proposed rule will not have a significant economic impact on a substantial number of small entities. NCUA expects that this proposal will not: (1) have significant secondary or incidental effects on a substantial number of small entities; or (2) create any additional burden on small entities. These conclusions are based on the fact that the proposed regulations merely extend the authority to offer a service to members. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12612

This regulation, if adopted, will only apply to federal credit unions.

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed amendment is understandable and minimally intrusive if implemented as proposed.

List of Subjects

12 CFR Part 724

Credit unions, Pensions, Trusts and trustees.

12 CFR Part 745

Credit unions, Pensions, Share insurance, Trusts and trustees.

By the National Credit Union Administration Board on October 6, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set out in the preamble, the NCUA proposes to amend 12 CFR chapter VII to read as follows:

PART 724—TRUSTEES AND CUSTODIANS OF PENSION PLANS

1. The authority citation for part 724 continues to read as follows:

Authority: 12 U.S.C. 1757, 1765, 1766 and 1787.

2. In § 724.1, remove the first sentence and add two sentences in its place to read as follows:

§ 724.1 Federal credit unions acting as trustees and custodians of pension and retirement plans.

A federal credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension or retirement plan which qualifies or qualified for specific tax treatment under sections 401(d), 408, 408A and 530 of the Internal Revenue Code (26 U.S.C. 401(d), 408, 408A and 530), for its members or groups of members, provided the funds of such plans are invested in share accounts or share certificate accounts of the federal credit union. Federal credit unions located in a territory, including the trust territories, or a possession of the United States, or the Commonwealth of Puerto Rico, are also authorized to act as trustee or custodian for such plans, if authorized under sections 401(d), 408, 408A and 530 of the Internal Revenue Code as applied to the territory or possession or under similar provisions of territorial law. * * *

PART 745—SHARE INSURANCE AND APPENDIX

3. The authority citation for part 745 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789.

4. Amend § 745.9–2 by revising the first sentence of paragraph (a) to read as follows:

§ 745.9–2 IRA/Keogh accounts.

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under section 401(d) (Keogh account) or sections 408(a), 408A or 530 (IRA) of the Internal Revenue Code or similar provisions of law applicable to a U.S. territory or possession, will be insured up to $100,000 separately from other accounts of the participant or designated beneficiary. * * *

* * * * *

[FR Doc. 99–26754 Filed 10–14–99; 8:45 am]

BILLING CODE 7535–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Help Supply Services

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes a size standard of $10 million in average annual receipts for Help Supply Services—Standard Industrial Classification (SIC) 7363. The current size standard for this industry is $5 million. SBA proposes this revision to better define the size of business in this industry that SBA believes should be eligible for Federal small business assistance programs. SBA also proposes clarifying language in the small business size regulations about affiliation when a Professional Employer Organization (PEO) is co-employer of a firm's employees.

DATES: Submit comments on or before December 14, 1999.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, S.W., Mail Code 6880, Washington D.C. 20416. SBA will make all public comments available to any person or entity upon request.

FOR FURTHER INFORMATION CONTACT: Patricia B. Holden, Office of Size Standards, (202) 205–6618 or (202) 205–6385.

SUPPLEMENTARY INFORMATION: SBA received requests from the public to review the size standard for the Help Supply Services industry (SIC 7363). These requests express concern that the size standard has not kept pace with the rapid growth in the industry due in part to the trends of outsourcing and downsizing. The industry has changed in two ways; help supply firms are larger and they are providing a wider range of personnel to businesses. One request also urged SBA to allow help supply firms to exclude funds collected for and remitted to unaffiliated third parties from gross receipts, as is currently done for travel agents, real estate agents, and others, since 60 percent to 85 percent of revenues on many Federal contracts are ''passed through'' to a firm's employees or associates.

The current size standard for this industry, $5 million, is based on gross billings including funds paid to employees (sometimes referred to as ''associates''). Based on a review of industry data, SBA proposes increasing the size standard for the Help Supply Services industry to $10 million in average annual receipts. SBA does not propose a change to the way average annual receipts are calculated for firms in the Help Supply Services Industry (SIC code 7363). Under SBA's size regulations (13 CFR 121.104), the size of a firm for a receipts-based size standard is based on information reported on a firm's Federal tax returns. Generally, receipts reported to the Internal Revenue Service (IRS) include a firm's gross receipts or sales from provision of goods or services. As explained below, SBA evaluated this issue and disagrees that these types of receipts should be excluded from the calculation of size for firms in this industry. Accordingly, the following discussion explains the reasons for the proposed revision.

Calculation of Average Annual Receipts

Although SBA reviews requests to exclude receipts of certain business activities on a case-by-case basis, the structure of the reviews is consistent with past proposed rules on this issue (see, *e.g.,* advertising agencies, 57 FR 38452, and conference management planners, 60 FR 57982). The reviews identify and evaluate five industry characteristics under which it might be appropriate to exclude certain funds received and later transmitted to an unaffiliated third party:

1. Does a broker or agent-like relationship exist between a firm and a third party provider and is that relationship a dominant or crucial activity of firms in the industry?
2. Are the pass-through funds associated with the broker or agent-like relationship a significant portion of the firm's total receipts?
3. Consistent with the normal business practice of firms in the industry, after the pass-through funds are remitted to a third party, is the firm's remaining income typically derived from a standard commission or fee?
4. Do firms in this industry usually consider billings that are reimbursed to other firms as their own income, or do they prefer to count only receipts that are retained for their own use?
5. Do Federal Government agencies, which engage in the collection of statistics, and other industry analysts typically report receipts of the industry firms on an adjusted receipts basis?

SBA's review of information obtained on the Help Supply Services industry finds that these characteristics do not exist in the industry. Therefore, an assessment of these characteristics does not support the proposal to exclude funds received in trust for unaffiliated third parties from the calculation of a Help Supply Services firm's receipts-size. The following discussion summarizes these findings.

1. No Agent-Like Relationship

The Standard Industrial Classification Manual (1987) states that this industry encompasses ''establishments primarily engaged in supplying temporary or continuing help on a contract or fee basis. The help supplied is always on the payroll of the supplying establishments, but is under the direct or general supervision of the business to whom the help is furnished.'' (See SIC 7363, page 364.) Types of establishments include employee leasing service, fashion show model supply services, help supply services, modeling services, and temporary help services. These firms do not act as agents, but as employers. Some firms even provide health and 401K plans. Their employees are not unaffiliated third parties. Therefore, the dominant activity in this industry is not carried out in a broker or agent-like relationship.

2. Pass-Through Funds Are Not a Significant Portion of Total Receipts

It is common practice in the industry for the Help Supply Services firm to include sufficient funds in a contract to pay the salaries of the workers provided. These funds are then, indeed, passed through to the workers just as any firm providing any other product charges enough to cover the cost of labor. But these funds are not held ''in trust;'' instead, they are the firm's own funds. How the supplying firm acquires and pays for labor is a business decision. Size standards should not be constructed to favor one labor arrangement over another. This issue often arises when part of a contract is subcontracted. The contractor has the option of employing enough workers to do the task and chooses not to do so. Funds which are temporarily held in trust by a firm for remittance to a airline, government agency, or home seller are different in several respects, including the fact that the firm does not have the option/business decision of whether or not the home seller, airline, or government agency will be an employee or a subcontractor. It is true (and not unusual) that the funds which are reported to be ''passed through'' to the associates constitute the majority of the contract revenue. Labor costs in most industries are the largest cost. The size of the labor costs relative to the total billing is not a reason to exclude them from calculation of gross revenues.

3. Remaining Income Is Not Derived From Standard Commission or Fee

Real estate agents, travel agents, advertising agencies, and conference planners derive their gross income from commissions and fees, whereas most firms derive their gross income from pricing their products. Both types of industries must then pay labor costs. SBA is not aware of any commissions or fees that are standard in the Help Supply Services industry. Contracts with and bills to the help supply firms usually reflect charges for labor and overhead. Overhead, like wages, varies for many reasons, including the types of benefits firms provide their employees and efficiency of operation. Without such an industry standard or practice, it would be impossible to implement a size standard based on a firm's adjusted gross revenue from fees or commissions. By contrast, in the travel industry, if the bookings are $1 million, then it can be inferred that the adjusted gross income to the firm is $100,000 because the industry commission and fee structure is standard and well-known.

4. Firms in This Industry Usually Consider Billings as Gross Income

Firms in the Help Supply Services industry consider funds collected as their own funds even though they face substantial labor costs. The help supply firm is the one who hires and fires the employee, negotiating their wages and benefits in the process. Their labor costs are reflected in their bids to supply labor. The funds the help supply firm receives to cover labor costs are fundamentally different from funds received by a real estate agent which must be put into an escrow account, and are never considered the real estate firm's funds. In fact, the real estate firm would face substantial penalties if the funds are co-mingled with its own funds. Not only is the payment structure different, the relationship is different in the two industries. In principal-agent relationships, the agent must, by law, act in a fiduciary capacity for the principal. SBA is not aware of any practice or requirement that help supply firms must act as fiduciary for the firm to which it supplies labor.

5. Federal Agencies and Industry Analysts Typically Do Not Represent Receipts of These Firms on an Adjusted Receipts Basis

Finally, data from the U.S. Bureau of the Census (Census Bureau) on this industry, upon which that SBA evaluates size standards, shows firm receipts based on gross revenue, not commission or fee. The survey form used by the Census Bureau (SV 7306) when surveying Help Supply Services firms does not specifically instruct them to report only agency or brokerage commissions or fees as it does on Form UT 4700, page 2, items 1 & 2 (used to survey firms that arrange transportation of freight and cargo and ''Freight Forwarding (net)'').

Thus, the Census Bureau recognizes that the normal arrangement in this industry is to treat all revenue as gross income irrespective of labor costs. Similarly, the credit reporting firm of Dun and Bradstreet also reports receipts for firms in this industry by gross billings less any discounts or refunds.

None of the five factors support treating the Help Supply Services industry like the industries that operate as agents, such as a travel or real estate agency. In fact, evaluation of the factors strongly supports using gross revenue as the basis for the size standard. Based on the findings discussed above, SBA believes it is appropriate to continue to include all amounts collected on Help Supply Services contracts when calculating receipts.

Size Standard for the Help Supply Services

Based on requests received from the public, SBA believes it is appropriate to re-evaluate the size standard to see what, if any, changes in the industry have occurred since the size standard of $5 million was established. Based on that evaluation, SBA proposes a $10 million size standard for this industry. The following discussion describes SBA's size standards methodology and the evaluation of data on the Help Supply Services industry supporting a revision to the current size standard.

Size Standards Methodology

Congress granted SBA discretion to establish detailed size standards. SBA generally considers four categories for establishing and evaluating size standards:

1. The structure of the industry and its various economic characteristics;
2. SBA program objectives and the impact of different size standards on these programs;
3. Whether a size standard successfully excludes those businesses which are dominant in the industry; and
4. Other factors if applicable.

Other factors may come to SBA's attention during the public comment period or from SBA's own research on the industry. The reason SBA has not adopted a general formula or uniform weighting system is to ensure that the factors will be evaluated in context of a specific industry. Below is a discussion of SBA's analysis of the economic characteristics of an industry, the impact of a size standard on SBA programs, and the evaluation of whether a firm at or below a size standard could be considered dominant in the industry.

Industry Analysis

Paragraphs (a) and (b) of 13 CFR 121.102 list evaluation factors which are the primary factors describing the structural characteristics of an industry—average firm size, distribution of firms by size, start-up costs and entry barriers, and degree of industry competition. While these evaluation factors are generally considered the most important indicators of industry structure, SBA will consider and evaluate all relevant information that is helpful in assessing an industry's size standard. Below is a brief description of the industry structure evaluation characteristics.

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

2. The *distribution of firms* by size examines the proportion of industry sales, employment, or other economic activity accounted for by firms of different sizes within an industry. If the majority of an industry's output comes from large firms, this would tend to support a higher size standard than the anchor. The opposite is true for an industry in which the distribution of firms by size indicates that output is concentrated among the smaller firms in an industry.

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

4. SBA assesses the *degree of industry competition* by measuring the proportion or share of industry sales obtained by firms above a relatively large firm size. In this proposed rule, SBA analyzes the proportion of industry sales generated by the four largest firms in an industry—generally referred to as the ''four-firm concentration ratio.'' If a significant proportion of revenue from sales within an industry is concentrated among a few relatively large producers, SBA tends to set a higher size standard to assist a broader range of firms to compete with firms that are clearly dominant in the industry. If this factor shows the industry to be highly competitive, SBA tends to apply the anchor.

5. *Competition for Federal procurements and SBA financial assistance.* SBA also evaluates the impact of a size standard on its programs and other applications of size standards to determine whether small businesses defined under the existing size standard are receiving a reasonable level of assistance. This assessment mainly focuses on the proportion or share of Federal contract dollars awarded to small businesses. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal procurement revenues, the greater the justification for a size standard higher than the existing one.

Another factor SBA considers when evaluating the impact of a proposed size standard on SBA programs is the volume of guaranteed loans within an industry and the size of firms in that industry obtaining loans in SBA's financial assistance programs. SBA considers this factor when determining whether or not the current size standard may inappropriately restrict the level of financial assistance to firms in that industry. If small businesses receive ample assistance through these programs, a change to the size standard (especially if it is already above the anchor size) may not be appropriate.

SBA established a size standard of 500 employees for the manufacturing and mining industries at SBA's inception in 1953. Shortly thereafter, SBA established a $1 million size standard for the nonmanufacturing industries. These two size standards are generally referred to as ''a base or anchor size standards.'' The revenue-based size standards were adjusted for inflation so that, currently, the anchor size for the nonmanufacturing industries is $5 million.

If the structural characteristics of an industry are significantly different from the average characteristics of industries with the anchor size standard, a size standard higher or, in rare cases, lower than the anchor size standard may be supportable. Only when all or most of the industry data are significantly smaller than the average characteristics of the anchor group industries, or other industry considerations suggest the anchor standard is an unreasonably high size standard, will SBA adopt a size standard below the anchor size standard.

Excluding agriculture and subsistence categories, which generally have size standards established by statute, only seven industries in the revenue-based size standards are below the $5 million anchor. None in the manufacturing or mining industries is below the 500 employee-based size standards.

For the Help Supply Services industry under review in this proposed rule, SBA begins by comparing the characteristics of the five evaluation factors for this industry to the average characteristics of the nonmanufacturing industries which have the anchor size standard of $5 million (hereafter referred to as the nonmanufacturing anchor group). If the characteristics of the industry are similar to the average characteristics of the nonmanufacturing anchor group, then the anchor size standard of $5 million is considered an appropriate size standard for that industry. If, however, the industry characteristics significantly differ from the average characteristics of the nonmanufacturing anchor group, then a size standard above or below $5 million may be appropriate.

Evaluation of Industry Size Standard

SBA analyzed the size standard for the Help Supply Services industry by comparing the industry's characteristics with the average characteristics of the nonmanufacturing anchor group discussed above. SBA examined economic data on the industry using:

• A special tabulation of the 1992 Economic Census prepared on contract by the U.S. Bureau of the Census;

• Asset data from Dun and Bradstreet's 1998 Industry Norms and Key Business Ratios;

• Federal contract award data for fiscal years 1997 and 1998 from the U.S. General Services Administration's Federal Procurement Data Center; and

• 7(a) Business Loans from SBA's database.

The table below shows the characteristics for the Help Supply Services industry compared to the average characteristics for the nonmanufacturing anchor group. A review of these factors leads to a proposed size standard of $10 million for this industry.

INDUSTRY CHARACTERISTICS OF SIC 7363 COMPARED TO THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size ($ mil.)	Percent of industry sales by firms of			Average assets per firm ($ mil.)	Four-firm concentration ratio	Percent of gov't procurement dollars to small business
		<$5Mil.	<$10Mil.	<$25Mil.			
Nonmanufacturing Anchor Group	$0.85	51.0	61.0	67.0	$0.5	15.0	21.0
Help Supply Services Industry	2.98	26.3	37.2	52.0	0.56	11.1	10.7

The average firm size in the Help Supply Services industry is more than three times larger than the average firm size of the nonmanufacturing anchor group. This shows that firms in the Help Supply Services industry tend to be much larger in size than firms in other non-manufacturing anchor group and supports a size standard at least $10 million.

The distribution of sales by firm size also supports a size standard for this industry at least $10 million. Under this factor, the proportion of industry sales obtained by firms of $5 million and less in sales, $10 million and less in sales, and $25 million and less in sales is much smaller than that of firms of the same size class found for the anchor nonmanufacturing group.

The average assets per firm show that the industry is capital intensive, similar to the industries in the anchor group, and thus, would support a size standard at the anchor of $5 million. However, the average assets per firm is not substantially different from the anchor group and so would not by itself support a standard higher than the present $5 million standard.

The four-firm concentration ratio likewise is similar to, but slightly less than, the anchor group characteristic size standard—no higher than $5 million. The four-firm concentration ratio shows that the four largest firms in the Help Supply Services industry account for only 11 percent of the industry revenues, while the four largest-firms in the nonmanufacturing anchor group account for 15 percent. This factor shows the industry is already highly competitive.

If a few large firms were controlling a large portion of the industry revenues, then raising the size standard above the anchor size standard might help smaller firms compete. However, when the industry is already competitive, as this one is, nothing would be gained in competitiveness by lowering the size standard. Therefore, we conclude that the four-firm concentration ratio does not support a standard either higher or lower than the anchor.

Purpose of and Impact on SBA Programs

The percent of Federal contract dollars awarded to small firms in the Help Supply Services industry during fiscal years 1997 and 1998 is about half as large as the share of Federal contracting going to small firms within the non-manufacturing anchor group. This supports an increase to the current size standard. In fiscal years 1997 and 1998, of the 1,049 actions reported by the Federal Procurement Data System, 645 (61 percent) went to small firms. While the 645 actions were 61 percent of the total actions, they were only 10.7 percent of the total contract dollars awarded when the two years are combined. This industry is lagging behind those in the anchor group.

Also, an increase to the size standard for this industry appears reasonable based on the distribution of SBA guaranteed loans under the 7(a) program. In fiscal years 1994 through 1998, small businesses in the Help Supply Services industry received a total of 229 loans which averaged $116,800. The number of 7(a) loans to this industry has taken a downward trend in recent years, from 81 in FY 1995 to 25 in FY 1998. The total dollar value has also declined during that time, from $6,951,029 to $2,651,687. As in Federal procurement, the potential exists to increase 7(a) loans going to this industry. Both the level of participation in this program and the trend would support a $10 million size standard as one providing a reasonable level of assistance to small businesses in this industry.

Considering these industry structure factors and the impact on SBA programs in the aggregate, SBA believes that the $10 million size standard is reasonable and would provide assistance to firms we believe should be eligible as small business for this industry. Three of the industry factors support a size standard higher than the non-manufacturing anchor group and two industry factors support a size standard at the anchor size standard.

Dominant in Field of Operation

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

SBA has determined that at the recommended size standard of $10 million, no firm at or below those levels would be of a sufficient size to be dominant in its field of operation. Firms at the proposed size standard generate less than .02 percent of total industry sales. This level of market share effectively precludes any firm from exerting a controlling effect on the industry.

SBA also proposes to add clarifying language to § 121.103(b)(4). Paragraph (b) discusses exclusions from affiliation rules while paragraph (b)(4) specifically excludes business concerns that lease employees. We propose to insert Professional Employee Organizations (PEOs) in this section along with leasing companies. Their relationship with the firms to whom they provide employees and staffing services are similar, yet questions arise from time-to-time because PEOs were not specifically mentioned in the exclusion. SBA will not find a firm affiliated with a leasing company or PEO merely because it uses the services of a leasing company or PEO. However, SBA might find affiliation based on other conditions.

Nothing in the clarification of the exclusions to the affiliation rule is intended to change the way a firm must count its employees when determining size. All employees must be counted; whether permanent, part-time, temporary, leased or covered by a contract with a PEO. How a firm obtains its staffing is a business decision, and size standards are not intended to influence its decision in that regard.

Alternative Size Standards

SBA considered two alternative size standards for this industry. One alternative considered was modifying the average annual receipts method to allow for pass-through funds received for employees (sometimes referred to as ‘‘associates’’). SBA rejected this alternative because the industry characteristics are not similar to those industries which obtain gross revenues from commissions and fees. None of the five factors used in this evaluation supported making that change.

Also, since not all the factors supported the same size standard, but rather indicated a range of possible size standards, a second alternative considered was to select one of the other sizes from the range, either somewhat higher or lower than the one proposed. On balance, and given the characteristics of the industry, SBA considers $10 million the best interpretation of the data and the most supportable standard for this industry.

SBA welcomes comments on the proposed size standard for Help Supply Services. If the public can show compelling reasons why a different size standard for this industry should be established or that it should weigh one factor higher or lower, SBA will consider these reasons when developing the final rule. SBA would also appreciate comments on its position that it should measure the receipts size of a Help Supply Services firm on gross receipts.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

SBA certifies that this rule, if adopted, would not be a significant rule within the meaning of Executive Order 12866 since it will not have an impact of $100 million or more. The total amount of Federal procurement and SBA guaranteed loans combined is less than $160 million to this industry annually, and a change to the size standard is unlikely to significantly affect these programs.

For purposes of the Regulatory Flexibility Act, this rule would not have a substantial impact on a significant number of small entities. Although potentially 576 additional firms could gain small business status as a result of this rule, only a very small percentage of firms in the industry compete for Federal procurements or obtain guaranteed loans through SBA's financial assistance programs.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, SBA certifies that this rule would not impose new reporting or recordkeeping requirements other than those already required of SBA.

For purposes of Executive Order 12612, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

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

List of Subjects in 13 CFR Part 121

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

For reasons stated in the preamble, SBA proposes to amend 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(a), 634(b)(6), 637(a), 644(c) and 662(5).

2. In § 121.103, revise paragraph (b)(4), to read as follows:

§ 121.103 What is affiliation?

* * * * *

(b) * * *

(4) Business concerns that lease employees from concerns primarily engaged in leasing employees to other businesses or that enter into a co-employer arrangement with a Professional Employer Organization (PEO) are not affiliated with the leasing company or PEO solely on the basis of a leasing agreement.

* * * * *

3. In § 121.201, under the DIVISION I—SERVICES heading of the ‘‘SIZE STANDARDS BY SIC INDUSTRY’’ table, add a new entry for SIC Code 7363 in numerical order to read as follows:

§ 121.201 What size standards has SBA identified by Standard Industrial Classification codes?

* * * * *

SIZE STANDARDS BY SIC INDUSTRY

SIC code and description	Size standards in number of employees or millions of dollars
* * * *	*
DIVISION I—SERVICES ...... EXCEPT:	$5.0
* * * *	*
7363 Help Supply Services ..	$10.0

SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
* * * * *	

Dated: October 7, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–26783 Filed 10–14–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

RIN: 1076–AD90

Acquisition of Title to Land in Trust

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; Reopening of comment period.

SUMMARY: This notice reopens the comment period for the proposed rule published at 64 FR 17574–17588, April 12, 1999 on the Acquisition of title to land in trust.

DATES: Comments must be received on or before November 12, 1999.

ADDRESSES: You may mail comments to the Office of Trust Responsibilities, Bureau of Indian Affairs, 1849 C Street, NW, MS–4513–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Terry Virden, Director, Office of Trust Responsibilities, Bureau of Indian Affairs, MS–4513, Main Interior Building, 1849 C Street, NW, Washington, DC 20240; by telephone at (202) 208–5831; or by telefax at (202) 219–1065.

SUPPLEMENTARY INFORMATION: On Monday, April 12, 1999, the Bureau of Indian Affairs published a proposed rule, 64 FR 17574–17588, concerning the Acquisition of title to land in trust. The deadline for receipt of comments was July 12, 1999, which was extended to October 12, 1999. The comment period is reopened for an additional thirty days to allow additional time for comment on the proposed rule. Comments must be received on or before November 12, 1999.

Dated: October 12, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–27024 Filed 10–14–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SPATS No. AL–070–FOR]

Alabama Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is reopening and extending the public comment period for the proposed rule published on September 7, 1999 (64 FR 48573). The comment period originally closed October 7, 1999. We are reopening and extending the comment period because the citizens of Alabama have shown a high level of interest in the revisions proposed by Alabama.

DATES: We will accept written comments until 4:00 p.m., c.s.t., November 1, 1999.

ADDRESSES: You should mail or hand deliver written comments to Arthur W. Abbs, Director, Birmingham Field Office at the address listed below.

You may review copies of the Alabama program, the amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

Alabama Surface Mining Commission, 1811 Second Avenue, P.O. Box 2390, Jasper, Alabama 35502–2390, Telephone (205) 221–4130.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office. Telephone: (205) 290–7282. Internet: aabbs@balgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

On May 20, 1982, the Secretary of the Interior conditionally approved the Alabama program. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 20, 1982, **Federal Register** (47 FR 22062). You can find later actions on the Alabama program at 30 CFR 901.15 and 901.16.

II. Discussion of the Proposed Amendment

Due to the high level of interest in this amendment, we are reopening and extending the public comment period for the proposed rule published on September 7, 1999 (64 FR 48573). In this amendment, Alabama proposed revisions to statutes concerning the repair or compensation for material damage caused by subsidence, resulting from underground coal mining operations, to any occupied residential dwelling and related structures or any noncommercial building. Alabama proposed to revise its program at its own initiative.

III. Public Comment Procedures

We are reopening the comment period on the proposed Alabama program amendment to provide you an opportunity to comment on the adequacy of the amendment. Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Alabama program.

Written Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments