BILLING CODE 6210–01–C

3. In Supplement I to part 203:

a. Under section 203.2 Definitions, *2(c) Branch Office,* paragraphs 2. and 3. are revised.

b. Under section 203.2 Definitions, *2(e) Financial Institution,* paragraph 2. is revised.

c. Under section 203.2 Definitions, a new paragraph title *2(j) Metropolitan Statistical Areas and Metropolitan Divisions* is added, and a new paragraph 1. is added.

d. Under section 203.4 Compilation of Loan Data, *4(a)(9) Property Location,* paragraph 3. is revised.

e. Under section 203.5 Disclosure and Reporting, *5(a) Reporting to Agency,* paragraphs 4. and 8. are revised.

Supplement I to Part 203—Staff Commentary

Section 203.2 Definitions

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2(c) *Branch office.*

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2. *Depository institution.* A branch of a depository institution does not include a loan-production office, the office of an affiliate, or the office of a third party such as a loan broker. (But see Appendix A, paragraph I.C.6, which requires certain depository institutions to report property location even for properties located outside those MSAs or Metropolitan Divisions in which the institution has a home or branch office.)

3. *Nondepository institution.* For a nondepository institution, ''branch office'' does not include the office of an affiliate or other third party such as a loan broker. (But note that certain nondepository institutions must report property location even in MSAs or Metropolitan Divisions where they do not have a physical location.)

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2(e) Financial Institution

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2. *Adjustment of exemption threshold for depository institutions.* For data collection in 2004, the asset-size exemption threshold is $33 million. Depository institutions with assets at or below $33 million are exempt from collecting data for 2004.

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2(j) Metropolitan Statistical Areas and Metropolitan Divisions

1. *Use of terms ''Metropolitan Statistical Area'' and ''Metropolitan Division.''* The U.S. Office of Management and Budget defines Metropolitan Statistical Areas and Metropolitan Divisions to provide nationally consistent definitions for collecting, tabulating, and publishing Federal statistics for a set of geographic areas. OMB divides every Metropolitan Statistical Area (MSA) with a population of 2.5 million or more into Metropolitan Divisions (MDs); MSAs with populations under 2.5 million population are not so divided. 67 FR 82228 (December 27, 2000). For all purposes under Regulation C, if an MSA is divided by OMB into MDs, the appropriate geographic unit to be used is the MD; if an MSA is not so divided by OMB into MDs, the appropriate geographic unit to be used is the MSA.

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Section 203.4 Compilation of Loan Data

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4(a)(9) Property location.

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3. *Property location—loans purchased from another institution.* The requirement to report the property location by census tract in an MSA or Metropolitan Division where the institution has a home or branch office applies not only to loan applications and originations but also to loans purchased from another institution. This includes loans purchased from an institution that did not have a home or branch office in that MSA or Metropolitan Division and did not collect the property-location information.

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Section 203.5 Disclosure and Reporting

5(a) Reporting to Agency

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4. *Options for collection.* An institution may collect data on separate registers at different branches, or on separate registers for different loan types (such as for home purchase or home improvement loans, or for loans on multifamily dwellings). Entries need not be grouped on the register by MSA or Metropolitan Division, or chronologically, or by census tract numbers, or in any other particular order.

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8. *Transmittal sheet—revisions or deletions.* If a data submission involves revisions or deletions of previously submitted data, it must state the total of all line entries contained in that submission, including both those representing revisions or deletions of previously submitted entries, and those that are being resubmitted unchanged or are being submitted for the first time. Depository institutions must provide a list of the MSAs or Metropolitan Divisions in which they have home or branch offices.

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By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, December 18, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–31694 Filed 12–24–03; 8:45 am]

BILLING CODE 6210–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE80

Small Business Size Standards; Information Technology Value Added Reseller

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

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is establishing a new industry category and size standard of 150 employees for Information Technology Value Added Resellers under the industry of Other Computer Related Services, North American Industry Classification System industry code 541519. This industry category and size standard is being established to better apply small business eligibility requirements under Federal contracts that combine substantial services with the acquisition of computer hardware and software.

DATES: This rule is effective on January 28, 2004.

FOR FURTHER INFORMATION CONTACT: Gary Jackson, Assistant Administrator for Size Standards, at (202) 205–6464 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: On July 24, 2002, the SBA proposed to establish a size standard for businesses described as Information Technology Value Added Resellers (ITVAR) (67 FR 48419). Under the North American Industry Classification System (NAICS), value added resellers are classified in the Wholesale Trade Sector along with merchant wholesalers, distributors, drop shippers, brokers, and agents. For purposes of Federal contracting, a wholesale trade firm that provides supplies to the Federal Government that it did not manufacturer is small if it, including its affiliates, has not more than 500 employees. The SBA proposed to retain the 500 employee size standard applicable to value added resellers and other wholesale trade nonmanufacturers for the proposed industry category of ITVARs.

In response to a large number of comments objecting to the 500 employee size standard for ITVAR, the SBA reassessed its decision to retain the nonmanufacturer size standard for this new industry category. As described below, the SBA has decided to establish a size standard of 150 employees for ITVARs. This decision is based on a review of the comments received to the proposed rule and an analysis of the characteristics of firms in the computer services and wholesale trade industries that are engaged in providing services along with information technology (IT) equipment. Below is a discussion of the comments received on the proposed rule and the size standard analysis.

Discussion of Comments

The SBA received 291 timely comments on the proposed rule. Two hundred and seventy six comments

(94.8%) opposed the 500 employee size standard for ITVAR. Twelve comments (4.1%) supported the proposed size standard. The remaining three comments either supported a higher size standard or addressed other issues related to the proposed rule.

Comments Opposing the Proposal

More than three-fourths of the 276 comments that strongly objected to the proposed ITVAR size standard submitted an identical or very similar comment. These comments stated that the average size of an ITVAR is 15 employees and 88% have 100 or fewer employees, based on data from the SBA and from a survey conducted by Computer News Reseller titled ''State of the Market 2002 Research.'' Based on these facts, the comments contended that a 500 employee size standard is inconsistent with the Small Business Act and the foundation of the SBA. These comments further recommended that SBA also adopt a 100 employee size standard for nonmanufacturers under the industry of Computer and Computer Peripheral Equipment and Software Merchant Wholesalers, NAICS 423430 (formally NAICS 421430).

The other comments opposing the proposed ITVAR size standard cited similar data on ITVARs to argue that businesses with up to 500 employees are not small businesses in this industry and provided additional reasons for their position. Many of these comments argued that smaller IT businesses are not competitive against businesses with several hundred employees. Although smaller ITVARs may be competitive in terms of quality and service, the low margins in the industry make them uncompetitive with larger resellers. Under the proposed size standard, they argued that Federal agencies would tend to award contracts to the larger small businesses at the expense of much smaller businesses. Several comments considered a 500 employee ITVAR to be dominant in this field, and therefore, does not meet the Small Business Act's statutory definition of a small business which excludes dominant businesses as small (*see* 15 U.S.C. 632(a)(1)). Several comments also criticized the 500 employee size standard as merely an attempt to help Federal agencies to achieve their small business goals.

Comments Supporting the Proposal

The 12 comments supporting the proposed ITVAR size standard gave several reasons for their position. Many of these comments noted that many firms outgrow the $21 million receipts-based IT industry size standards because a sizable proportion of receipts on Federal contracts are for the purchase of hardware and software from manufacturers rather than strictly for services performed by ITVAR firms. Related to this point, one comment stated that the proposed ITVAR size standard allows larger small businesses to continue to operate in an industry category after they outgrow other IT industry size standards. Another comment supported the proposed size standard by comparing the activities of value added resellers with small businesses that function as an order processing or clearing house for the resale of computer and related products. The comment contended that small businesses that provide staff involved in engineering, re-configuration, systems integration, and turnkey operations must have a large number of employees to perform these functions and to grow to compete with large businesses. One of the supporting comments also recommended adding a receipts-size standard of $50 million with the proposed 500 employee size standard to prevent large businesses from qualifying as small.

Comments on establishing an ITVAR Industry Category

The SBA received seven comments on the issue of establishing an industry category for ITVAR. All seven commented in support of the new category. Three of these were from comments that opposed the 500 employee size standard. One comment recommended changing the proposed service percentage range of 15% to 50% of contract value in the ITVAR definition to a range of 0% to 100% since contracts exclusively for hardware also include an implicit services component that contractors will provide to their customers.

The SBA's Response to Comments

The SBA agrees that 500 employees is not an appropriate size standard for ITVARs. As the comments pointed out, a large number of firms engaged in this activity are much smaller than 500 employees. A business can enter into the ITVAR industry at a relatively small size and grow into a highly competitive business well before it reaches 500 employees. The reasons given for comments in support of the proposed size standard support focused on being eligible as small businesses for large-sized contracts after firms have grown beyond the $21 million computer services size standard.

While the SBA agrees that a size standard lower than 500 employees should be adopted, it does not agree that 100 employees is the appropriate size standard. The reasons provided by those comments focused on the average employee size of ITVARs and the percent of ITVARs with 100 or fewer employees. As described more fully below, the SBA considers several industry characteristics to assess a size standard for an industry. Average firm size is one industry factor, which is compared to the average size firm in other industries. The percent of industry firms at various sizes is not used. This factor is not as useful as other industry characteristics in assessing a size standard. The statistic is overwhelmingly driven by the concentration of firms with only a few employees. These firms have much turnover and account for an insignificant proportion of industry employment and receipts. For example, ITVARs with less than five employees comprise 71% of industry firms but account for between 6% to 7% of industry employment and sales. A more useful measure to assess the economic significance of firms of varying sizes in an industry is the distribution of industry receipts by firm size. Data on this characteristic is discussed in the size standard analysis below.

Based on a review of ITVAR industry characteristics, the SBA is adopting a 150 employee size standard, which it believes more sufficiently considers the overall characteristics of the types of firms engage in ITVAR activities. In addition, 150 employees is equivalent to the average number of employees of firms under the $21 million size standard for computer services (NAICS 5415 industry group). Since firms in these industries also act as ITVARs, the SBA believes that it is beneficial to firms in these industries to have a consistent size standard, even though the size standard measures differ. As discussed as options in the proposed rule, the SBA considered proposing the $21 million receipts size standard and an employee equivalent of 150 employees. An employee size standard is considered a better measure of the size of ITVARs operation than receipts since a substantial proportion of their receipts merely reflect the dollar value of equipment and software sold.

The SBA does not agree with the comment recommending changing the percentage of services that must be present in an ITVAR contract range from 0% to 100%. It is unlikely that a contract for computer equipment would later include a significant amount of services. As explained in the proposed rule, the purpose of the ITVAR industry category is to treat computer contracts with a meaningful amount of computer services, but where the majority of contract dollars consists as equipment, in the same manner as other computer services contracts. Removing the requirement for a specific percentage of services defeats the purpose of the rule and would unintentionally change the size standards applicable to nonmanufacturers of computer equipment and for computer services.

Size Standards Methodology: Congress granted the SBA discretion to establish detailed size standards (15 U.S.C. 632(a)(2)). The SBA's Standard Operating Procedure (SOP) 90 01 3, ''Size Determination Program'' (available on SBA's Web site at *http://www.sba.gov/library/soproom.html*) sets out four categories for establishing and evaluating size standards: (1) The structure of the industry and its various economic characteristics; (2) the 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, including the impact on other agencies' programs, may come to the attention of the SBA during the public comment period or from the SBA's own research on the industry. No formula or weighting has been adopted so that the factors may be evaluated in the context of a specific industry. Below is a discussion of the 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 under review.

Industry Analysis: 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 industry characteristics. SBA has two ''base'' or ''anchor'' size standards that apply to most industries—500 employees for manufacturing industries and $6 million in average annual receipts for nonmanufacturing industries. SBA established 500 employees as the anchor size standard for the manufacturing industries at SBA's inception in 1953 and shortly thereafter established a $1 million average annual receipts size standard for the nonmanufacturing industries. The receipts-based anchor size standard for the nonmanufacturing industries was adjusted periodically for inflation so that, currently, the anchor size standard is $6 million. Anchor size standards are presumed to be appropriate for an industry unless its characteristics indicate that larger firms have a much greater significance within that industry than the ''typical industry.''

When evaluating a size standard, the characteristics of the specific industry under review are compared to the characteristics of a group of industries, referred to as a comparison group. A comparison group is a large number of industries grouped together to represent the typical industry. It can be comprised of all industries, all manufacturing industries, all industries with receipt-based size standards, or some other logical grouping.

If the characteristics of a specific industry are similar to the average characteristics of the comparison group, then the anchor size standard is considered appropriate for the industry. If the specific industry's characteristics are significantly different from the characteristics of the comparison group, a size standard higher or, in rare cases, lower than the anchor size standard may be considered appropriate. The larger the differences between the specific industry's characteristics and the comparison group's characteristics, the larger the difference between the appropriate industry size standard and the anchor size standard. 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 comparison group, or (2) other industry considerations strongly suggest that the anchor size standard would be an unreasonably high size standard for the industry under review.

The primary evaluation factors that the SBA considers in analyzing the structural characteristics of an industry are listed in 13 CFR 121.102 (a) and (b). Those factors include average firm size, distribution of firms by size, start-up costs, and industry competition. The analysis also examines the possible impact of a size standard revision on SBA's programs. The SBA generally considers these five factors to be the most important evaluation factors in establishing or revising a size standard for an industry. However, it will also consider and evaluate other information that it believes relevant to the decision on a size standard for a particular industry. Public comments submitted on proposed size standards are also an important source of additional information that the SBA closely reviews before making a final decision on a size standard. Below is a brief description of each of the five evaluation factors.

1. ''Average firm size'' is simply total industry receipts (or number of employees) divided by the number of firms in the industry. If the average firm size of an industry is significantly higher than the average firm size of a comparison industry group, this fact would be viewed as supporting 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 comparison industry group, it would be a basis to adopt the anchor size standard or, in rare cases, a lower size standard.

2. ''Distribution of firms by size'' is the proportion of industry receipts, employment, or other economic activity accounted for by firms of different sizes in an industry. If the preponderance of an industry's economic activity is by smaller firms, this tends to support adopting the anchor size standard. A size standard higher than the anchor size standard is supported for an industry in which the distribution of firms indicates that economic activity is concentrated among the largest firms in an industry. In this rule, SBA is comparing the size of firms within an industry to the size of firms in the comparison group at which predetermined percentages of receipts are generated by firms smaller than a particular size firm. For example, assume for the industry under review that 50% of total industry receipts are cumulatively generated by firms of 200 employees and less. This contrasts with the comparison group (composed of industries with the nonmanufacturing anchor size standard of $6 million) in which firms of 64 employees and less cumulatively generated 50% of total industry receipts. Viewed in isolation, the higher figure for the industry under review suggests that a size standard higher than the nonmanufacturing anchor size standard may be warranted. Other size distribution comparisons in the industry analysis include 40%, 60%, and 70%, as well as the 50% comparison discussed above.

3. ''Start-up costs'' affect a firm's initial size because entrants into an industry must have sufficient capital to start and maintain a viable business. To the extent that firms entering into one industry have greater financial requirements than firms in other industries, the SBA is justified in considering a higher size standard. In lieu of direct data on start-up costs, the SBA uses a proxy measure to assess the financial burden for entry-level firms. For this analysis, the SBA has calculated nonpayroll costs per establishment for each industry. This is derived by first calculating the percentage of receipts in an industry that is either retained or expended on costs other than payroll costs. (The

figure comprising the numerator of this percentage is mostly composed of capitalization costs, overhead costs, materials costs, and the costs of goods sold or inventoried.) This percentage is then applied to average establishment receipts to arrive at nonpayroll costs per establishment (an establishment is a business entity operating at a single location). An industry with a significantly higher level of nonpayroll costs per establishment than that of the comparison group is likely to have higher start-up costs, which would tend to support a size standard higher than the anchor size standard. Conversely, if the industry showed significantly lower nonpayroll costs per establishment when compared to the comparison group, the anchor size standard would be considered the appropriate size standard.

4. ''Industry competition'' is assessed by measuring the proportion or share of industry receipts obtained by firms that are among the largest firms in an industry. In this final rule, the SBA compares the proportion of industry receipts generated by the four largest firms in the industry—generally referred to as the ''four-firm concentration ratio''—with the average four-firm concentration ratio for industries in the comparison groups. If a significant proportion of economic activity within the industry is concentrated among a few relatively large producers, the SBA tends to set a size standard relatively higher than the anchor size standard in order to assist firms in a broader size range to compete with firms that are larger and more dominant in the industry. In general, however, the SBA does not consider this to be an important factor in assessing a size standard if the four-firm concentration ratio falls below 40% for an industry under review.

5. ''Impact of a size standard revision on the SBA programs'' refers to the possible impact a size standard change may have on the level of small business assistance. This assessment most often focuses on the proportion or share of Federal contract dollars awarded to small businesses in the industry in question. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal contracting revenues, the greater is the justification for a size standard higher than the existing one.

Another factor to evaluate the impact of a proposed size standard on the SBA's programs is the volume of guaranteed loans within an industry and the size of firms obtaining those loans. This factor is sometimes examined to assess whether the current size standard may be restricting the level of financial assistance to firms in that industry. If small businesses receive significant amounts of assistance through these programs, or if the financial assistance is provided mainly to small businesses much lower than the size standard, a change to the size standard (especially if it is already above the anchor size standard) may not be necessary.

Evaluation of Industry Size Standard: The SBA reviewed data on firms in two industry categories to evaluate a size standard for ITVARs. Most ITVARs operate either in the Computer Systems Design and Related Services industry group (NAICS 5415) or in the Computer and Computer Peripheral Equipment and Software Merchant Wholesalers industry (NAICS 423430, formally code 421430). Instead of equally combining the data from these two industries, the SBA adjusted the data by the proportion of sales of firms that provide both services and equipment. Data from the U.S. Bureau of the Census show that firms in the Computer Systems Design and Related Services industry that provide both services and equipment generate 23% of total industry receipts (*see Sources of Receipts or Revenue,* 1997 Economic Census, Professional, Scientific, and Technical Services, Subject Series, EC975545–LS, U.S. Bureau of the Census, August 2000). In the Computer and Computer Peripheral Equipment and Software Merchant Wholesalers industry, firms providing both equipment and services (service contracts, installing computers, and sales of integrated systems) generate 14% of total industry sales from these and all other activities (*see Commodity Line Sales,* 1997 Economic Census Wholesale Trade, Subject Series, EC97W425–LS, U.S. Bureau of the Census, August 2000). The results of combining the two industries are evaluated using the SBA's size standards methodology described above.

The SBA is aware of ITVAR data from private sector sources. The SBA considered these data but decided not to use them for three reasons. First, it is unclear whether the private sector data collected include the receipts and employees of affiliates. Second, whether the data separately show the receipts and employees of all industry activities and from just ITVAR activities. These are key conceptual features of the Census Bureau data that the SBA relies upon to evaluate size standard. Without taking those factors into consideration, misleading data on firm size may be relied upon. Third, private sector data usually consist of a limited sample that tends to miss smaller sized firms. Given these uncertainties, the SBA decided to assess the Census Bureau data.

Tables 1 and 2 below show the structural characteristics for the derived ITVAR industry and for two size standards comparison groups. The first comparison group is comprised of all industries with a $6 million receipts-based size standard, referred to as the ''nonmanufacturing anchor group.'' A firm with $6 million in receipt size in these industries has, on average, 65 employees. SBA assumes that this size standard is appropriate for a nonmanufacturing industry. This is the most logical set of industries to group to assess whether the anchor size standard is appropriate. The second comparison group consists of the nonmanufacturing industries with the highest receipt-based size standards established by the SBA. The SBA refers to this comparison group as the ''nonmanufacturing higher-level size standard group.'' This group's size standards range from $21 million to $30 million. Firms within this size range average in size between 165 employees to 230 employees. If an industry's characteristics are significantly larger than those of the nonmanufacturing anchor group, the SBA will compare them to the characteristics of the higher-level size standards group. By doing so, the SBA can assess whether a size standard should be among the highest size standards or somewhere between the anchor size standard and the highest size standards.

Industry Structure Considerations: Table 1 lists three evaluation factors for the ITVAR industry and the two size standards comparison groups. These include two measures of average firm size and start-up costs (as measured by nonpayroll receipts per establishment), and the four-firm concentration ratio.

TABLE 1.—INDUSTRY CHARACTERISTICS OF THE ITVARS INDUSTRY, THE NONMANUFACTURING ANCHOR GROUP AND HIGHER-LEVEL SIZE STANDARD GROUP

Category	Average firm size		Start-up Costs		Four-firm concentration ratio (percentage)
	Receipts (millions)	Employees	Non-payroll receipts per establishment (millions)	Employee equivalent	
IT value added reseller	$3.47	14	$2.42	10	18.3
Nonmanufacturing anchor group	0.95	11	0.56	6	14.4
Higher-level size standard group	4.60	21	1.80	14	26.7

The average employment size of an ITVAR of 14 employees is about the same as for the nonmanufacturer anchor group level of 11 employees. In terms of average receipts size, ITVARs average receipts size are more than triple that of the nonmanufacturer anchor group's average receipts size. This difference reflects the larger proportion of equipment sales by ITVARs than by firms in other nonmanufacturing industries. Since the size standard under consideration is based on number of employees, the evaluation of this factor will not be based on average receipts size, but is shown for information. The average firm size of ITVARs is two-thirds of the higher size standards group's average employment firm size of 21 employees. Based on the ratio between the ITVAR's and the two comparison groups' average firm size, a size standard at or slightly above the nonmanufacturer level is supportable, or between 65 to 100 employees.

The nonpayroll receipts per establishment indicator is a measurement of entry barriers. Based on this measure, start-up costs for ITVARs are almost five times larger than those of the nonmanufacturer group and about one-third of the higher-level size standard group. As with the average firm size factor, the receipts levels are misleading when considering an employee size standard. To make this measure more useful, the receipts levels were adjusted by the sales per employee for each industry category to show what number of employees it would take, on average, to earn those levels of receipts. This conversion shows that ITVARs with 10 employees generate the estimated average nonpayroll receipts per establishment. This level falls in the middle between the employment sizes calculated for the nonmanufacturer anchor and higher size standards comparison groups, 6 and 14, employees, respectively. This industry characteristic supports a size standard between the nonmanufacturer anchor and higher size standard group levels, or between 100 to 125 employees.

The ITVAR industry's four-firm concentration ratio is estimated to be 18.3%. This is derived from a weighted average of the four-firm concentration ratios of 23% for the Computer and Computer Peripheral Equipment and Software Merchant Wholesalers industry (NAICS 423430, formally code 4421430) and 15.5% for the Computer Systems Design and Related Services industry group (NAICS 5415). A ratio of 18.3% indicates that a small number of businesses do not dominate this industry. As discussed earlier in the description of the size standards methodology, this is not an important factor in assessing a size standard when the four-firm concentration ratio is below 40%.

Table 2 below shows data on the distribution of receipts by firm employment size. For this factor, the SBA is evaluating the cumulative size of firm that accounts for predetermined percentages of total industry receipts (40%, 50%, 60%, and 70%). The table shows firms up to a specific employment size, along with all other smaller firms, account for a specific percentage of total industry receipts.

TABLE 2.—PERCENT OF RECEIPTS BY FIRM SIZE OF THE ITVARS INDUSTRY, THE NONMANUFACTURING ANCHOR GROUP, AND THE HIGHER-LEVEL SIZE STANDARD GROUP

[Number of employees]

Category	Size of firm at 40%	Size of firm at 50%	Size of firm at 60%	Size of firm at 70%
IT Value Added Reseller	250	1,000	>2,500	>2,500
Nonmanufacturing Anchor Group	35	64	130	307
Higher-level Size Standard Group	188	391	1,051	>2,500

The ITVAR industry consists of firms many times larger than firms in the nonmanufacturing anchor group. ITVARs with 250 employees and less obtained 40% of the industry's total receipts whereas firms of 35 employees and less in the nonmanufacturing anchor group obtained 40% of the industry's total receipts. For the other size distribution percentages, ITVARs more than 15 times the size of the firms in the nonmanufacturing anchor group. These data support an ITVAR size standard significantly above the anchor nonmanufacturing level of 65 employees.

Relative to the higher-level size standards group, ITVARs that obtained 40% of industry sales were approximately one-third larger than the size of firms that cumulatively obtained 40% of industry receipts in the higher-level size standard group (250 employees and 188 employees, respectively). The size of ITVARs is more than twice the size of firms for the higher-level size standard group at the 50% and 60% levels. At the 70% level, firms of at least 2,500 employees and less cumulatively captured that proportion of industries sales for the ITVAR industry and the higher-level size standard group. The analysis of these distributions of receipts support a size standard no less than the highest employee-equivalent size standard of the higher-size standards group and up to about twice that level, or between 230 to 400 employees.

SBA Program Considerations: As part of the review of a size standard, the SBA reviews how a change might impact its programs. Most of the impact of a change to the ITVAR size standard will occur in Federal contracting. Data are not collected on Federal contracts designated as ITVAR contracts. These types of contracts are reported in several industry categories. For purposes of the ITVAR size standard analysis, the SBA sorted data by NAICS codes and the Federal Procurement Data Center's (FPDC) Product and Service (PCS) codes to assess small business participation in Federal contracting. Under the existing size standards, an ITVAR contract is classified under a NAICS manufacturing code since the majority of the dollar value of an ITVAR contract (as defined in the proposed rule) is for computer equipment. Some of these contracts, however, are also classified under a wholesale trade code, albeit improperly. The SBA examined contracts awarded during fiscal years 2001–02 in three NAICS industries—Electronic Computer Manufacturing (NAICS 334111), Other Computer Peripheral Equipment Manufacturing (NAICS 334119), and Computer and Computer Peripheral Equipment and Software (NAICS 421430). From these contracts, ITVAR contracts were identified as those that the contracting agency had also designated the services PSC of ''Automatic Data Processing and Telecommunication Services'' (PSC codes D301 through D399). The resulting list of contracts therefore consisted primarily of computer equipment but also require related services to be performed by the contractor.

The SBA recognizes that this set of Federal contracting data only approximates Federal ITVAR contracting. However, the types of contracts identified capture the types of activities described by the ITVAR size standard description. Also, the large volume of contracting identified by the SBA's approach ($925.7 million) is highly likely to capture significant trends in small business participation. For these two considerations, the SBA believes that data are sufficient to assist in evaluating an ITVAR size standard.

Table 3 shows the amount of estimated ITVAR Federal contracting for fiscal years 2001–02.

TABLE 3.—FEDERAL CONTRACTS FOR INFORMATION TECHNOLOGY VALUE ADDED RESELLERS, FISCAL YEARS 2001–02

Fiscal year	Actions			Dollars		
	Total	Small business	Percent	Total	Small business	Percent
2001	1,514	714	47.2	$405,048,000	$143,432,000	35.4
2002	1,790	937	52.3	$520,676,000	$137,987,000	26.5
2001–02	3,304	1,651	50.0	$925,724,000	$281,419,000	30.4

Source: SBA estimates from the Federal Procurement Data System, U.S. General Services Administration.

These data show small businesses obtaining half of ITVAR contact actions. These small business awards represent about 30% of the total dollar of contract awards. Compared to the share of total industry receipts, small ITVARs obtained 45.5% of total industry sales. This discrepancy between the small business shares suggests that small businesses as a group are less competitive in the Federal ITVAR market than in the private sector. The overall level of small ITVAR participation in Federal contracting does not support the need to lower the current 500 employee size standard.

The comments opposing the proposed 500 employee size standard, however, argued that many small businesses are not competitive against the larger small businesses that are hundreds of employees in size. The SBA examined this point in greater detail. The data show that larger small businesses, those between 200 to 500 employees, accounted for only one-fifth of the ITVAR contracts awarded to small businesses. Furthermore, most contracts identified as ITVAR contracts were full and open contracts. In terms of the dollar value of all Federal ITVAR contracts, the larger small businesses obtain 6.2% of contracts dollars, which is slightly below their estimated 8.7% share of total industry sales. Thus, it does not appear that a compelling argument exists that Federal ITVAR awards to small businesses are dominated by the larger small businesses.

The SBA believes that much of the concern about larger small businesses dominating small business awards are associated with contracts exclusively for IT equipment. The SBA is examining in a similar manner those Federal contracts and will assess the implications of its findings on the nonmanufacturer size standard.

The 7(a) Loan Guaranty Program is SBA's primary business loan program. Table 4 below summarizes the number and amount of 7(a) loans that SBA guaranteed to firms in the two industries comprising ITVARs over the past two fiscal years. The SBA does not identify firms below an industry level to more specifically identify ITVARs.

TABLE 4.—7(A) LOANS IN NAICS 421430 AND NAICS 5415

	FY 2001		FY 2002	
	No.	Amount	No.	Amount
7(a) Loans	227	$41,802,575	921	$139,293,461
Average Loan Size	184,152		151,242	

Source: SBA internal data base.

Small business eligibility for an SBA 7(a) guaranteed loan is based on the size standard of the primary industry of the applicant. For ITVARs that are primarily engaged in the Wholesale Trade Sector, the applicable size standard is 100 employees. For ITVARs primarily engaged in computer services, $21 million in average annual receipts is the applicable size standards. Computer services firms near the $21 million size standard average in size between 125 to 150 employees.

A review of the distribution of 7(a) loans by employment size of the firm shows that only 10 loans, amounting to $6.6 million, were made in fiscal years 2001–02 to firms of 100 or more employees. Moreover, all of these loans were to firms in the computer services industries, with only one loan to a computer wholesale trade firm of more than 50 employees. These loans represent only 1% of the number of loans and less than 4% of the dollar value of loans in the two ITVAR industries. This experience indicates the current size standards are not hindering access to this program for small ITVARs. Thus, no need exists to change the current size standards to broaden access to capital for small ITVARs.

Overview: Based on the above analysis, SBA is adopting a 150 employee size standard. All of the industry factors support a size standard lower than the current 500 employee size standard. The factor of distribution of receipts suggests a size standard in the range of 230 to 400 employees since the industry consists of larger-sized businesses that obtain more than half of industry receipts. The industry factors of average size firm and nonpayroll receipts per establishment support a size standard between 65 to 125 employees. The four-firm concentration ratio is a neutral factor. The assessment of program considerations does not indicate a size standard change from the current 500 employee size standard for Federal contracting or the 100 employee size standard for ITVAR in Wholesale Trade. In light of the comments strongly supporting a 100 employee size standard, the SBA believes the evaluation of the industry characteristics should give greater consideration to the smaller range of size standard levels supported by the data, or between the 65 to 230 employee levels. The SBA believes a 150 employee size standard is an appropriate balance between the available information on the industry and the strong view of the comments for a size standard significantly below 500 employees. In addition, 150 employees would be equivalent to a $21 million employee size standard applicable to Federal computer services contracts. Since many ITVARs provide primarily computer services, having a size standard at a similar level results in these firms being small for both computer service contracts and ITVAR contracts. The SBA believes this administrative consideration is both practical and desirable. It results in a common size standard for closely related activities and avoids complicating the size standards with a significantly different size standard level applicable to small businesses that operate in the two industry activities.

Dominant in Field of Operation: Section 3(a) of the Small Business Act defines a small concern as one that is (1) independently owned and operated, (2) not dominant in its field of operation, and (3) within detailed definitions or size standards established by the SBA Administrator. When the SBA evaluates a size standard, it considers whether a business concern at or below a size standard could be dominant in its field of operation.

For this assessment the SBA generally considers the market share of firms at the contemplated size standard, or other factors that may show whether a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged. The SBA has determined that no firm at or below a 150 employee size standard would dominate the ITVAR industry on a national basis. The average size firm meeting the size standard of 150 employees generates approximately 0.1% of total industry receipts. This level of market share effectively precludes any firm at or below the proposed size standard from controlling this industry.

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)

The Office of Management and Budget (OMB) has determined that the final rule is a ''significant'' regulatory action for purposes of Executive Order 12866. Size standards determine which businesses are eligible for Federal small business programs. This is not a major rule under the Congressional Review Act, 5 U.S.C. 800. For purposes of Executive Order 12988, the SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order. For purposes of Executive Order 13132, the SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, the SBA has determined that this rule would not impose new reporting or record keeping requirements. Below is a regulatory impact a of this size standard change.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

The SBA is chartered to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To effectively assist intended beneficiaries of these programs, the SBA must establish distinct definitions of which businesses are deemed small. The Small Business Act (15 U.S.C. 632(a)) delegates to the SBA Administrator the responsibility for establishing small business definitions. It also requires that small business definitions vary to reflect industry differences. Establishing an industry category and size standard for ITVARs more realistically applies small business eligibility requirements under Federal contracts that combine substantial services with the acquisition of computer hardware and software.

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. These include SBA's financial assistance programs and Federal procurement preference programs for small businesses, 8(a) firms, small disadvantaged businesses (SDB), and small businesses located in Historically Underutilized Business Zones (HUBZone). Through the assistance of these programs, small businesses may benefit by becoming more knowledgeable, stable, and competitive businesses.

The benefits of a new industry category and size standard would accrue to two groups. First, small businesses competing for ITVAR Federal procurements that contain requirements more similar to industry practices. Second, Federal agencies that will be able to more easily classify IT contracts that combine equipment purchases and services.

Newly defined small businesses would benefit from the SBA's financial programs, in particular its 7(a) Guaranteed Loan Program. Currently, an ITVAR primarily engaged in wholesale trade qualifies for these loans if they have 100 or fewer employees. This final rule would expand eligibility to about 60 additional firms. Since over the last two years only one loan was guaranteed to a computer wholesaler with more than 50 employees, it is unlikely that this rule would expand the use of the 7(a) Program.

Newly defined small businesses would also benefit from the SBA's economic injury disaster loan program. Since this program is contingent upon the occurrence and severity of a disaster, no meaningful estimate of benefits can be projected.

The SBA estimates that 192 currently defined small businesses (those firms that qualify as a nonmanufacturer under a 500 employee size standard) would lose small business status and not be eligible businesses for Federal small business procurement preference programs. The benefits of the rule in Federal contracting will be in terms of clarifying requirements on Federal contracts combining IT supplies and services and increasing Federal procurement opportunities for small businesses that are much smaller than 500 employees. It is uncertain how much additional contracting may go to the small businesses with 150 or fewer employees. The SBA expects many of the Federal contracts obtained by ITVARs between 151 to 500 employees would be awarded to the smaller small businesses. This is estimated to be between $10 million to $25 million annually.

This rule is not expected to increase administrative costs to the Federal Government associated with bidders for Federal small business procurement programs, additional firms seeking SBA guaranteed lending programs, and firms eligible for enrollment in SBA's PRO-Net data base program. For the limited number of businesses affected by this rule, it is unlikely to materially change the costs associated with compliance and verification of small business status and protests of small business status, since mechanisms are currently in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts as a result of this rule. With a more appropriate contract requirement for IT value added service, Federal agencies may choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set aside is likely to result in competition among fewer bidders for a contract. The additional costs associated with fewer bidders, however, are likely to be minor since, as a matter of policy, procurements may be set aside for small businesses or under the 8(a) and HUBZone Programs only if awards are expected to be made at fair and reasonable prices.

The final size standard may have distributional effects among currently defined small businesses and the newly defined small businesses. Although the actual outcome of the gains and losses among these small businesses cannot be estimated with certainty, it is likely that a transfer of some Federal contracts from small businesses above 150 employees to those under 150 employees. An analysis of Federal ITVAR contracts for fiscal years 2001–02 showed about $57 million was awarded to small ITVARs of about 200 employees to 500 employees. Of these contracts, $23 million was awarded under the 8(a) Program to firms within that size range. If contracting officers continued with about the same level of 8(a) contracting and decided to set-aside additional ITVAR contracts, $10 million to $25 million annually could be shifted from small ITVARs above 150 employees to those with less than 150 employees.

The creation of an ITVAR industry category and size standard is consistent with SBA's statutory mandate to assist small businesses. This regulatory action promotes the Administration's objectives. One of the SBA's goals in support of the Administrator'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. Size standards do not interfere with State, local, and tribal governments in the exercise of their government functions. In a few cases, State and local governments have voluntarily adopted the SBA's size standards for their programs to eliminate the need to establish an administrative mechanism for developing their own size standards.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities. Immediately below, the SBA sets forth a final regulatory flexibility analysis (FRFA) of this proposed rule addressing the reasons and objectives of the rule; the SBA's description and estimate of the number of small entities to which the rule will apply; the projected reporting, record keeping, and other compliance requirements of the rule; the relevant Federal rules which may duplicate overlap or conflict with the final rule; and alternatives considered by the SBA.

(1) What is reason for this action?

As discussed in the supplemental information, the purpose of this final rule is to establish more reasonable and eligibility requirements and size standard for Federal IT contracts that combine the acquisition of computer equipment and services. The adopted changes will better assist small ITVARs in obtaining Federal contracts.

(2) What is the objective and legal basis for the rule?

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) gives SBA the authority to establish and change size standards. Size standards are developed on an industry basis and vary by industry to reflect differing characteristics of firms in an industry or other appropriate factors regarding an industry. This rule establishes an industry category of ITVAR that SBA believes is necessary to appropriately apply its small business assistance program to small businesses in this category.

(3) What is SBA's description and estimate of the number of small entities to which the rule will apply?

SBA estimates that approximately 1,737 small businesses could receive assistance as a result of this proposed rule. In SBA's PRO-Net data base, 1,760 businesses indicated that they are wholesalers of IT equipment and are capable of providing some other services. All but 23 of these firms have 150 or fewer employees. It cannot be determined how many could actually meet the requirements of the ITVAR definition. Thus, the actual number of affected businesses is likely to be smaller. A few small computer manufacturers could be adversely affected by this rule since small business set-aside, 8(a), or HUBZone contracts classified under the ITVAR industry would not apply the nonmanufacturer rule. However, the SBA believes the impact would be minimal since the ITVAR contracts are most likely not currently being awarded to small manufacturers under these programs.

Description of Potential Benefits of the Rule: The most significant benefit to businesses obtaining small business status as a result of this rule is their eligibility for Federal small business assistance programs. These include SBA's financial assistance programs and Federal procurement preference programs for small businesses, 8(a) firms, SDBs, and small businesses located in HUBZones.

In fiscal years 2001–02, $925.7 million were awarded in contracts that were primarily for IT equipment but also included services. Small businesses received $281.4 million. The SBA estimates that approximately $10 million to $25 million in additional Federal contracts could be awarded annually to smaller small businesses under the ITVAR 150 employee size standard. Most of these contracts would consist of a potential transfer from ITVARs with between 150 and 500 employees to small ITVARs with fewer than 150 employees. This does not represent the creation of new contracting activity by the Federal government, merely a possible reallocation or transfer to different sized firms.

The SBA does not believe any additional loans would be made under its 7(a) Guaranteed Loan Program as a result of changes the SBA is proposing in this rulemaking. ITVARs primarily engaged in wholesale trade are currently eligible for this program if they have 100 or fewer employees. In the last two years, only one 7(a) loan was made to wholesale trade firm with more than 50 employees.

Description of Potential Costs of the Rule: The changes in size standards as they affect Federal contracting are not expected to add any significant costs to the Federal Government. As a matter of policy, procurements may be set aside for small businesses or under the 8(a) and HUBZone Programs only if awards are expected to be made at reasonable prices. Although fewer small businesses will be competing for ITVAR contracts, the large number of small businesses should have little discernable impact on competition. Similarly, this rule should not result in any added costs associated with the 7(a) Program. The amount of lending authority SBA can make or guarantee is established by appropriation.

The competitive effects of size standard revisions differ from those normally associated with other regulations which typically burden smaller firms to a greater degree than larger firms in areas such as prices, costs, profits, growth, innovation and mergers. A change to a size standard is not anticipated to have any appreciable effect on any of these factors, although small businesses, 8(a) firms, or SDBs between 150 to 500 employees may be less successful in competing for some Federal procurement opportunities. On the other hand, with more realistic eligibility requirements, Federal agencies may increase the overall number of contracting opportunities available under these programs, and this could result in greater opportunities for businesses much smaller than the current size standard.

(4) Will this rule impose any additional reporting or record keeping requirements on small businesses?

This final rule does not impose any new information collection requirements which require OMB approval under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. A new size standard does not impose any additional reporting, record keeping or compliance requirements on small entities. Changing 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.

(5) What are the relevant Federal rules which may duplicate, overlap or conflict with the final rule?

This final rule overlaps rules of other Federal agencies that use the SBA's size standards to define a small business. Under section 3(a)(2)(c) of the Small Business Act, unless specifically authorized by statute, Federal agencies must use SBA's size standards to define a small business. In 1995, the SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of the SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988–57991, dated November 24, 1995). The SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

(6) What alternatives did the SBA consider?

The SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. In cases where an SBA size standard is not appropriate, the Small Business Act and the SBA's regulations allow Federal agencies to develop different size standards with the approval of the SBA Administrator (§ 121.902). For purposes of a regulatory flexibility analysis, agencies must consult with the SBA's Office of Advocacy when developing different size standards for their programs.

SBA considered revising its definition of a manufacturer. On April 1, 1999, the SBA published in the **Federal Register** a ''Request for Comments'' asking for comments on a modern definition of the term manufacturer and a new definition for ''Remanufacturer'' (64 FR 15708, dated April 1, 1999). The SBA received only six comments on this issue, none of which provided sufficient information to support a revision to the SBA's current manufacturer definition. After further review, the SBA now believes that establishing an ITVAR industry category is a more effective approach to addressing the size eligibility requirements of nonmanufacturers providing substantial services along with IT products on Federal contracts.

As discussed in the proposed rule, the SBA considered three other size standards along with its proposed 500 employee size standard. One of those alternatives was the 100 employee size standard advocated by many of the comments. As explained in this final rule, the SBA believes that available industry data and Federal contracting trends support a size standard much lower than the proposed 500 employee size standard but higher than 100 employees.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business. Loan programs—business, Small businesses.

■ For the reasons set forth in the preamble, the SBA amends part 121 of title 13 of the Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

Subpart A—Size Eligibility Provisions and Standards

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

Authority: 15 U.S.C. 632(a), 634(b)(6), 636(b), 637(a), 644(c) and 662(5) and sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188, Pub. L. 106–24, 113 Stat. 39.

■ 2. In § 121.201, in the table ''Small Business Size Standards by NAICS Industry,'' under the heading Subsector 541—Professional, Scientific, and Technical Services, revise the entry for 541519 to read as follows:

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
* * *	* * *	*	*
	Subsector 541—Professional, Scientific and Technical Services		
* * *	* * *	*	*
541519	Other Computer Related Services	$21.0	....
EXCEPT ...	Information Technology Value Added Resellers [18]	....	[18]150

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■ 3. In § 121.201, add footnote 18 at the end of the footnote section, under the table to read as follows:

Footnotes

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18. NAICS code 541519—An Information Technology Value Added Reseller provides a total solution to information technology acquisitions by providing multi-vendor hardware and software along with significant services. Significant value added services consist of, but are not limited to, configuration consulting and design, systems integration, installation of multi-vendor computer equipment, customization of hardware or software, training, product technical support, maintenance, and end user support. For purposes of Government procurement, an information technology procurement classified under this industry category must consist of at least 15% and not more than 50% of value added services as measured by the total price less the cost of information technology hardware, computer software, and profit. If the contract consists of less than 15% of value added services, then it must be classified under a NAICS manufacturing industry. If the contract consists of more than 50% of value added services, then it must be classified under the NAICS industry that best describes the predominate service of the procurement. To qualify as an Information Technology Value Added Reseller for purposes of SBA assistance, other than for Government procurement, a concern must be primarily engaged in providing information technology equipment and computer software and provide value added services which account for at least 15% of its receipts but not more than 50% of its receipts.

Dated: September 24, 2003.

Hector V. Barreto,

Administrator

[FR Doc. 03–31795 Filed 12–24–03; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE78

Small Business Size Standards; Testing Laboratories

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

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is adopting the proposed increase to the size standard for the Testing Laboratories industry (North American Industry Classification System (NAICS) code 541380) from $6 million to $10 million in average annual receipts. This action will better define the size of businesses in this industry that the SBA believes should be eligible for Federal small business assistance programs.

DATES: This rule is effective January 28, 2004.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Office of Size Standards, at (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: On April 9, 2002, the SBA issued a proposed rule in the **Federal Register** (67 FR 17020) to increase the size standard for the Testing Laboratories industry (NAICS 541380) from $6 million to $10 million in average annual receipts (available at *http://www.sba.gov/size/indexwhatsnew.html*). The SBA proposed this size standard after receiving requests from testing laboratories to review the $6 million size standard for that industry in light of upgraded capacities and skills that Federal agencies have recently required among contractors that specialize in environmental and radiochemical testing. The requesting testing laboratories claimed that these minimum requirements have raised the costs of doing business in this industry, and reduced the pool of eligible small testing laboratories capable of satisfying these requirements. If this trend persists, they maintain, Federal agencies could be hampered in using Government preference programs designed to assist small testing laboratories.

Based on these concerns, the SBA conducted a review of this industry's size standard. In addition to reviewing patterns of Federal procurement in this industry, the SBA evaluated data on the industry structure. This review involved comparisons of average firm size, the size distribution of firms, measures of start-up costs and the degree of concentration of activity among very large firms in the industry. Based on its review of each evaluation factor, and the amount of participation of small testing laboratories in Federal Government procurement, the SBA concluded that the data supported a size standard in this industry of $10 million in average annual receipts. (For more detailed information on the reasons for proposing a $10 million size standard see the April 9, 2002, (67 FR 17020) proposed rule.) After careful consideration of the comments received on the proposed rule, the SBA has decided to adopt the proposed size standard of $10 million.

Discussion of Comments on the Proposed Rule

The SBA received 35 comments on the proposed rule after extending the comment period through September 30, 2002 (67 FR 56966, September 6, 2002). Of the 35 commentators, 21 supported the proposed increase, while 14 opposed it. Below is a summary of the major issues raised by the comments and the SBA's response.