, number of employees is a better measure of size than receipts for industries in which

firms have relatively low operational costs (labor and overhead, for example) in relation to their total receipts. This applies to the Wholesale Trade industries in which the value of the product sold greatly exceeds the cost of labor and capital used to generate a given level of receipts. Similarly, in the manufacturing industries, two manufacturers with the same number of employees may produce significantly different levels of receipts depending on the stage of manufacturing in the production process. Thus, SBA believes that number of employees more accurately reflects the value added by each manufacturer than the level of receipts.

Car dealers have characteristics very similar to wholesale trade firms. A large proportion of the receipts of a car dealer account for the value of a manufactured product. A car dealer obtains a relatively small share of the total value of each unit sold, but generates significant receipts per employee. Furthermore, an unintended consequence of using receipts can arise from the variation in values of the car models sold—using receipts might exclude from eligibility for small business programs those car dealers that sell a greater proportion of high-valued automobiles than other dealers that sell lower priced models.

SBA estimates the average revenue (sales) per employee in 2008 at \$660,000 and \$520,000 for New Car Dealers and Used Car Dealers, respectively, based on an analysis of data from the special tabulation of the 2002 Economic Census (as referenced above) with adjustment for inflation since 2002. Based on these values, the proposed receipts-based size standard of \$30 million for New Car Dealers would convert to a range of 45 to 50 employees. At the 50-employee size standard level, about 70 percent of firms in the New Car Dealers industry would be considered small compared to nearly 75 percent that would be considered small under the proposed \$30 million receipts based standard. Thus, to ensure that firms that would be classified as small under the \$30 million receipts based standard are also classified as small under an employee-based size standard, the employee-based standard should be more than 50 employees. Similarly, at the current size standard of \$23 million in annual receipts would also convert to a range of 45 to 50 employees for Used Car Dealers. At the 50-employee size standard, nearly 98 percent of firms in the Car Dealers industry would be considered small, almost the same as that under the existing \$23 million receipts based standard. Based on these

estimates, SBA is also considering an alternative size standard of 100 employees for the New Car Dealers industry and 50 employees for the Used Car Dealers industry. SBA believes that these levels will ensure that small car dealers eligible under the receipts based size standards would also be eligible at these alternative employee based size standards.

SBA requests comments on whether an employee-based size standard for these two industries is more appropriate than a receipts-based standard and on the alternative employee-based size standards. Depending upon the feedback received, SBA may consider adopting the alternative employee size standards in the final rule.

Size Standard for Retail Aircraft Dealers: SBA has established a specific size standard of \$10.0 million in average annual receipts for NAICS 441229, Retail Aircraft Dealers, as a separate category from the \$7.0 million size standard for all other activities in NAICS 441229, All Other Motor Vehicle Dealers. As a sub-component of the industry, SBA has limited data on Retail Aircraft Dealers and cannot evaluate all industry factors to determine whether the current \$10.0 million size standard is appropriate. The only useful source of data consists of the product line data from the Census Bureau's 2002 Economic Census publication titled "Retail Trade, Subject Series, Product Lines, EC02–44SL–LS, October 2005." The product line data include information on number of establishments and receipts at sub-industry levels, based on which SBA estimated the average establishment size of Aircraft Dealers and All Other Motor Vehicle Dealers. SBA estimated average assets size by applying the sales to assets ratio for the All Other Motor Vehicle Dealers industry to average establishment size estimated from the Census Bureau's product line data. These estimates, as shown in Table 3, support an increase to the size standard for Retail Aircraft Dealers from \$10 million to \$19 million.

SBA also analyzed the trends on average establishment size for Retail Aircraft Dealers and All Other Motor Vehicle Dealers between 1997 and 2002 using the product line data from the 1997 and 2002 Economic Censuses. The analysis showed that from 1997 to 2002 the average establishment size for Retail Aircraft Dealers increased at a much higher rate than for the overall industry, also suggesting an increase in the current size standard.

While the data are limited on Retail Aircraft Dealers, the available data, nonetheless, support increasing its size

standard to \$19 million. SBA welcomes comments on the appropriateness of the proposed size standard and alternative data sources for Retail Aircraft Dealers that may be used to more fully evaluate the size standard. Comments on an alternative higher or lower size standard should provide specific data or other information supporting the basis for that position.

Size Standards for the Heating Oil Dealers (NAICS 454311) and Liquefied Petroleum Gas (Bottled Gas) Dealers (NAICS 454312) Industries: On July 22, 2008 (73 FR 42517), based on a review of the latest available data on industry characteristics and other relevant information, SBA changed the small business size standard for NAICS 454311, Heating Oil Dealers, from \$11.5 million in average annual receipts to 50 employees, and the size standard for NAICS 454312, Liquefied Petroleum Gas (Bottled Gas) Dealers, from \$6.5 million in average annual receipts to 50 employees. SBA believes that those employee-based size standards are still appropriate for these industries and hence SBA is not proposing their revision here.

Application of Retail Trade and Wholesale Trade Industry Size Standards to Federal Procurements and Subcontracts: This proposed rule also modifies SBA regulations to clarify the existing policy that Federal contracts and subcontracts for supplies shall not be classified with a Wholesale Trade (Sector 42) or Retail Trade (Sector 44–45) NAICS industry code. 13 CFR 121.402(b) requires a contracting officer to classify a Federal supply contract or subcontract to a Federal prime contract under an appropriate manufacturing NAICS industry code. A Retail Trade or

Wholesale Trade business that supplies a manufactured product on a Federal procurement contract or on a subcontract to a Federal prime contract is deemed a “nonmanufacturer” and is a small business nonmanufacturer if it has 500 or fewer employees and meets other requirements set forth in the regulations. The Table of Size Standards (see 121.201) contains a note at the heading of the Retail Trade and Wholesale Trade Sectors stating that the industry size standards are “Not applicable to Government procurement of supplies.” However, SBA has observed numerous misclassifications of procurement solicitations and contract awards reported in the Federal Procurement Data System—Next Generation with Retail Trade and Wholesale Trade NAICS codes.

To better inform Federal government contracting officers and other users of the proper NAICS classification of Federal supply prime contracts, and for supply subcontracts to Federal prime contractors, SBA proposes to modify the existing note at the heading to the Wholesale Trade and Retail Trade Sectors in the Table of Size Standards (13 CFR 121.201) to read as follows: “These NAICS codes shall not be used to classify Government acquisitions for supplies. They also shall not be used by Federal government contractors when subcontracting for the acquisition for supplies. The applicable manufacturing NAICS code shall be used to classify acquisitions for supplies. A Wholesale Trade or Retail Trade business concern submitting an offer or a quote on a supply acquisition is categorized as a nonmanufacturer and deemed small if it has 500 or fewer employees and meets the requirements of 13 CFR 121.406.”

SBA is also proposing to revise the language in 13 CFR 121.402(b) to be consistent with the revised table headings by revising the end of the regulation to read “Acquisitions for supplies must be classified under the appropriate manufacturing NAICS code, not under a wholesale trade or retail trade NAICS code. A concern that submits an offer or quote for a contract or subcontract where the NAICS code assigned to the contract or subcontract is one for supplies, and furnishes a product it did not itself manufacture or produce, is categorized as a nonmanufacturer and deemed small if it has 500 or fewer employees and meets the requirements of 13 CFR 121.406.”

Summary of Size Standards Changes

Based on the analyses of currently available industry and Federal contracting data, SBA proposes to increase size standards for 48 of 76 industries in Sector 44–45, Retail Trade. These industries and their proposed size standards are shown in Table 4. The analyses supported retaining the existing standards for five industries in that Sector.

SBA’s analyses support a decrease to the current size standard for 23 industries in Retail Trade. However, as discussed above, SBA feels that proposing to lower small business size standards would be inconsistent with its ongoing effort to promote small business assistance under the Recovery Act. Therefore, SBA proposes to retain the current size standards for those industries. SBA intends for the proposed size standards, if adopted, to remain in effect unless and until it receives information or data that suggests a change is needed.

TABLE 4—SUMMARY OF PROPOSED SIZE STANDARD REVISIONS

NAICS	Current size standard	Revised size standard
441110 New Car Dealers	\$29.0	\$30.0
441210 Recreational Vehicle Dealers	7.0	30.0
441221 Motorcycle, ATV, and Personal Watercraft Dealers	7.0	14.0
441222 Boat Dealers	7.0	14.0
Except Aircraft Dealers, Retail	10.0	25.5
441310 Automotive Parts and Accessories Stores	7.0	14.0
441320 Tire Dealers	7.0	14.0
442110 Furniture Stores	7.0	19.0
442299 All Other Home Furnishings Stores	7.0	19.0
443111 Household Appliance Stores	9.0	10.0
443112 Radio, Television and Other Electronics Stores	9.0	25.5
443120 Computer and Software Stores	9.0	25.5
443130 Camera and Photographic Supplies Stores	7.0	19.0
444110 Home Centers	7.0	35.5
444120 Paint and Wallpaper Stores	7.0	25.5
444190 Other Building Material Dealers	7.0	19.0
444220 Nursery and Garden Centers	7.0	10.0
445110 Supermarkets and Other Grocery (except Convenience) Stores	27.0	30.0
446110 Pharmacies and Drug Stores	7.0	25.5
446120 Cosmetics, Beauty Supplies and Perfume Stores	7.0	25.5

TABLE 4—SUMMARY OF PROPOSED SIZE STANDARD REVISIONS—Continued

NAICS	Current size standard	Revised size standard
446130 Optical Goods Stores	7.0	19.0
446191 Food (Health) Supplement Stores	7.0	14.0
447190 Other Gasoline Stations	9.0	14.0
448110 Men's Clothing Stores	9.0	10.0
448120 Women's Clothing Stores	9.0	25.5
448130 Children's and Infants' Clothing Stores	7.0	30.0
448140 Family Clothing Stores	9.0	35.5
448150 Clothing Accessories Stores	7.0	14.0
448190 Other Clothing Stores	7.0	19.0
448210 Shoe Stores	9.0	25.5
448310 Jewelry Stores	7.0	14.0
448320 Luggage and Leather Goods Stores	7.0	25.5
451110 Sporting Goods Stores	7.0	14.0
451120 Hobby, Toy and Game Stores	7.0	25.5
451130 Sewing, Needlework and Piece Goods Stores	7.0	25.5
451140 Musical Instrument and Supplies Stores	7.0	10.0
451211 Book Stores	7.0	25.5
451220 Prerecorded Tape, Compact Disc and Record Stores	7.0	30.0
452111 Department Stores (except Discount Department Stores)	27.0	30.0
452990 All Other General Merchandise Stores	11.0	30.0
453210 Office Supplies and Stationery Stores	7.0	30.0
453910 Pet and Pet Supplies Stores	7.0	19.0
453930 Manufactured (Mobile) Home Dealers	13.0	14.0
454111 Electronic Shopping	25.0	30.0
454112 Electronic Auctions	25.0	35.5
454113 Mail Order Houses	25.0	35.5
454210 Vending Machine Operators	7.0	10.0

Evaluation of Dominance in Field of Operation

SBA has determined that for each industry in Sector 44–45, Retail Trade, no firm at or below the proposed size standard would be large enough to dominate its field of operation. A firm at the proposed size standard in each of these industries generates less than one percent of total industry receipts. This level of market share effectively precludes a firm at or below the proposed size standard from exerting a controlling effect on this industry.

Request for Comments

SBA invites public comments on the proposed rule, especially on the following areas.

1. In an effort to simplify size standards, for this proposed rule, SBA has proposed a set of eight fixed size levels for receipts based size standards: \$5.0 million, \$7.0 million, \$10.0 million, \$14.0 million, \$19.0 million, \$25.5 million, \$30.0 million, and \$35.5 million. SBA invites comments on whether simplification of size standards in this way is necessary and if these proposed fixed size levels are appropriate, or suggestions on alternative approaches to simplifying small business size standards.

2. For all industries in Sector 44–45, Retail Trade, SBA has proposed receipts based size standards ranging from \$7 million to \$35.5 million. SBA seeks

feedback on whether the levels of size standards it proposes seem right given the economic characteristics of each industry. SBA also seeks feedback and suggestions on alternative standards, if they would be more appropriate, including whether an employee based standard for certain industries is a more suitable measure of size, and what that employee level size standard should be.

3. SBA's proposed standards are based on its evaluation of five primary factors—average firm size, average assets size (as 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. SBA welcomes comments on these and other factors that interested parties believe are important to consider for describing industry characteristics when SBA evaluates its size standards. Please provide relevant data sources, if available.

4. SBA derives its proposed standards by applying equal weights to each of the five primary factors in all industries. Should SBA continue with the equal weighting of each factor or should it give more weight to one or more factors? If it is more appropriate to weigh some factors more than others, SBA welcomes suggestions on specific weights for each factor along with supporting information.

5. For some industries, SBA proposes to increase the existing size standards by a large amount, while for others the proposed increase is less. Should SBA, as a policy, limit the amount of increase or decrease to a size standard? Also should SBA, as a policy, establish certain minimum or maximum values for its size standards? SBA seeks suggestions on appropriate levels of change to size standards and on their minimum or maximum levels.

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

Public comments on the above issues are very critical for SBA to validate its size standard methodology and move forward in a timely manner with review of size standards of other industry groups under the two-year comprehensive size review.

Compliance With Executive Orders 12866, 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, the next section contains SBA’s Regulatory Impact Analysis. This is not a major rule, however, 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 adjustments to certain size standards in Sector 44–45, Retail Trade, are needed to better reflect the economic characteristics of small businesses in those industries. SBA’s mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To assist effectively the intended beneficiaries of these programs, SBA must establish 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 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 as a result of this rule is eligibility for Federal small business assistance programs, including SBA’s various financial assistance programs, but not for Federal procurement preference programs reserved for small businesses. Since NAICS codes in Sector 44–45, Retail Trade, may not be used for Federal government procurement programs, the proposed size standards changes in this rule will not provide any benefits to companies that participate in these programs, and there will not be any additional costs to the Federal government’s procurement programs resulting from these proposed changes, if adopted in final form.

Other Federal agencies also may use SBA size standards for a variety of regulatory and program purposes. Through the assistance of these programs, small businesses become more knowledgeable, stable, and competitive businesses. In the 48 industries within Sector 44–45 for which SBA has proposed to increase their size standards, about 8,800 additional firms are estimated to obtain

small business status and become eligible for these programs. In the 23 industries for which SBA’s analyses indicated a lower size standard as appropriate, about 5,900 firms might have lost their small business status had SBA proposed lowering them. That number is about 2.0 percent of the total number of firms in those industries defined as small under the current standards. Thus, the net impact for the Sector as whole is about 8,800 additional firms gaining and none losing small business status under the proposed rule. This will increase the small business share of total industry receipts for the Sector from 27 percent under the current size standards to 28 percent under the proposed standards.

The benefits of increasing certain size standards to a more appropriate level would accrue to two groups: (1) Businesses that benefit by gaining small business status from the higher size standard that also use small business assistance programs; and (2) growing small businesses that may exceed the current size standards in the near future and that will retain small business status from the higher size standard.

Nearly 72 percent of Federal contracting dollars spent in Sector 44–45 during fiscal years 2006–2008 was accounted for by six of the 48 industries for which size standards have been proposed to increase. If NAICS codes in Sector 44–45 could be used for Federal contracting, SBA estimates that additional firms gaining small business status in those six industries under the proposed size standards could potentially obtain Federal contracts totaling up to between \$80 million and \$100 million per year. This represents nearly 2.0 percent of the \$4.7 billion in average Federal contracts awarded to the Retail Trade Sector during fiscal years 2006–2008. The added competition for many of these procurements also would likely result in a lower price to the Government for procurements reserved for small businesses, but SBA is not able to quantify this benefit. However, as stated above, NAICS codes in this Sector may not be used for Federal government procurement. SBA anticipates that the contracting amounts identified in this Sector will be redistributed in the future to contracts identified by NAICS codes in Sector 31–33, Manufacturing.

Under SBA’s 7(a) Guaranteed Loan Program and Certified Development Company (504) Program, SBA estimates that approximately 75 additional loans totaling between \$35 million and \$40 million in new Federal loan guarantees could be made to these newly defined small businesses. Because of the size of

the loan guarantees, however, most loans are made to small businesses well below the size standard. Further, under the Recovery Act, effective February 17, 2009, SBA temporarily raised guarantees on its SBA’s 7(a) loan program and also temporarily eliminated fees for borrowers on SBA 7(a) loans and for both borrowers and lenders on 504 Certified Development Company loans, through calendar year 2009, or until the funds are exhausted. The fee elimination is retroactive to February 17, 2009, the day the Recovery Act was signed. Furthermore, SBA is developing a mechanism for refunding fees paid on loans since then. In addition, since SBA has applied its CDC alternative size standard to its 7(a) Business Loan Program, more capital is available to small businesses. Thus, increasing the size standards will likely result in an increase in small business guaranteed loans to businesses in these industries, but it would be impractical to try to estimate the extent of their number and the total amount loaned.

The newly defined small businesses would also benefit from SBA’s Economic Injury Disaster Loan (EIDL) Program. Since this program is contingent upon the occurrence and severity of a disaster, no meaningful estimate of benefits can be projected for future disasters.

To the extent that 8,800 additional firms may become small under the proposed size standards there may be some additional administrative costs to the Federal Government associated with SBA guaranteed lending programs. Among businesses in this group seeking SBA assistance, there could be some additional costs associated with compliance and verification of small business status. These additional costs are likely to be minimal because mechanisms are already in place to handle these additional administrative requirements.

The proposed size standards may have distributional effects among large and small businesses, but SBA cannot quantify its possible extent, because the data related to Federal procurement is a result of misclassification, because procurements for supplies should be coded in Sectors 31–33 rather than Sector 44–45. There will be more small businesses in Sector 44–45, but whether or not that will result in an increase in the number of small businesses in Sector 31–33 cannot be determined.

The proposed revisions to the existing size standards for Retail Trade 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 12988

For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that Order.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this rule does not have any Federalism implications warranting the 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 rule would not impose new reporting or record keeping requirements, other than those required of SBA.

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule, if finalized, may have a significant impact on a substantial number of small entities in Sector 44–45, Retail Trade. As described above, this rule may affect small entities seeking SBA (7a) and 504 Guaranteed Loan Programs, SBA Economic Injury Disaster Loans, and 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 is the need for and objective of the rule? (2) what is SBA's description and estimate of the number of small entities 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 which 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 entities?

(1) What is the Need for and Objective of the Rule?

Most of SBA's size standards for Retail Trade industries have not been reviewed since the early 1980s, and many have not been changed since the 1960s, except for periodic adjustments for inflation. Technology, productivity growth, international competition, mergers and acquisitions, and updated industry definitions may have changed the structure of many industries. Such changes can be sufficient to support a revision to size standards for some industries. Based on an analysis of the latest data available to the Agency, SBA believes that the revised standards in this proposed rule more appropriately reflect the size of businesses in those industries that need Federal assistance.

(2) What is SBA's Description and Estimate of the Number of Small Entities to which the Rule will Apply?

If this rule is adopted in its present form, SBA estimates that approximately 8,800 additional firms will become small because of proposed increases in size standards in the 48 industries within Sector 44–45. That represents about 2.0 percent of approximately 415,000 total firms in those industries. This will result in an increase in the small business share of total industry receipts for that Sector from about 27.0 percent under the current size standards to about 28.0 percent under the proposed standards.

(3) What are the Projected Reporting, Record Keeping, and Other Compliance Requirements of the Rule and an Estimate of the Classes of Small Entities which Will Be Subject to the Requirements?

A new size standard does not impose any additional reporting, record keeping or compliance requirements on small entities. Revising size standards alters the access to SBA programs that assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(4) What are the Relevant Federal Rules which May Duplicate, Overlap or Conflict with the Rule?

This proposed rule overlaps with other Federal rules that use SBA's size standards to define a small business. 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. 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 57988–57991, dated 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)). Thus, there may be instances where this rule conflicts with other rules.

(5) What Alternatives will Allow the Agency to Accomplish its Regulatory Objectives while Minimizing the Impact on Small Entities?

SBA is required to develop numerical size standards for identifying businesses eligible for Federal small business programs. Other than varying the size standards, no viable 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), 636(b), 637(a), 644, and 662(5); and Public Law 105–135, sec. 401 *et seq.*, 111 Stat. 2592.

2. Amend the table in § 121.201 as follows:

A. Revise the parenthetical phrase below the Sector 42 heading.

B. Revise all entries under Sector 44–45.

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
*	*	*	*
Sector 42—Wholesale Trade			
(These NAICS codes shall not be used to classify Government acquisitions for supplies. They also shall not be used by Federal government contractors when subcontracting for the acquisition for supplies. The applicable manufacturing NAICS code shall be used to classify acquisitions for supplies. A Wholesale Trade or Retail Trade business concern submitting an offer or a quote on a supply acquisition is categorized as a nonmanufacturer and deemed small if it has 500 or fewer employees and meets the requirements of 13 CFR 121.406.)			
*	*	*	*
Sector 44–45—Retail Trade			
(These NAICS codes shall not be used to classify Government acquisitions for supplies. They also shall not be used by Federal government contractors when subcontracting for the acquisition for supplies. The applicable manufacturing NAICS code shall be used to classify acquisitions for supplies. A Wholesale Trade or Retail Trade business concern submitting an offer or a quote on a supply acquisition is categorized as a nonmanufacturer and deemed small if it has 500 or fewer employees and meets the requirements of 13 CFR 121.406.)			
Subsector 441—Motor Vehicle and Parts Dealers			
441110	New Car Dealers	\$30.0	
441120	Used Car Dealers	23.0	
441210	Recreational Vehicle Dealers	30.0	
441221	Motorcycle, ATV, and Personal Watercraft Dealers	14.0	
441222	Boat Dealers	14.0	
441229	All Other Motor Vehicle Dealers	7.0	
<i>Except,</i>	Aircraft Dealers, Retail	25.5	
441310	Automotive Parts and Accessories Stores	14.0	
441320	Tire Dealers	14.0	
Subsector 442—Furniture and Home Furnishings Stores			
442110	Furniture Stores	19.0	
442210	Floor Covering Stores	7.0	
442291	Window Treatment Stores	7.0	
442299	All Other Home Furnishings Stores	19.0	
Subsector 443—Electronics and Appliance Stores			
443111	Household Appliance Stores	10.0	
443112	Radio, Television and Other Electronics Stores	25.5	
443120	Computer and Software Stores	25.5	
443130	Camera and Photographic Supplies Stores	19.0	
Subsector 444—Building Material and Garden Equipment and Supplies Dealers			
444110	Home Centers	35.5	
444120	Paint and Wallpaper Stores	25.5	
444130	Hardware Stores	7.0	
444190	Other Building Material Dealers	19.0	
444210	Outdoor Power Equipment Stores	7.0	
444220	Nursery and Garden Centers	10.0	
Subsector 445—Food and Beverage Stores			
445110	Supermarkets and Other Grocery (except Convenience) Stores	30.0	
445120	Convenience Stores	27.0	
445210	Meat Markets	7.0	
445220	Fish and Seafood Markets	7.0	
445230	Fruit and Vegetable Markets	7.0	
445291	Baked Goods Stores	7.0	
445292	Confectionery and Nut Stores	7.0	
445299	All Other Specialty Food Stores	7.0	
445310	Beer, Wine and Liquor Stores	7.0	
Subsector 446—Health and Personal Care Stores			
446110	Pharmacies and Drug Stores	25.5	
446120	Cosmetics, Beauty Supplies and Perfume Stores	25.5	

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
446130	Optical Goods Stores	19.0	.....
446191	Food (Health) Supplement Stores	14.0	.....
446199	All Other Health and Personal Care Stores	7.0	.....
Subsector 447—Gasoline Stations			
447110	Gasoline Stations with Convenience Stores	27.0	.....
447190	Other Gasoline Stations	14.0	.....
Subsector 448—Clothing and Clothing Accessories Stores			
448110	Men's Clothing Stores	10.0	.....
448120	Women's Clothing Stores	25.5	.....
448130	Children's and Infants' Clothing Stores	30.0	.....
448140	Family Clothing Stores	35.5	.....
448150	Clothing Accessories Stores	14.0	.....
448190	Other Clothing Stores	19.0	.....
448210	Shoe Stores	25.5	.....
448310	Jewelry Stores	14.0	.....
448320	Luggage and Leather Goods Stores	25.5	.....
Subsector 451—Sporting Good, Hobby, Book and Music Stores			
451110	Sporting Goods Stores	14.0	.....
451120	Hobby, Toy and Game Stores	25.5	.....
451130	Sewing, Needlework and Piece Goods Stores	25.5	.....
451140	Musical Instrument and Supplies Stores	10.0	.....
451211	Book Stores	25.5	.....
451212	News Dealers and Newsstands	7.0	.....
451220	Prerecorded Tape, Compact Disc and Record Stores	30.0	.....
Subsector 452—General Merchandise Stores			
452111	Department Stores (except Discount Department Stores)	30.0	.....
452112	Discount Department Stores	27.0	.....
452910	Warehouse Clubs and Superstores	27.0	.....
452990	All Other General Merchandise Stores	30.0	.....
Subsector 453—Miscellaneous Store Retailers			
453110	Florists	7.0	.....
453210	Office Supplies and Stationery Stores	30.0	.....
453220	Gift, Novelty and Souvenir Stores	7.0	.....
453310	Used Merchandise Stores	7.0	.....
453910	Pet and Pet Supplies Stores	19.0	.....
453920	Art Dealers	7.0	.....
453930	Manufactured (Mobile) Home Dealers	14.0	.....
453991	Tobacco Stores	7.0	.....
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)	7.0	.....
Subsector 454—Nonstore Retailers			
454111	Electronic Shopping	30.0	.....
454112	Electronic Auctions	35.5	.....
454113	Mail-Order Houses	35.5	.....
454210	Vending Machine Operators	10.0	.....
454311	Heating Oil Dealers	12.5	.....
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	25.5	.....
454319	Other Fuel Dealers	7.0
454390	Other Direct Selling Establishments	7.0

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Dated: October 9, 2009.

Karen G. Mills,*Administrator.*

[FR Doc. E9-25193 Filed 10-20-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION**13 CFR Part 121****Small Business Size Standards: Size Standards Methodology****AGENCY:** U.S. Small Business Administration.**ACTION:** Notice of Availability of White Paper on Size Standards Methodology.

SUMMARY: The U.S. Small Business Administration (SBA) is advising the public that it is making available a White Paper putting forth and explaining how it establishes, reviews and modifies (when appropriate) small business size standards. The document, entitled "Size Standards Methodology," is available on SBA's Web site where any interested party can review and/or download it. Elsewhere in this issue of the **Federal Register** SBA has published three proposed rules that would, if adopted, modify a number of size standards in three North American Industry Classification System (NAICS) Sectors, namely: Sector 44-45, Retail Trade; Sector 72, Accommodation and Food Services; and Sector 81, Other Services. SBA has applied "Size Standards Methodology" to those three proposed rules and will apply it to future regulatory actions that relate to establishing, reviewing and modifying size standards. The Agency welcomes comments on "Size Standards Methodology" and on the three proposed rules elsewhere in this issue of the **Federal Register**. "Size Standards Methodology," is available electronically from the SBA's Web site at: <http://www.sba.gov/size>.

ADDRESSES: The size standards methodology white paper is available electronically on SBA's Web site at <http://www.sba.gov/size>. You may submit comments on "Size Standards Methodology," identified by Docket number SBA-2009-0008 by one of the following methods: (1) *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments; or (2) *Mail/Hand Delivery/Courier*: U.S. Small Business Administration, Khem R. Sharma, Chief, Size Standards Division, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416.

SBA will post all comments on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.regulations.gov, please submit the information to Khem R. Sharma, Chief, Office of Size Standards, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416, or send an e-mail 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 the information and make the final determination of whether it will publish the information or not.

FOR FURTHER INFORMATION CONTACT: Carl J. Jordan, Program Analyst, Size Standards Division, (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance programs, SBA establishes small business definitions (referred to as size standards) for private sector industries in the United States. SBA's existing size standards use two primary measures of business size—receipts and number of employees. Financial assets, electric output, and refining capacity are used as size measures for a few specialized industries. In addition, SBA's Small Business Investment Company (SBIC) and the Certified Development Company (CDC) Programs determine small business eligibility using either the industry based size standards or net worth and net income size standards. Currently, SBA's size standards consist of 45 different size levels, covering 1,141 NAICS industries and 17 sub-industry activities. Of these size levels, 32 are based on average annual receipts, eight are based on number of employees, and five are based on other measures. In addition, SBA has established 11 other size standards for its financial and procurement programs.

Over the years, SBA has received comments that its size standards have not kept up with changes in the economy and, in particular, that they do not reflect the changes in the Federal contracting marketplace. Therefore, SBA has undertaken a complete review of all small business size standards. The last overall review of size standards occurred during the late 1970s to early 1980s. Since then, most reviews of size standards have been limited to in-depth analyses of specific industries in response to requests from the public and Federal agencies. SBA also makes periodic inflation adjustments to its monetary based size standards. The latest inflation adjustment to size

standards was published in the **Federal Register** on July 18, 2008 (73 FR 41237).

SBA has, in the past, included its methodology for reviewing size standards in its proposed and final rules that related to the industry or industries under examination. In the course of its comprehensive review of all small business size standards SBA has now developed and formalized its small business size standards processes. "Size Standards Methodology" describes how SBA establishes, evaluates and adjusts its small business size standards pursuant to the Small Business Act (Act) and related legislative guidelines. Under the Act (Pub. L. 85-236, as amended), the SBA Administrator (Administrator) has authority to establish small business size standards for Federal government programs. Congress left to administrative discretion precisely how the Administrator should establish small business size standards or what they should be. "Size Standards Methodology" provides a brief review of the legal authority, early legislative history and regulatory history of small business size standards, a detailed description of the size standards methodology, and concludes with a discussion of numerous policy issues regarding the objectives and direction of size standards. An appendix at the end of the document summarizes the detailed analytical steps involved in the evaluation of size standard for an industry.

In establishing size standards, the Act and its legislative history highlight two considerations. First, size standards should vary to account for differences among industries. Second, the policies of the Agency should assist small businesses as a means of encouraging and strengthening their competitiveness in the economy. These two considerations form the basis for the SBA current methodology for establishing small business size standards.

SBA examines the structural characteristics of an industry as a way to assess industry differences and the overall degree of competitiveness of an industry and of firms within the industry. "Size Standards Methodology" describes more fully how SBA examines industry structure and analyzes five primary factors—average firm size, degree of competition within an industry, start up costs and entry barriers, distribution of firms by size, and small business share in Federal contracts. SBA also considers other secondary factors as they relate to the industries and the interests of small businesses, including technological