SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG90

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

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to increase its receipts-based small business size definitions (commonly referred to as ''size standards'') for North American Industry Classification System (NAICS) sectors related to Transportation and Warehousing, Information, Finance and Insurance, and Real Estate and Rental and Leasing. SBA proposes to increase size standards for 45 industries in those sectors, including eighteen (18) industries in NAICS Sector 48–49 (Transportation and Warehousing), eight (8) industries in NAICS Sector 51 (Information), ten (10) industries in NAICS Sector 52 (Finance and Insurance), and nine (9) industries in NAICS Sector 53 (Real Estate and Rental and Leasing). SBA's proposed revisions relied on its recently revised ''Size Standards Methodology'' (Methodology). SBA seeks comments on its proposed changes to size standards in the above sectors, and the data sources it evaluated to develop the proposed size standards.

DATES: SBA must receive comments to this proposed rule on or before December 1, 2020.

ADDRESSES: Identify your comments by RIN 3245–AG90 and submit them by one of the following methods: (1) Federal eRulemaking Portal: *www.regulations.gov,* following the instructions for submitting comments; or (2) Mail/Hand Delivery/Courier: Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416.

SBA will post all comments to this proposed rule on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* you must submit such information to U.S. Small Business Administration, Khem R. Sharma, Ph.D., Chief, Office of Size Standards, 409 Third Street SW, Mail Code 6530, Washington, DC 20416, or send an email to *sizestandards@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Jorge Laboy-Bruno, Ph.D., Economist, Office of Size Standards, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: To determine eligibility for Federal small business assistance, SBA establishes small business size definitions (usually referred to as ''size standards'') for private sector industries in the United States. SBA uses two primary measures of business size for size standards purposes: Average annual receipts and average number of employees. SBA uses financial assets for certain financial industries in Sector 52 and refining capacity, in addition to employees, for the petroleum refining industry in Sector 31–33 to measure business size. In addition, SBA's Small Business Investment Company (SBIC), Certified Development Company (CDC/504), and 7(a) Loan Programs use either the industry-based size standards or the alternative size standards based on tangible net worth and net income to determine eligibility for those programs.

In September 2010, Congress passed the Jobs Act (Pub. L. 111–240, 124 Stat. 2504, September 27, 2010), (Jobs Act) requiring SBA to review all size standards every five years and make necessary adjustments to reflect current industry and market conditions. In accordance with the Jobs Act, in early 2016 SBA completed the first 5-year review of all size standards—except those for agricultural enterprises for which size standards were previously set by Congress—and made appropriate adjustments to size standards for a number of industries to reflect current industry and Federal market conditions.

During the previous 5-year comprehensive review of size standards under the Jobs Act, SBA reviewed the receipts-based size standards for forty-two (42) industries and one (1) exception within NAICS Sector 48–49, twenty (20) industries within Sector 51, thirty-nine (39) industries in Sector 52, and twenty-four (24) industries and one (1) exception in Sector 53. These reviews of receipts-based size standards occurred during October 2010 to December 2013. SBA's analysis of the then-available relevant industry and Federal contracting data supported lowering size standards for twenty-four (24) industries and one (1) exception in these sectors. However, taking into consideration economic conditions at the time, SBA decided to either retain these size standards at existing levels or bring them up to the relevant common size standard. In the final rules, SBA increased size standards for ninety-three (93) of those industries and one (1) exception, including twenty-two (22) industries in NAICS Sector 48–49 (77 FR 10943, February 24, 2012), fifteen (15) industries in NAICS Sector 51 (77 FR 72702, December 6, 2012), thirty-six (36) industries in NAICS Sector 52 (78 FR 37409, June 20, 2013), and twenty (20) industries and one (1) exception in NAICS Sector 53 (77 FR 58747, September 24, 2012). SBA changed the basis for measuring the size of one industry (NAICS code 522293, International Trade Financing) from assets to annual receipts. SBA retained the size standards for the remaining thirty-two (32) industries in these sectors. Table 1, Size Standards Revisions During the Prior Comprehensive Review, provides a summary of these revisions by NAICS sector.

TABLE 1—SIZE STANDARDS REVISIONS DURING THE PRIOR COMPREHENSIVE REVIEW

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards lowered	Number of size standards maintained	Number of type of size standards changed
48–49	Transportation and Warehousing	43	22	0	21	0
51	Information	20	15	0	5	0
52	Finance and Insurance	39	36	0	2	1
53	Real Estate and Rental and Leasing	25	21	0	4	0
All Sectors		127	94	0	32	1

Currently, there are twenty-seven (27) different size standards levels covering 1,023 NAICS industries and 14 subindustry activities (commonly known as ''exceptions'' in SBA's table of size standards). Sixteen (16) of these size levels are based on average annual receipts, nine (9) are based on average number of employees, and two (2) are based on other measures.

SBA also adjusts its monetary-based size standards for inflation at least once every five years. An interim final rule on SBA's latest inflation adjustment to size standards, effective August 19, 2019, was published in the **Federal Register** on July 18, 2019 (84 FR 34261). SBA also updates its size standards, also every five years, to adopt the Office of Management and Budget's (OMB) quinquennial NAICS revisions to its table of small business size standards. Effective October 1, 2017, SBA adopted OMB's 2017 NAICS revisions for its size standards (82 FR 44886, September 27, 2017).

This proposed rule is one of a series of proposed rules that will review size standards of industries grouped by various NAICS sectors. Rather than review all size standards at one time, SBA is reviewing size standards by generally grouping industries within various NAICS sectors that use the same size measure (*i.e.,* employees or monetary). In the current review, SBA will review size standards in six (6) groups of NAICS sectors. (In the prior review, SBA reviewed size standards mostly on a sector by sector basis.) Once SBA completes its review of size standards for a group of sectors, it issues for public comments a proposed rule to revise size standards for those industries based on the latest available data and other factors deemed relevant by the SBA's Administrator.

Below is a discussion of SBA's revised ''Size Standards Methodology'' (Methodology), available at *www.sba.gov/size,* for establishing, reviewing, or modifying receipts-based size standards that SBA has applied to this proposed rule. SBA examines the structural characteristics of an industry as a basis to assess industry differences and the overall degree of competitiveness of an industry and of firms within the industry. Industry structure is typically examined by analyzing four primary factors—average firm size, degree of competition within an industry, start-up costs and entry barriers, and distribution of firms by size. To assess the ability of small businesses to compete for Federal contracting opportunities under the current size standards, as the fifth primary factor, SBA also examines, for each industry averaging $20 million or more in average annual Federal contract dollars, the small business share in Federal contract dollars relative to the small business share in total industry's receipts. When necessary, SBA also considers other secondary factors as they are relevant to the industries and the interests of small businesses, including impacts of size standards changes on small businesses.

Size Standards Methodology

SBA has recently revised its Methodology for establishing, reviewing, or modifying size standards when necessary. See the notification in the April 11, 2019 issue of the **Federal Register** (84 FR 14587). The revised methodology is available on SBA's size standards web page at *www.sba.gov/size.* Prior to finalizing the revised Methodology, SBA issued a notification in the April 27, 2018 issue of the **Federal Register** (83 FR 18468) to solicit comments from the public and notify stakeholders of the proposed changes to the Methodology. SBA considered all public comments in finalizing the revised Methodology. For a summary of comments and SBA's responses, refer to the SBA's April 11, 2019 **Federal Register** notification.

The revised Methodology represents a major change from the previous methodology, which was issued on October 21, 2009 (74 FR 53940). Specifically, in its revised Methodology SBA is replacing the ''anchor'' approach applied in the previous methodology with a ''percentile'' approach for evaluating differences in characteristics among various industries. Under the ''anchor'' approach, SBA generally evaluated the characteristics of individual industries relative to the average characteristics of industries with the anchor size standard to determine whether they should have a higher or a lower size standard than the anchor. In the ''percentile'' approach, SBA ranks each industry among all industries with the same measure of size standards (such as receipts or employees) in terms of four primary industry factors, discussed in the Industry Analysis subsection below. The ''percentile'' approach is explained more fully elsewhere in this proposed rule. Additionally, as the fifth factor, SBA evaluates the difference between the small business share in Federal contract dollars and the small business share in total industry's receipts to compute the size standard for the Federal contracting factor. The overall size standard for an industry is then obtained by averaging all size standards supported by each primary factor. The evaluation of the Federal contracting factor is explained more fully elsewhere in this proposed rule.

SBA does not apply all aspects of its Methodology to all proposed rules because not all features are relevant for every industry covered by each proposed rule. For example, since all industries covered by this proposed rule have receipts-based size standards, the Methodology described in this proposed rule applies only to establishing, reviewing, or modifying receipts-based size standards. SBA's entire Methodology is available on its website at *www.sba.gov/size.*

This proposed rule includes information regarding the factors SBA evaluated and the criteria it used to propose adjustments to size standards for industries reviewed herein. This proposed rule also affords the public an opportunity to review and to comment on SBA's proposed revisions to size standards for industries covered by the rule.

Industry Analysis

Congress granted SBA's Administrator discretion to establish detailed small business size standards (15 U.S.C. 632(a)(2)). Specifically, Section 3(a)(3) of the Small Business Act (15 U.S.C. 632(a)(3)) requires that ''. . . the [SBA] Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.'' Accordingly, the economic structure of an industry is the underlying basis for establishing, reviewing, or modifying small business size standards. In addition, SBA considers current economic conditions, its mission and program objectives, the Administration's current policies, impacts on small businesses under current and proposed or revised size standards, suggestions from industry groups and Federal agencies, and public comments on the proposed rule. SBA also examines whether a size standard based on industry and other relevant data successfully excludes businesses that are dominant in the industry.

The goal of SBA's size standards review is to determine whether its existing small business size standards reflect the current industry structure and Federal market conditions and revise them, when the latest available data suggest that revisions are warranted. In the past, SBA compared the characteristics of each industry with the average characteristics of a group of industries associated with the ''anchor'' size standard. For example, in the recently completed first 5-year comprehensive review of size standards under the Jobs Act, $7 million (now $8.0 million due to the inflation adjustment in 2019; see 84 FR 34261 (July 18, 2019)) was considered the ''anchor'' for receipts-based size standards and 500 employees was the ''anchor'' for employee-based size standards. If the characteristics of a specific industry under review were similar to the average characteristics of industries in the anchor group, SBA generally adopted the anchor size standard for that industry. If the specific industry's characteristics were significantly different from those in the anchor group, SBA assigned a size standard that was higher or lower than the anchor. To determine a size standard above or below the anchor size standard, SBA evaluated the characteristics of a second comparison group of industries with higher size standards. For industries with receipts-based standards, the second comparison group consisted of industries with size standards between $23 million and $35.5 million, with the weighted average size standard for the group equaling $29 million. For manufacturing industries and other industries with employee-based size standards (except for Wholesale Trade and Retail Trade), the second comparison group included industries with a size standard of 1,000 employees or 1,500 employees, with the weighted average size standard of 1,323 employees. Using the anchor size standard and average size standard for the second comparison group, SBA computed a size standard for an industry's characteristic (factor) based on the industry's position for that factor relative to the average values of the same factor for industries in the anchor and second comparison groups.

Under the ''percentile'' approach, for each industry factor, an industry is ranked and compared with the 20th percentile and 80th percentile values of that factor among the industries sharing the same measure of size standards (*i.e.,* receipts or employees). Combining that result with the 20th percentile and 80th percentile values of size standards among the industries with the same measure of size standards, SBA computes a size standard supported by each industry factor for each industry. In the previous Methodology, comparison industry groups were predetermined independent of the data, while in the revised Methodology they are established using the actual data. A more detailed description of the percentile method is provided in SBA's Methodology, available at *www.sba.gov/size.*

The primary factors that SBA evaluates to examine industry structure include average firm size, startup costs and entry barriers, industry competition, and distribution of firms by size. SBA also evaluates, as an additional primary factor, small business success in receiving Federal contracting assistance under the current size standards. Specifically, for the Federal contracting factor, SBA examines the small business share of Federal contract dollars relative to small business share of total receipts within an industry. These are, generally, the five most important factors SBA examines when establishing, reviewing, or revising a size standard for an industry. However, SBA will also consider and evaluate other secondary factors that it believes are relevant to a particular industry (such as technological changes, growth trends, SBA financial assistance, other program factors, etc.). SBA also considers possible impacts of size standard revisions on eligibility for Federal small business assistance, current economic conditions, the Administration's policies, and suggestions from industry groups and Federal agencies. Public comments on proposed rules also provide important additional information. SBA thoroughly reviews all public comments before making a final decision on its proposed revisions to size standards. Below are brief descriptions of each of the five primary factors that SBA has evaluated for each industry being reviewed in this proposed rule. A more detailed description of this analysis is provided in the SBA's Methodology, available at *www.sba.gov/size.*

1. *Average firm size.* SBA computes two measures of average firm size: Simple average and weighted average. For industries with receipts-based size standards, the simple average is the total receipts of the industry divided by the total number of firms in the industry. The weighted average firm size is the summation of all the receipts of the firms in an industry multiplied by their share of receipts in the industry. The simple average weighs all firms within an industry equally regardless of their size. The weighted average overcomes that limitation by giving more weight to larger firms. The size standard supported by average firm size is obtained by averaging size standards supported by simple average firm size and weighted average firm size.

If the average firm size of an industry is higher than the average firm size for most other industries, this would generally support a size standard higher than the size standards for other industries. Conversely, if the industry's average firm size is lower than that of most other industries, it would provide a basis to assign a lower size standard as compared to size standards for most other industries.

2. *Startup costs and entry barriers.* Startup costs reflect a firm's initial size in an industry. New entrants to an industry must have sufficient capital and other assets to start and maintain a viable business. If firms entering an industry under review have greater capital requirements than firms do in most other industries, all other factors remaining the same, this would be a basis for a higher size standard. Conversely, if the industry has smaller capital needs compared to most other industries, a lower size standard would be considered appropriate.

Given the lack of actual data on startup costs and entry barriers by industry, SBA uses average assets as a proxy of startup costs and entry barriers. To calculate average assets, SBA begins with the sales to total assets ratio for an industry from the Risk Management Association's Annual Statement Studies, available at *https://rmau.org/.* SBA then applies these ratios to the average receipts of firms in that industry obtained from the Economic Census tabulation. An industry with average assets that are significantly higher than most other industries is likely to have higher startup costs; this in turn will support a higher size standard. Conversely, an industry with average assets that are similar to or lower than most other industries is likely to have lower startup costs; this will support either lowering or maintaining the size standard.

3. *Industry competition.* Industry competition is generally measured by the share of total industry receipts generated by the largest firms in an industry. SBA generally evaluates the share of industry receipts generated by the four largest firms in each industry. This is referred to as the ''4-firm concentration ratio,'' a commonly used economic measure of market competition. Using the 4-firm concentration ratio, SBA compares the degree of concentration within an industry to the degree of concentration of the other industries with the same measure of size standards. If a significantly higher share of economic activity within an industry is concentrated among the four largest firms compared to most other industries, all else being equal, SBA would set a size standard that is relatively higher than for most other

industries. Conversely, if the market share of the four largest firms in an industry is appreciably lower than the similar share for most other industries, the industry will be assigned a size standard that is lower than those for most other industries.

4. *Distribution of firms by size.* SBA examines the shares of industry total receipts accounted for by firms of different receipts and employment sizes in an industry. This is an additional factor SBA considers in assessing competition within an industry besides the 4-firm concentration ratio. If the preponderance of an industry's economic activity is attributable to smaller firms, this generally indicates that small businesses are competitive in that industry and would support adopting a smaller size standard. A higher size standard would be supported for an industry in which the distribution of firms indicates that most of the economic activity is concentrated among the larger firms.

Concentration is a measure of inequality of distribution. To determine the degree of inequality of distribution in an industry, SBA computes the Gini coefficient, using the Lorenz curve. The Lorenz curve presents the cumulative percentages of units (firms) along the horizontal axis and the cumulative percentages of receipts (or other measures of size) along the vertical axis. (For further detail, see SBA's Methodology on its website at *www.sba.gov/size.*) Gini coefficient values vary from zero to one. If receipts are distributed equally among all the firms in an industry, the value of the Gini coefficient will equal zero. If an industry's total receipts are attributed to a single firm, the Gini coefficient will equal one.

SBA compares the degree of inequality of distribution for an industry under review with other industries with the same type of size standards. If an industry shows a higher degree of inequality of distribution (hence a higher Gini coefficient value) compared to most other industries in the group this would, all else being equal, warrant a size standard that is higher than the size standards assigned to most other industries. Conversely, an industry with lower degree of inequality (*i.e.,* a lower Gini coefficient value) than most others will be assigned a lower size standard relative to others.

5. *Federal contracting.* As the fifth factor, SBA examines the success small businesses are having in winning Federal contracts under the current size standard as well as the possible impact a size standard change may have on Federal small business contracting opportunities. The Small Business Act requires the Federal government to ensure that small businesses receive a ''fair share'' of Federal contracts. The legislative history also discusses the importance of size standards in Federal contracting. To incorporate the Federal contracting factor in the size standards analysis, SBA evaluates small business participation in Federal contracting in terms of the share of total Federal contract dollars awarded to small businesses relative to the small business share of industry's total receipts. In general, if the share of Federal contract dollars awarded to small businesses in an industry is significantly smaller than the small business share of total industry's receipts, all else remaining the same, a justification would exist for considering a size standard higher than the current size standard. In cases where small business share of the Federal market is already appreciably high relative to the small business share of the overall market, SBA generally assumes that the existing size standard is adequate with respect to the Federal contracting factor.

The disparity between the small business Federal market share and industry-wide small business share may be due to various factors, such as extensive administrative and compliance requirements associated with Federal contracts, the different skill set required to perform Federal contracts as compared to typical commercial contracting work, and the size of Federal contracts. These, as well as other factors, are likely to influence the type of firms within an industry that compete for Federal contracts. By comparing the small business Federal contracting share with the industry-wide small business share, SBA includes in its size standards analysis the latest Federal market conditions. Besides the impact on Federal contracting, SBA also examines impacts on SBA's loan programs both under the current and revised size standards.

Sources of Industry and Program Data

SBA's primary source of industry data used in this proposed rule is a special tabulation of the Economic Census from the U.S. Census Bureau (*www.census.gov/econ/census*). The tabulation based on the 2012 Economic Census is the latest available, which SBA used for evaluating industry characteristics and developing size standards in this proposed rule. The special tabulation provides industry data on the number of firms, number of establishments, number of employees, annual payroll, and annual receipts of companies by Industry (6-digit level), Industry Group (4-digit level), Subsector (3-digit level), and Sector (2-digit level). These data are arrayed by various classes of firms' size based on the overall number of employees and receipts of the entire enterprise (all establishments and affiliated firms) from all industries. The special tabulation also contains information for different levels of NAICS categories on average and median firm size in terms of both receipts and employment, total receipts generated by the four and eight largest firms, the Herfindahl-Hirschman Index (HHI), the Gini coefficient, and size distributions of firms by various receipts and employment size groupings.

In some cases, where data were not available due to disclosure prohibitions in the Census Bureau's tabulation, SBA either estimated missing values using available relevant data or examined data at a higher level of industry aggregation, such as at the NAICS 2-digit (Sector), 3-digit (Subsector), or 4-digit (Industry Group) level. In some instances, SBA's analysis was based only on those factors for which data were available or estimates of missing values were possible.

To evaluate some industries that are not covered by the Economic Census, SBA used a similar special tabulation of the latest County Business Patterns (CBP) published by the U.S. Census Bureau (*www.census.gov/programs-surveys/cbp.html*). Similarly, to evaluate industries in NAICS Sector 11 that are also not covered by the Economic Census and CBP, SBA evaluated a similar special tabulation based on the 2012 Census of Agriculture (*www.nass.usda.gov*) from the National Agricultural Statistics Service (NASS). Besides the Economic Census, Agricultural Census and CBP tabulations, SBA also evaluates relevant industry data from other sources, when necessary, especially for industries that are not covered by the Economic Census or CBP. These include the Quarterly Census of Employment and Wages (QCEW, also known as ES–202 data) (*www.bls.gov/cew/*) and Business Employment Dynamics (BED) data (*www.bls.gov/bdm/*) from the U.S. Bureau of Labor Statistics. Similarly, to evaluate certain financial industries that have assets-based size standards SBA examines the data from the Statistics on Depository Institutions (SDI) database (*www5.fdic.gov/sdi/main.asp*) of the Federal Deposit Insurance Corporation (FDIC) data. Finally, to evaluate the capacity component of the Petroleum Refiners (NAICS 324110) size standard, SBA evaluates the petroleum production data from the Energy

Information Administration (*www.eia.gov*).

To calculate average assets, SBA used sales to total assets ratios from the Risk Management Association's Annual eStatement Studies, 2016–2018 (*https://rmau.org*). To evaluate Federal contracting trends and evaluate one exception in Sector 48–49 and one exception in Sector 53, SBA examined the data on Federal prime contract awards from the Federal Procurement Data System—Next Generation (FPDS–NG) (*www.fpds.gov*) for fiscal years 2016–2018. To assess the impact on financial assistance to small businesses, SBA examined its internal data on 7(a) and 504 loan programs for fiscal years 2016–2018. For some portion of impact analysis, SBA also evaluated the data from the System of Award Management (*www.sam.gov*).

Data sources and estimation procedures SBA uses in its size standards analysis are documented in detail in SBA's Methodology, which is available at *www.sba.gov/size.*

Dominance in Field of Operation

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) defines a small business concern as one that is: (1) Independently owned and operated; (2) not dominant in its field of operation; and (3) within a specific small business definition or size standard established by SBA Administrator. SBA considers as part of its evaluation whether a business concern at a proposed size standard would be dominant in its field of operation. For this, SBA generally examines the industry's market share of firms at the proposed or revised size standard as well as the distribution of firms by size. Market share and size distribution may indicate whether a firm can exercise a major controlling influence on a national basis in an industry where a significant number of business concerns are engaged. If a contemplated size standard includes a dominant firm, SBA will consider a lower size standard to exclude the dominant firm from being defined as small.

Selection of Size Standards

In the Methodology SBA applied to the first 5-year comprehensive review of size standards, SBA adopted a fixed number of size standards levels as part of its effort to simplify size standards. In response to public comments to the 2009 Methodology white paper, and the 2013 amendment to the Small Business Act (section 3(a)(8)) under section 1661 for the National Defense Authorization Act of Fiscal Year 2013 (''NDAA 2013'') (Public Law 112–239, January 2, 2013), in the revised Methodology, SBA has relaxed the limitation on the number of small business size standards. Specifically, section 1661 of NDAA 2013 states ''SBA cannot limit the number of size standards, and shall assign the appropriate size standard to each industry identified by NAICS.''

In the revised Methodology, which is used in the ongoing, second 5-year review of size standards, SBA calculates a separate size standard to each NAICS industry. However, to account for errors and limitations associated with various data SBA evaluates in the size standards analysis, SBA will round the calculated size standard value for a receipts-based size standard to the nearest $500,000, except for agricultural industries in Subsectors 111 and 112 for which the calculated size standards will be rounded to the nearest $250,000. This rounding procedure will be applied both in calculating a size standard for each of the five primary factors and in calculating the overall size standard for the industry.

As a policy decision, SBA will continue to maintain the minimum and maximum levels for both receipts-based and employee-based size standards. Accordingly, SBA will not generally propose or adopt a size standard that is either below the minimum level or above the maximum, even though the calculations yield values below the minimum or above the maximum. The minimum size standard reflects the size an established small business should be to have adequate capabilities and resources to be able to compete for and perform Federal contracts (but does not account for small businesses that are newly formed or just starting operations). On the other hand, the maximum size standard represents the level above which businesses, if qualified as small, would outcompete much smaller businesses when accessing Federal assistance.

With respect to receipts-based size standards, SBA has established $6 million and $41.5 million, respectively, as the minimum and maximum size standard levels (except for most agricultural industries in NAICS Subsectors 111 and 112). These levels reflect the current minimum of $6.0 million and the current maximum of $41.5 million. The industry data seems to suggest that $6 million minimum and $41.5 million maximum size standards would be too high for agricultural industries.

Evaluation of Industry Factors

As mentioned earlier, to assess the appropriateness of the current size standards SBA evaluates the structure of each industry in terms of four economic characteristics or factors, namely average firm size, average assets size as a proxy of startup costs and entry barriers, the 4-firm concentration ratio as a measure of industry competition, and size distribution of firms using the Gini coefficient. For each size standard type (*i.e.,* receipts-based or employee-based) SBA ranks industries both in terms of each of the four industry factors and in terms of the existing size standard and computes the 20th percentile and 80th percentile values for both. SBA then evaluates each industry by comparing its value for each industry factor to the 20th percentile and 80th percentile values for the corresponding factor for industries under a particular type of size standard.

If the characteristics of an industry under review within a particular size standard type are similar to the average characteristics of industries within the same size standard type in the 20th percentile, SBA will consider adopting as an appropriate size standard for that industry the 20th percentile value of size standards for those industries. For each size standard type, if the industry's characteristics are similar to the average characteristics of industries in the 80th percentile, SBA will assign a size standard that corresponds to the 80th percentile in the size standard rankings of industries. A separate size standard is established for each factor based on the amount of differences between the factor value for an industry under a particular size standard type and 20th percentile and 80th percentile values for the corresponding factor for all industries in the same type. Specifically, the actual level of the new size standard for each industry factor is derived by a linear interpolation using the 20th percentile and 80th percentile values of that factor and corresponding percentiles of size standards. Each calculated size standard is bounded between the minimum and maximum size standards levels, as discussed before. As noted earlier, the calculated value for a receipts-based size standard for each industry factor is rounded to the nearest $500,000, except for industries in Subsectors 111 and 112 for which a calculated size standard is rounded to the nearest $250,000.

Table 2, 20th and 80th Percentiles of Industry Factors for Receipts-Based Size Standards, shows the 20th percentile and 80th percentile values for average firm size (simple and weighted), average assets size, 4-firm concentration ratio, and Gini coefficient for industries with receipts based size standards.

TABLE 2—20TH AND 80TH PERCENTILES OF INDUSTRY FACTORS FOR RECEIPTS-BASED SIZE STANDARDS

Industries/percentiles	Simple average receipts size ($ million)	Weighted average receipts size ($ million)	Average assets size ($ million)	4-firm concentration ratio (%)	Gini coefficient
Industries, excluding Subsectors 111 and 112					
20th percentile	0.83	19.42	0.34	7.9	0.686
80th percentile	7.52	830.65	5.19	42.4	0.834
Industries in Subsectors 111 and 112					
20th percentile	0.06	1.48	0.07	1.7	0.608
80th percentile	0.83	13.32	0.88	12.3	0.908

Estimation of Size Standards Based on Industry Factors

An estimated size standard supported by each industry factor is derived by comparing its value for a specific industry to the 20th percentile and 80th percentile values for that factor. If an industry's value for a particular factor is near the 20th percentile value in the distribution, the supported size standard will be one that is close to the 20th percentile value of size standards for industries in the size standards group, which is $8.0 million. If a factor for an industry is close to the 80th percentile value of that factor, it would support a size standard that is close to the 80th percentile value in the distribution of size standards, which is $35.0 million. For a factor that is within, above, or below the 20–80th percentile range, the size standard is calculated using linear interpolation based on the 20th percentile and 80th percentile values for that factor and the 20th percentile and 80th percentile values of size standards.

For example, if an industry's simple average receipts are $1.9 million that would support a size standard of $11.5 million. According to Table 2, the 20th percentile and 80th percentile values of average receipts are $0.83 million and $7.52 million, respectively. The $1.9 million is 15.9 percent between the 20th percentile value ($0.83 million) and the 80th percentile value ($7.52 million) of simple average receipts (($1.9 million − $0.83 million) ÷ ($7.52 million − $0.83 million) = 0.159 or 15.9%). Applying this percentage to the difference between the 20th percentile value ($8 million) and 80th percentile ($35.0 million) value of size standards and then adding the result to the 20th percentile size standard value ($8.0 million) yields a calculated size standard value of $12.32 million ([{$35.0 million − $8.0 million} * 0.159] + $8.0 million = $12.32 million). The final step is to round the calculated $12.32 million size standard to the nearest $500,000, which in this example yields $12.5 million. This procedure is applied to calculate size standards supported by other industry factors.

Detailed formulas involved in these calculations are presented in SBA's Methodology, which is available on its website at *www.sba.gov/size.*

Derivation of Size Standards Based on Federal Contracting Factor

Besides industry structure, SBA also evaluates Federal contracting data to assess the success of small businesses in getting Federal contracts under the existing size standards. For each industry with $20 million or more in annual Federal contract dollars, SBA evaluates the small business share of total Federal contract dollars relative to the small business share of total industry receipts. All other factors being equal, if the share of Federal contracting dollars awarded to small businesses in an industry is significantly less than the small business share of that industry's total receipts, a justification would exist for considering a size standard higher than the current size standard. Conversely, if the small business share of Federal contracting activity is near or above the small business share in total industry receipts, this will support the current size standard.

SBA increases the existing size standards by certain percentages when the small business share of total industry receipts exceeds the small business share of total Federal contract dollars by 10 or more percentage points. Proposed percentage increases generally reflect receipts levels needed to bring the small business share of Federal contracts at par with the small business share of industry receipts. These proposed percentage increases for receipts-based size standards are given in Table 3, Proposed Adjustments to Size Standards Based on Federal Contracting Factor.

TABLE 3—PROPOSED ADJUSTMENTS TO SIZE STANDARDS BASED ON FEDERAL CONTRACTING FACTOR

Size standards	Percentage difference between the small business shares of total Federal contract dollars in an industry and of total industry receipts		
	> −10%	−10% to −30%	< −30%
Receipts based standards			
<$15 million	No change	Increase 30%	Increase 60%
$15 million to <$25 million	No change	Increase 20%	Increase 40%
$25 million to <$41.5 million	No change	Increase 15%	Increase 25%

For example, if an industry with the current size standard of $8.0 million had an average of $50 million in Federal contracting dollars, of which 15 percent went to small businesses, and if that small businesses accounted for 40 percent of total receipts of that industry, the small business share of total Federal contract dollars would be 25 percent less than the small business share of total industry receipts (40% − 15%). According to the above rule, the new size standard for the Federal contracting factor for that industry would be set by multiplying the current $8.0 million standard by 1.3 (*i.e.,* 30% increase) and then by rounding the result to the nearest $500,000, yielding a size standard of $10.5 million. SBA evaluated the small business share of total Federal contract dollars for fifty-six

(56) industries (including 23 in Sector 48–49, seven (7) in Sector 51, 12 in Sector 52, and 14 in Sector 53) covered by this proposed rule which had $20 million or more in average annual Federal contract dollars during fiscal years 2016–2018. The Federal contracting factor was significant (*i.e.,* the difference between the small business share of total industry receipts and small business share of Federal contracting dollars was 10 percentage points or more) in eighteen (18) of these industries, prompting an upward adjustment of their existing size standards based on that factor. For the remaining 38 industries that averaged $20 million or more in average annual contract dollars, the Federal contracting factor was not significant, and the existing size standard was applied for that factor.

Derivation of Overall Industry Size Standard

The SBA's Methodology presented above results in five separate size standards based on evaluation of the five primary factors (*i.e.,* four industry factors and one Federal contracting factor). SBA typically derives an industry's overall size standard by assigning equal weights to size standards supported by each of these five factors. However, if necessary, SBA's Methodology would allow assigning different weights to some of these factors in response to its policy decisions and other considerations. For detailed calculations, see SBA's Methodology, available at *www.sba.gov/size.*

Calculated Size Standards Based on Industry and Federal Contracting Factors

Table 4, Size Standards Supported by Each Factor for Each Industry (Receipts), below, shows the results of analyses of industry and Federal contracting factors for each industry and subindustry (exception) covered by this proposed rule. NAICS industries in columns 2, 3, 4, 5, 6, 7, and 8 show two numbers. The upper number is the value for the industry or Federal contracting factor shown on the top of the column and the lower number is the size standard supported by that factor. Column 9 shows a calculated new size standard for each industry. This is the average of the size standards supported by each factor, rounded to the nearest $500,000 for non-agriculture industries and rounded to the nearest $250,000 for agriculture industries. Analytical details involved in the averaging procedure are described in SBA's Methodology, which is available at *www.sba.gov/size.* For comparison with the calculated new size standards, the current size standards are in column 10 of Table 4.

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title (1)	Type (2)	Simple average firm size ($ million) (3)	Weighted average firm size ($ million) (4)	Average assets size ($ million) (5)	Four-firm ratio (%) (6)	Gini coefficient (7)	Federal contract factor (%) (8)	Calculated size standard ($ million) (9)	Current size standard ($ million) (10)
481219 Other Nonscheduled Air Transportation.	Factor	$3.6	$76.4	$2.2	36.8	0.803	−8.2	$22.0	$16.5
	Size Std.	19.0	10.0	18.5	30.5	29.5	16.5		
484110 General Freight Trucking, Local	Factor	0.9	10.7	0.3	1.8	0.717		9.0	30.0
	Size Std.	8.5	7.5	8.0	6.0	14.0			
484121 General Freight Trucking, Long-Distance, Truckload.	Factor	3.5	734.6	1.6	14.5	0.827		22.0	30.0
	Size Std.	19.0	32.0	15.0	13.0	33.5			
484122 General Freight Trucking, Long-Distance, Less Than Truckload.	Factor	10.2	2,209.7	4.9	41.8	0.882		38.0	30.0
	Size Std.	41.5	41.5	33.5	34.5	41.5			
484210 Used Household and Office Goods Moving.	Factor	1.9	309.3	0.7	26.1	0.791	15.0	21.0	30.0
	Size Std.	12.5	17.5	10.0	22.0	27.0	30.0		
484220 Specialized Freight (except Used Goods) Trucking, Local.	Factor	1.2	30.7	0.5	3.9	0.733	−29.2	15.0	30.0
	Size Std.	9.5	8.5	9.0	6.0	16.5	34.5		
484230 Specialized Freight (except Used Goods) Trucking, Long-Distance.	Factor	4.4	201.1	2.3	11.1	0.822	10.6	22.0	30.0
	Size Std.	22.0	14.0	19.0	10.5	32.5	30.0		
485111 Mixed Mode Transit Systems	Factor	6.5		3.6			−23.7	25.5	16.5
	Size Std.	31.0		26.0			20.0		
485112 Commuter Rail Systems	Factor	117.7		65.4				41.5	16.5
	Size Std.	41.5		41.5					
485113 Bus and Other Motor Vehicle Transit Systems.	Factor	5.3	323.4	3.0	56.1	0.858	49.1	28.5	16.5
	Size Std.	26.0	18.0	22.5	41.5	39.0	16.5		
485119 Other Urban Transit Systems	Factor	15.7	157.6	8.7		0.811		33.0	16.5
	Size Std.	41.5	12.5	41.5		30.5			
485210 Interurban and Rural Bus Transportation.	Factor	3.7	120.3	3.1	51.5	0.817		28.0	16.5
	Size Std.	19.5	11.5	23.0	41.5	32.0			
485310 Taxi Service	Factor	0.8	20.6	0.3	11.8	0.781		13.0	16.5
	Size Std.	8.0	8.0	8.0	11.0	25.0			
485320 Limousine Service	Factor	0.9	29.5	0.4	12.1	0.759		12.5	16.5
	Size Std.	8.5	8.5	8.0	11.0	21.5			
485410 School and Employee Bus Transportation.	Factor	3.4	834.1	2.2	41.4	0.823	−14.2	26.5	16.5
	Size Std.	18.0	35.0	18.5	34.5	33.0	20.0		
485510 Charter Bus Industry	Factor	2.4	28.1	1.9	14.3	0.701		13.0	16.5
	Size Std.	14.5	8.5	16.5	13.0	11.0			
485991 Special Needs Transportation	Factor	1.4	42.0	0.5	15.0	0.730	24.2	13.0	16.5
	Size Std.	10.0	9.0	9.0	13.5	16.0	16.5		
485999 All Other Transit and Ground Passenger Transportation.	Factor	1.1	28.8	0.5	22.9	0.787	1.4	16.0	16.5
	Size Std.	9.0	8.5	9.0	20.0	26.5	16.5		
486210 Pipeline Transportation of Natural Gas.	Factor	183.9	1,264.9	73.6	34.5	0.833		36.5	30.0
	Size Std.	41.5	41.5	41.5	29.0	34.5			
486990 All Other Pipeline Transportation	Factor	21.4	80.7	8.6	93.0	0.737		31.5	40.5
	Size Std.	41.5	10.0	41.5	41.5	17.5			
487110 Scenic and Sightseeing Transportation, Land.	Factor	1.8	36.7	1.1	32.1	0.763		18.0	8.0
	Size Std.	12.0	8.5	12.0	27.0	22.0			

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
487210 Scenic and Sightseeing Transportation, Water.	Factor	0.9	18.8	0.7	16.4	0.735	....	12.5	8.0
	Size Std.	8.5	8.0	10.0	14.5	17.0			
487990 Scenic and Sightseeing Transportation, Other.	Factor	2.5	30.0	1.5	44.1	0.781	....	22.0	8.0
	Size Std.	15.0	8.5	14.5	36.5	25.5			
488111 Air Traffic Control	Factor	20.5	64.0	12.8	90.7	0.691	0.1	30.5	35.0
	Size Std.	41.5	9.5	41.5	41.5	9.0	35.0		
488119 Other Airport Operations	Factor	5.5	129.3	3.5	22.6	0.798	−1.0	25.5	35.0
	Size Std.	27.0	11.5	25.5	19.5	28.5	35.0		
488190 Other Support Activities for Air Transportation.	Factor	5.3	273.2	2.9	18.7	0.839	−21.3	27.5	35.0
	Size Std.	26.0	16.5	22.5	16.5	36.0	40.5		
488210 Support Activities for Rail Transportation.	Factor	9.7	159.1	5.7	29.8	0.807	....	30.0	16.5
	Size Std.	41.5	12.5	37.5	25.0	30.0			
488310 Port and Harbor Operations	Factor	8.2	230.4	9.1	56.1	0.850	21.3	38.0	41.5
	Size Std.	37.5	15.0	41.5	41.5	38.0	41.5		
488320 Marine Cargo Handling	Factor	34.2	680.6	34.2	49.1	0.837	−7.4	39.0	41.5
	Size Std.	41.5	30.0	41.5	40.0	35.5	41.5		
488330 Navigational Services to Shipping.	Factor	4.4	68.4	3.6	22.6	0.806	−32.6	26.5	41.5
	Size Std.	22.5	9.5	26.5	19.5	30.0	41.5		
488390 Other Support Activities for Water Transportation.	Factor	2.7	41.4	2.1	23.0	0.791	−19.9	23.5	41.5
	Size Std.	15.5	8.5	17.5	20.0	27.0	41.5		
488410 Motor Vehicle Towing	Factor	0.6	4.7	0.3	4.1	0.620	....	7.0	8.0
	Size Std.	7.0	7.5	7.5	6.0	6.0			
488490 Other Support Activities for Road Transportation.	Factor	1.8	55.8	0.8	24.9	0.794	−16.3	16.0	8.0
	Size Std.	12.0	9.0	10.5	21.5	27.5	10.5		
488510 Freight Transportation Arrangement.	Factor	3.4	254.1	0.8	11.0	0.787	−39.0	17.5	16.5
	Size Std.	18.0	16.0	10.5	10.5	26.5	23.0		
488510 Exception, Non-Vessel Owning Common Carriers and Household Goods Forwarders.	Factor	NA	NA	NA	NA	NA	....	30.0	30.0
	Size Std	NA	NA	NA	NA	NA			
488991 Packing and Crating	Factor	1.5	22.5	0.6	15.8	0.752	−22.1	17.5	30.0
	Size Std.	11.0	8.0	9.0	14.0	20.0	34.5		
488999 All Other Support Activities for Transportation.	Factor	13.2	48.2	4.7	....	....	0.5	22.0	8.0
	Size Std.	41.5	9.0	32.5			8.0		
491110 Postal Service (Necessary data not available to estimate the the factor and supported size standard).	Factor	NA	NA	NA	NA	NA	....	8.0	8.0
	Size Std.	NA	NA	NA	NA	NA			
492210 Local Messengers and Local Delivery.	Factor	0.8	22.4	0.2	12.4	0.725	....	10.5	30.0
	Size Std.	8.0	8.0	7.5	11.5	15.0			
493110 General Warehousing and Storage.	Factor	3.5	444.9	2.1	22.6	0.842	21.3	25.0	30.0
	Size Std.	19.0	22.0	17.5	19.5	36.5	30.0		
493120 Refrigerated Warehousing and Storage.	Factor	6.4	237.4	7.1	38.1	0.798	−17.6	32.0	30.0
	Size Std.	30.5	15.5	41.5	31.5	28.5	34.5		
493130 Farm Product Warehousing and Storage.	Factor	2.1	13.5	1.2	19.1	0.723	....	13.5	30.0
	Size Std.	13.0	8.0	12.5	16.5	14.5			
493190 Other Warehousing and Storage	Factor	4.9	592.7	2.6	50.7	0.867	14.1	32.0	30.0
	Size Std.	24.5	27.0	20.5	41.5	41.0	30.0		
511210 Software Publishers	Factor	29.1	11,979.9	24.2	41.4	0.871	17.9	40.0	41.5
	Size Std.	41.5	41.5	41.5	34.0	41.5	41.5		
512110 Motion Picture and Video Production.	Factor	4.6	3,814.6	2.2	46.4	0.865	75.4	33.0	35.0
	Size Std.	23.0	41.5	18.0	38.0	40.5	35.0		
512120 Motion Picture and Video Distribution.	Factor	4.5	107.2	3.0	38.3	0.814	....	26.0	34.5
	Size Std.	22.5	11.0	22.5	32.0	31.5			
512131 Motion Picture Theaters (except Drive-Ins).	Factor	7.0	1,303.2	6.4	55.7	0.848	....	39.5	41.5
	Size Std.	33.0	41.5	41.5	41.5	37.5			
512132 Drive-In Motion Picture Theaters	Factor	0.5	2.8	0.4	27.3	0.604	....	11.0	8.0
	Size Std.	6.5	7.5	8.5	23.0	6.0			
512191 Teleproduction and Other Postproduction Services.	Factor	2.2	110.7	1.3	23.8	0.817	....	19.5	34.5
	Size Std.	13.5	11.0	13.5	20.5	32.0			
512199 Other Motion Picture and Video Industries.	Factor	2.8	86.7	1.4	66.6	0.815	....	25.0	22.0
	Size Std.	16.0	10.0	14.0	41.5	31.5			
512240 Sound Recording Studios	Factor	0.6	7.9	0.4	13.4	0.696	....	9.5	8.0
	Size Std.	7.0	7.5	8.0	12.5	10.0			
512290 Other Sound Recording Industries.	Factor	1.3	38.4	0.9	42.0	0.777	....	20.0	12.0
	Size Std.	10.0	8.5	11.0	34.5	24.5			
515111 Radio Networks	Factor	11.8	2,274.1	16.8	76.5	0.873	....	41.5	35.0
	Size Std.	41.5	41.5	41.5	41.5	41.5			
515112 Radio Stations	Factor	4.2	1,018.6	5.9	46.2	0.834	....	36.0	41.5
	Size Std.	21.5	41.5	39.0	38.0	35.0			
515120 Television Broadcasting	Factor	53.4	3,348.2	66.8	52.0	0.879	....	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
515210 Cable and Other Subscription Programming.	Factor	154.7	7,147.3	119.0	58.9	0.894	....	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
517410 Satellite Telecommunications	Factor	15.8	753.3	6.6	48.1	0.865	1.5	38.5	35.0
	Size Std.	41.5	32.5	41.5	39.5	40.5	35.0		

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
517919 All Other Telecommunications	Factor	6.8	764.1	3.1	39.5	0.869	−3.9	33.0	35.0
	Size Std.	32.0	33.0	23.5	32.5	41.5	35.0		
518210 Data Processing, Hosting, and Related Services.	Factor	10.9	1,122.5	5.5	15.9	0.849	8.2	33.0	35.0
	Size Std.	41.5	41.5	36.5	14.0	37.5	35.0		
519110 News Syndicates	Factor	7.7	263.9	2.6	59.5	0.859	...	32.0	30.0
	Size Std.	35.5	16.0	21.0	41.5	39.5			
519120 Libraries and Archives	Factor	1.1	88.8	0.4	34.1	0.803	9.3	18.5	16.5
	Size Std.	9.0	10.5	8.0	28.5	29.5	16.5		
519190 All Other Information Services	Factor	2.9	117.8	1.1	43.0	0.846	−25.8	26.5	30.0
	Size Std.	16.5	11.5	12.5	35.5	37.0	34.5		
522220 Sales Financing	Factor	34.7	3,705.1	115.7	33.6	0.885	...	38.0	41.5
	Size Std.	41.5	41.5	41.5	28.0	41.5			
522291 Consumer Lending	Factor	9.7	2,845.5	32.2	52.3	0.873	...	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
522292 Real Estate Credit	Factor	28.9	8,476.2	57.7	43.7	0.869	...	40.0	41.5
	Size Std.	41.5	41.5	41.5	36.0	41.5			
522293 International Trade Financing	Factor	3.7	44.4	7.3	46.9	0.806	...	31.0	41.5
	Size Std.	19.5	9.0	41.5	38.5	30.0			
522294 Secondary Market Financing	Factor	2,094.2	...	4,188.4	...	...	...	41.5	41.5
	Size Std.	41.5		41.5					
522298 All Other Nondepository Credit Intermediation.	Factor	6.0	...	30.0	...	...	...	35.5	41.5
	Size Std.	29.0		41.5					
522310 Mortgage and Nonmortgage Loan Brokers.	Factor	1.1	44.5	1.9	11.0	0.742	−10.5	13.0	8.0
	Size Std.	9.0	9.0	16.5	10.5	18.0	10.5		
522320 Financial Transactions Processing, Reserve, and Clearinghouse Activities.	Factor	21.3	2,801.2	14.2	37.0	0.886	0.8	39.5	41.5
	Size Std.	41.5	41.5	41.5	31.0	41.5	41.5		
522390 Other Activities Related to Credit Intermediation.	Factor	3.1	239.2	3.8	18.1	0.854	−16.0	25.0	22.0
	Size Std.	17.0	15.5	27.5	16.0	38.5	26.5		
523110 Investment Banking and Securities Dealing.	Factor	41.2	7,592.5	29.4	46.7	0.891	1.1	41.0	41.5
	Size Std.	41.5	41.5	41.5	38.5	41.5	41.5		
523120 Securities Brokerage	Factor	13.3	5,432.2	5.5	33.9	0.886	...	37.0	41.5
	Size Std.	41.5	41.5	37.0	28.5	41.5			
523130 Commodity Contracts Dealing	Factor	11.5	314.6	4.1	35.9	0.872	...	32.5	41.5
	Size Std.	41.5	18.0	29.0	30.0	41.5			
523140 Commodity Contracts Brokerage	Factor	4.7	366.7	1.2	40.1	0.851	...	26.5	41.5
	Size Std.	23.5	19.5	13.0	33.0	38.0			
523210 Securities and Commodity Exchanges.	Factor	692.4	2,097.6	314.7	84.8	0.683	...	33.0	41.5
	Size Std.	41.5	41.5	41.5	41.5	7.5			
523910 Miscellaneous Intermediation	Factor	2.4	332.7	12.1	19.4	0.827	...	27.0	41.5
	Size Std.	14.5	18.5	41.5	17.0	33.5			
523920 Portfolio Management	Factor	9.2	1,893.2	7.6	13.0	0.868	12.9	35.5	41.5
	Size Std.	41.5	41.5	41.5	12.0	41.0	41.5		
523930 Investment Advice	Factor	2.3	847.8	0.9	29.2	0.842	−20.8	27.5	41.5
	Size Std.	14.0	35.5	11.0	24.5	36.5	41.5		
523991 Trust, Fiduciary, and Custody Activities.	Factor	8.7	2,183.6	9.6	58.7	0.873	1.4	41.5	41.5
	Size Std.	39.5	41.5	41.5	41.5	41.5	41.5		
523999 Miscellaneous Financial Investment Activities.	Factor	12.1	1,063.7	20.2	63.5	0.884	23.7	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5	41.5		
524113 Direct Life Insurance Carriers	Factor	813.7	19,613.2	1,162.4	29.1	0.887	...	37.5	41.5
	Size Std.	41.5	41.5	41.5	24.5	41.5			
524114 Direct Health and Medical Insurance Carriers.	Factor	866.5	28,836.1	393.9	34.4	0.866	3.1	38.5	41.5
	Size Std.	41.5	41.5	41.5	28.5	40.5	41.5		
524127 Direct Title Insurance Carriers	Factor	16.3	3,552.3	8.6	89.4	0.888	...	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5			
524128 Other Direct Insurance (except Life, Health, and Medical) Carriers.	Factor	26.0	813.3	52.1	43.1	0.877	...	39.0	41.5
	Size Std.	41.5	34.5	41.5	35.5	41.5			
524130 Reinsurance Carriers	Factor	363.4	3,744.8	403.7	49.4	0.831	...	39.5	41.5
	Size Std.	41.5	41.5	41.5	40.5	34.5			
524210 Insurance Agencies and Brokerages.	Factor	0.9	488.3	0.5	11.2	0.735	−45.1	13.0	8.0
	Size Std.	8.0	23.5	9.0	10.5	17.0	13.0		
524291 Claims Adjusting	Factor	1.7	119.8	0.6	21.8	0.812	...	18.0	22.0
	Size Std.	11.5	11.5	9.5	19.0	31.0			
524292 Third Party Administration of Insurance and Pension Funds.	Factor	48.1	34,890.1	28.3	76.3	0.886	58.1	40.0	35.0
	Size Std.	41.5	41.5	41.5	41.5	41.5	35.0		
524298 All Other Insurance Related Activities.	Factor	3.2	411.0	2.1	49.2	0.848	−14.7	27.0	16.5
	Size Std.	17.5	21.0	18.0	40.5	37.5	20.0		
525110, Pension Funds, 525120, Health and Welfare Funds, and 525190, Other Insurance Funds, and 525920, Trusts, Estates, and Agency Accounts.	Factor	2.7	216.2	13.8	...	0.8612	...	32.5	35.0
	Size Std.	16.0	14.5	41.5		40.0			
525910 Open-End Investment Funds	Factor	2.6	24.5	13.2	58.2	0.807	...	31.5	35.0
	Size Std.	15.5	8.0	41.5	41.5	30.0			
525990 Other Financial Vehicles	Factor	2.8	244.0	13.9	...	0.865	...	32.5	35.0
	Size Std.	16.0	15.5	41.5		40.5			

TABLE 4—SIZE STANDARDS SUPPORTED BY EACH FACTOR FOR EACH INDUSTRY (RECEIPTS)—Continued

[Upper value = calculated factor, lower value = size standard supported]

NAICS code NAICS industry title	Type	Simple average firm size ($ million)	Weighted average firm size ($ million)	Average assets size ($ million)	Four-firm ratio (%)	Gini coefficient	Federal contract factor (%)	Calculated size standard ($ million)	Current size standard ($ million)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
531110 Lessors of Residential Buildings and Dwellings.	Factor	1.7	333.6	8.5	9.3	0.765	−3.8	23.5	30.0
	Size Std.	11.5	18.5	41.5	9.0	22.5	30.0		
531120 Lessors of Nonresidential Buildings (except Miniwarehouses).	Factor	3.1	691.1	31.1	11.5	0.825	−6.2	28.0	30.0
	Size Std.	17.0	30.5	41.5	11.0	33.5	30.0		
531130 Lessors of Miniwarehouses and Self-Storage Units.	Factor	0.8	413.7	4.2	33.7	0.698	....	20.5	30.0
	Size Std.	8.0	21.0	29.0	28.0	10.5			
531190 Lessors of Other Real Estate Property.	Factor	0.9	84.1	4.4	18.0	0.689	....	16.0	30.0
	Size Std.	8.0	10.0	30.5	16.0	8.5			
Exception to 531110,531120,531130, and 531190—*Review footnote #9*.	Factor	45.1	1,172.4	297.9	47.5	0.862	60.3	40.5	41.5
	Size Std.	41.5	41.5	41.5	39.0	40.0	41.5		
531210 Offices of Real Estate Agents and Brokers.	Factor	0.9	398.6	0.4	13.3	0.758	−11.1	13.0	8.0
	Size Std.	8.0	20.5	8.0	12.0	21.0	10.5		
531311 Residential Property Managers	Factor	1.0	44.2	1.1	4.7	0.756	28.3	11.0	8.0
	Size Std.	9.0	9.0	12.5	6.0	20.5	8.0		
531312 Nonresidential Property Managers.	Factor	1.0	28.0	5.2	5.9	0.732	....	17.0	8.0
	Size Std.	9.0	8.5	35.0	6.5	16.5			
531320 Offices of Real Estate Appraisers	Factor	0.4	33.1	0.1	12.4	0.695	26.4	8.5	8.0
	Size Std.	6.5	8.5	6.5	11.5	9.5	8.0		
531390 Other Activities Related to Real Estate.	Factor	0.8	95.8	4.1	15.6	0.764	−12.5	17.0	8.0
	Size Std.	8.0	10.5	29.0	14.0	22.5	10.5		
532111 Passenger Car Rental	Factor	13.3	7,875.5	19.0	90.1	0.889	−0.9	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.5	41.5		
532112 Passenger Car Leasing	Factor	16.8	830.6	56.0	62.4	0.873	0.2	41.0	41.5
	Size Std.	41.5	35.0	41.5	41.5	41.5	41.5		
532120 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing.	Factor	9.2	1,781.6	15.3	62.6	0.869	58.8	41.5	41.5
	Size Std.	41.5	41.5	41.5	41.5	41.0	41.5		
532210 Consumer Electronics and Appliances Rental.	Factor	10.7	2,040.5	5.9	80.1	0.866	....	40.5	41.5
	Size Std.	41.5	41.5	39.0	41.5	40.5			
532281 Formal Wear and Costume Rental.	Factor	0.6	12.0	0.3	24.9	0.714	....	12.5	22.0
	Size Std.	7.0	8.0	8.0	21.5	13.0			
532282 Video Tape and Disc Rental	Factor	2.3	1,168.7	1.2	86.1	0.865	....	31.0	30.0
	Size Std.	14.0	41.5	13.0	41.5	40.5			
532283 Home Health Equipment Rental	Factor	7.6	851.4	4.7	65.5	0.830	15.5	36.0	35.0
	Size Std.	35.0	35.5	32.5	41.5	34.5	35.0		
532284 Recreational Goods Rental	Factor	0.5	4.7	0.2	10.0	0.632	....	7.5	8.0
	Size Std.	6.5	7.5	7.5	9.5	6.0			
532289 All Other Consumer Goods Rental.	Factor	1.1	34.1	0.6	15.1	0.708	....	11.0	8.0
	Size Std.	9.0	8.5	9.5	13.5	12.0			
532310 General Rental Centers	Factor	0.9	6.3	0.7	6.9	0.610	....	7.5	8.0
	Size Std.	8.5	7.5	9.5	7.0	6.0			
532411 Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	Factor	18.8	2,011.1	46.9	61.4	0.882	33.4	40.0	35.0
	Size Std.	41.5	41.5	41.5	41.5	41.5	35.0		
532412 Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing.	Factor	7.8	655.5	9.8	32.8	0.824	3.3	34.0	35.0
	Size Std.	36.5	29.0	41.5	27.5	33.0	35.0		
532420 Office Machinery and Equipment Rental and Leasing.	Factor	4.7	109.7	6.7	40.0	0.832	28.6	32.5	35.0
	Size Std.	23.5	11.0	41.5	33.0	34.5	35.0		
532490 Other Commercial and Industrial Machinery and Equipment Rental and Leasing.	Factor	5.3	372.8	6.6	21.0	0.822	18.2	30.0	35.0
	Size Std.	26.0	20.0	41.5	18.0	33.0	35.0		
533110 Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).	Factor	14.0	795.5	28.0	23.0	0.867	....	35.0	41.5
	Size Std.	41.5	34.0	41.5	20.0	41.0			

Evaluation of Size Standards for Subindustry Categories or ''Exceptions''

In accordance with SBA's approach to evaluating size standards for subindustry categories (or ''exceptions''), SBA has evaluated the two (2) exceptions covered by this rule using the procedures described in the revised SBA's Methodology. The results of that analysis are discussed in the following two subsections.

Non-Vessel Owning Common Carriers and Household Goods Forwarders

Non-Vessel Owning Common Carriers and Household Good Forwarders is an ''exception'' or subindustry under NAICS 488510 (Freight Transportation Arrangement), with the size standard of $30.0 million in average annual receipts. The data that SBA receives from the Census Bureau's tabulation are limited to the 6-digit NAICS industry level and therefore do not provide information on economic characteristics of firms at the sub-industry level. Thus, for reviewing or modifying size standards at the subindustry levels (''exceptions''), SBA normally evaluates data from FPDS–NG and SAM using a two-step procedure.

First, using FPDS–NG, SBA identifies Product Service Codes (PSCs) that correspond to specific exceptions. SBA then identifies firms that have received federal contracts under those PSCs and evaluates their receipts and employee data from SAM and FPDS–NG to derive the values for industry and federal contracting factors.

Contracting activity for NAICS 488510 including the exception is distributed over roughly 70 different PSCs. Using FPDS–NG data for fiscal years 2016–2018, SBA identified 5 primary PSCs that correspond to the overall industry including the exception, that amount to 95.6 percent of total dollars obligated on NAICS 488510. These PSCs are V119 (Transportation/Travel/Relocation-Transportation: Other), W023 (Lease-Rent of Vehicles-Trailers-CYC), M1GZ (Operation of Other Warehouse Buildings), V112 (Transportation/Travel/Relocation-Transportation: Motor Freight) and R706 (Support-Management: Logistics Support). The top PSC alone, V119, accounts for 70 percent of total dollars obligated. Table 5, Primary PSCs of NAICS 488510 and Average Dollars Obligated—Fiscal Years 2016–2018, below identifies these five (5) PSCs and their average total dollars obligated for the fiscal years 2016–2018.

SBA analyzed the contracting activity under these PSCs, but the Agency was unable to reliably differentiate the level of activity corresponding to the exception versus the overall industry, and to identify any PSCs that would correspond uniquely to the exception.

TABLE 5—PRIMARY PSCS OF NAICS 488510 AND AVERAGE TOTAL DOLLARS OBLIGATED FISCAL YEARS 2016–2018

PSC	PSC description	Dollars obligated ($ million)	Percentage of dollars obligated to primary PSCs	Cumulative percentage of total NAICS 488510
V119	Transportation/Travel/Relocation-Transportation: Other	$126.76	70.2	70.2
W023	Lease-Rent of Vehicles Trailers-CYC	32.17	17.8	88.0
M1GZ	Operation of Other Warehouse Buildings	7.96	4.4	92.4
V112	Transportation/Travel/Relocation-Transportation: Motor Freight	3.14	1.7	94.1
R706	Support Management: Logistics Support	2.62	1.5	95.6
Total		180.64	100.0	

Source: FPDS–NG.

SBA also reviewed the distribution of contracts awarded to small and other than small businesses in the overall industry. SBA found that only about $2 million or 1.1% of the $189.9 Million obligated to the overall industry went to small businesses. Thus, while the total contracting dollars obligated to all firms in the industry is significant, the total dollars obligated to small firms is not. Additionally, the top agencies using the NAICS code 488510, USTRANSCOM and Federal Emergency Management Agency, which account for 91.3 percent of total dollars obligated during the period evaluated, have no small business dollars.

In an effort to differentiate the exception from the overall industry and determine its economic characteristics, SBA evaluated 2012 Economic Census sub-industry data found in the US Census American FactFinder. The data divide NAICS 488510 in two components identified with an additional digit. First, the 7-digit level NAICS 4885101 (Freight Forwarders), and second the 7-digit level NAICS 4885102 (Arrangement of transportation of freight and cargo). The NAICS 4885101 includes Non-vessel operating common carrier service as one of the principal activities. SBA understands that NAICS 4885101 corresponds to the activity classified as an exception to the General NAICS 6 digit 488510. The NAICS 4885101 includes multimodal activities supporting transportation, and the firms assume responsibility for delivery of the goods.[1]

SBA evaluated the economic characteristics of NAICS 4885101 to the overall industry and found them to be similar. Table 6, Industry Comparison NAICS 488510 and NAICS 4885101, displays a comparison of several economic factors between NAICS 488510 (overall industry) and NAICS 4885101 (industry exception).

TABLE 6—INDUSTRY COMPARISON NAICS 488510 AND NAICS 4885101

Economic characteristic (factor)	NAICS 488510 (overall industry)	NAICS 4885101 (exception)
Average Firm Size by Total Receipts ($ millions)	$3.4	$4.0
Average Firm Size by Number of Employees	16	17
Weighted Average Firm Size by Total Receipts ($ millions)	$121.9	$100.6
Concentration Ratio of Top 4 Largest Firms by Total Receipts (CR4) %	11.0%	14.5%
Percentage of Small Firms (based on current size standards) (%)	88.1%	85.6%

Source: U.S. Census Bureau, AmericanFactFinder and SBA calculations.

Despite the similarities between the overall industry and the exception, SBA recognizes that there are important distinctions between freight forwarders and NVOCCs. For example, the Federal Maritime Commission defines a freight forwarder as a company that arranges cargo movement to an international destination, dispatches shipments from

[1] The Census definition is: ''This U.S. Census Bureau NAICS-based industry comprises establishments primarily engaged in undertaking the transportation of goods from shippers to receivers for a charge covering the entire transportation, and in turn making use of the services of various freight carriers in affecting delivery, paying transportation charges, and assuming responsibility for delivery of the goods. There is no relationship between shippers and the various freight carriers delivering the goods.''

the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers and prepares and processes the documentation and performs related activities pertaining to those shipments.'' [2] Conversely, the Federal Maritime Commission defines an NVOCC as ''a common carrier that holds itself out to the public to provide ocean transportation, issues its own house bill of lading or equivalent document, and does not operate the vessels by which ocean transportation is provided; a shipper in its relationship with the vessel-operating common carrier involved in the movement of cargo.'' Thus, the distinction between freight forwarders and NVOCCs will be not on the activity or service provided, but in the level of responsibility and the type of revenue that counts for the firm. Product Service Codes within NAICS 488510 do not distinguish between agents or NVOCCs, so it is a challenge to choose a PSC code to evaluate the exception.

Prior to 2000, the exception under NAICS 488510 did not exist. SBA did not recognize the differences between freight forwarders acting as agents (or brokers) and freight forwarders that are Non-Vessel Operating Common Carriers (NVOCCs) and Household Goods Forwarders, and applied a similar size to both ($18.5 million).

On August 9, 2000, SBA adopted the differentiation between agents and NVOCCs (65 FR 48601). SBA assigned a smaller size standard of $5 million to the overall industry which included the activity of agents and a higher size standard of $18.5 million to the exception which included the activities of NVOCCs and Household Goods Forwarders. SBA's justification for a lower size for the overall industry was that the revenues of freight forwarders, which typically act as agents or brokers, do not correspond to their intermediation activity whereas the revenues of NVOCCs, which typically act as wholesalers of cargo space, may have substantial expenses not usually incurred by agent or broker firms.

Despite these distinctions, SBA's preliminary analysis of industry structure suggests that firms in the exception and overall industry may be performing similar functions or that there may be significant overlap in the services offered by freight forwarders and NVOCCs. The absence of an easily identifiable PSC that is unique to the business activities of NVOCCs also supports this finding. Moreover, SBA's analysis of contracting data found that contracting officers prefer to use the lower size standard of $16.5 million rather than the higher size standard of $30 million available for the exception. This suggests that agencies are able to obtain the services needed provided by the overall NAICS using the lower size standard applicable to NAICS 488510.

For these reasons, SBA proposes to retain the sub-industry category (''exception'') under NAICS 488510 and its $30.0 Million size standard. SBA invites comments, along with supporting information, on this proposal as well as suggestions on whether the proposed size standard of $17.5 million for the overall industry is more appropriate for this exception. SBA also welcomes comments on the percent of Federal contracting dollars that correspond to NVOCCs versus the overall industry. Finally, SBA requests comments on available data sources that clearly define the economic characteristics of NVOCCs, and Household Goods Forwarders as well.

Exception to NAICS Industry Group 5311: Leasing of Building Space to the Federal Government by Owners

The current size standard for Federal contracts for Leasing of Building Space to Federal Government by Owners (''exception'' to NAICS industry group 5311 (531110, 531120, 531130, and 531190) is $41.5 million. This size standard applies only to certain Federal contracting opportunities that meet specific criteria. Footnote 9 of SBA's table of size standards (13 CFR 121.201) reads: ''For Government procurement, a size standard of $41.5 million in gross receipts applies to the owners of building space leased to the Federal Government. This size standard does not apply to an agent.''

To determine if the current $41.5 million size standard is appropriate, SBA evaluated average firm size, market concentration, and size distribution of firms involved in Leasing of Building Space to Federal Government by Owners. SBA used data from FPDS–NG and SAM.gov and followed the procedure described under the section ''Sources of Industry and Program Data'' (above). Based on the data for fiscal years 2016–2018, Federal contracts awarded to NAICS 6 digit industries 531110, 531120, 531130 and 531190 averaged about $221.0 million annually, with the largest percentage going to NAICS 531120 (75.5 percent). SBA chose to analyze dollars awarded to product service codes (PSC) X111/X1AA (Lease/Rental of Office Building), X1FZ (Lease or rental of other residential buildings), and X179 (Lease or rent of other warehouse buildings) across the four NAICS industries within 5311. Dollars obligated to these three PSCs add to $130.1 million in average in fiscal years 2016–2018, which represents 58.9 percent of total dollars obligated to these NAICS 6-digit industries. The results, as shown in Table 4, support retaining the current size standard of $41.5 million.

Evaluation of the Assets-Based Size Standard

In 1984, SBA published a notice of policy allowing financial services that prime contractors procure from small minority owned and controlled financial institutions to qualify as subcontracts for purposes of meeting subcontracting goals and credits (*see* 49 FR 13091–01 (April 2, 1984)). Concurrently, SBA also published a proposed rule that a financial institution with total assets of not more than $100 million would be considered small (*see* 49 FR 13052–01 (April 2, 1984)). SBA adopted the $100 million in total assets as the size standard for financial institutions (*see* 49 FR 49398–01 (October 16, 1984)). Over time, the definition of small depository institution was extended to all financial institutions within NAICS 5221, Depository Credit Intermediation. Since then, along with other monetary-based size standards, SBA has periodically adjusted the assets-based size standard for inflation, with the latest adjustment increasing it to $600 million (*see* 84 FR 34261 (July 18, 2019)).

Currently, the $600 million assets-based size standard applies to four industries within NAICS Industry Group 5221, and one industry within NAICS Industry Group 5222, Non-depository Credit Intermediation. These include NAICS 522110 (Commercial Banking), NAICS 522120 (Savings Institutions), NAICS 522130 (Credit Unions), NAICS 522190 (Other Depository Credit Intermediation), and NAICS 522210 (Credit Card Issuing).

Because only a small number of industries have assets-based size standards, no comparison groups could be developed to assess differing characteristics of individual industries based on total assets. Thus, most of the SBA's size standards methodology is not applicable to analyzing the assets-based size standards for financial institutions. Consequently, in this proposed rule, SBA has examined the changes since 2011 (the year that the assets-based size standard was last reviewed) in other financial industry factors to assess whether the current $600 million assets-

[2] See Federal Maritime Commission web page for definitions of Freight Forwarder and Non-Vessel Owning Common Carriers at: *https://www.fmc.gov/resources-services/ocean-transportation-intermediaries/*.

based size standard should be modified to reflect today's financial industry structure. Specifically, SBA evaluated changes from 2011 to 2018 (the latest year for which the financial institution data are available) in average firm size, industry concentration, and distribution of firms by size (*i.e.,* Gini coefficient) for financial institutions. As it did in the Sector 52 proposed and final rules (see 77 FR 55737 (September 11, 2012) and 78 FR 37409 (June 20, 2013)) in the prior review, in this proposed rule, SBA both evaluated depository institutions as a whole and the minority owned and controlled depository institutions separately.

SBA evaluated all depository institutions using SDI data. SDI does not provide the NAICS definition for every firm included in the database. However, it has a field called Asset Concentration Hierarchy, which can be used to identify each institution's primary specialization in terms of asset concentration, such as credit card services. Another field, Bank Charter Class, identifies the institutions as banks or thrifts. SDI does not include data on Credit Unions (NAICS 522130). Because the data are not separated by NAICS code, and also the differences among services offered by different financial institutions (such as commercial banks, saving institutions, and credit card issuing companies) have greatly diminished over the recent decades, SBA has analyzed all financial institutions as one industry group.

SBA identified Minority Depository Institutions using the list of minority depository institutions compiled by the Federal Depository Institutions (FDIC) (*https://www.fdic.gov/regulations/resources/minority/mdi.html*). SBA examined their characteristics using the assets data from SDI database too fully capture the changes in industry structure of minority-owned financial institutions since 2011.

The number of all depository institutions, total assets and calculated industry factors for 2011 and 2018 are shown on Table 7, Calculated Industry Factors for All Depository Institutions. All data were collected at the end of the corresponding calendar year. Similar calculations for the minority-owned depository institutions are shown on Table 8, Calculated Industry Factors for Minority Owned Depository Institutions. For comparability, all monetary values are expressed in 2018 dollars, using the Bureau of Economic Analysis (BEA) GDP deflator for 2018 (Source: BEA's Table 1.1.4. Price Indexes for Gross Domestic Product, *https://apps.bea.gov/iTable/iTable.cfm?reqid=19&step=2#reqid=19&step=2&isuri=1&1921=survey*).

TABLE 7—CALCULATED INDUSTRY FACTORS FOR ALL DEPOSITORY INSTITUTIONS

[All monetary values are in millions of 2018 dollars]

Year	Number of institutions	Total assets	Simple average firm size	Weighted average firm size	Four-firm ratio (%)	Gini coefficient
2011	7,366	$15,682,868.5	$2,129.1	$84,083.9	41.0	0.907
2018	5,415	18,034,370.5	3,330.4	91,644.4	39.4	0.911

Source: SDI/FDIC (*https://www7.fdic.gov/sdi/download_large_list_outside.asp*). Data correspond to Fourth quarter of calendar year 2018 and deflated using GDP deflator).

TABLE 8—CALCULATED INDUSTRY FACTORS FOR MINORITY DEPOSITORY INSTITUTIONS

[All monetary values are in millions of 2018 dollars]

Year	Number of institutions	Total assets	Simple average firm size	Weighted average firm size	Four-firm ratio (%)	Gini coefficient
2011	187	$204,192.6	$1,091.9	$9,923.4	40.6	0.782
2018	149	233,929.0	1,570.0	14,024.3	47.5	0.776

Source: FRB and FDIC (table *https://www.fdic.gov/regulations/resources/minority/mdi-history.xlsx*).

During the 2011 to 2018 span, as shown on Table 7, above, the financial industry continued to show a decrease in the total number of depository institutions in 2018 as compared to 2011. The total number of all financial depository institutions decreased by 26.5 percent from 7,366 in 2011 to 5,415 in 2018, while their total assets (measured in 2018 dollars) increased by 15.0 percent during the same period. The average firm size (measured in total assets) also increased from 2011 to 2018, with their simple average firm size increasing by a factor of 1.56 and the weighted average firm size increasing by a factor of 1.09. The four largest institutions' share of total assets (also referred to as four-firm concentration ratio or CR4) slightly decreased (from 41.0% to 39.4%), but the Gini coefficient value slightly increased from 0.907 in 2011 to 0.911 in 2018. Overall, the values of these factors confirm an increase over time in average size of the depository institutions, and an increase in concentration. The average firm size and Gini coefficient value for the minority owned banks on Table 8 also confirmed the continuation of the trend of increased concentration in the financial industry, even more than for the total industry as reflected on Table 7. For example, the four firm concentration ratio for minority depository institutions increased from 40.6 in 2011 to 47.5 in 2018. This is an increase by a factor of 1.17, although the Gini coefficient decreased slightly.

For the five assets-based industries listed above, Federal contracting dollars averaged about $130 million per year during fiscal years 2016–2018. This reflects a large increase in dollars awarded to those industries when compared to fiscal years 2008–2010, when the average total dollars obligated to them was about $22 million. Of those five industries, NAICS 522110, Commercial Banking, accounts for 99.6 percent of the average total dollars obligated. Thus, under SBA's methodology, different than the first comprehensive review, Federal contracting is a significant factor for reviewing the assets-based size standard for the industries.

The current structure of the financial industry relative to that for 2011, as discussed above, strongly supports increasing the current $600 million assets-based size standard. The changes in industry factors for all financial institutions on Table 7 as well as the results for the minority-owned institutions in Table 8 support a size standard in the range of $700 million to $1 billion in total assets. SBA is proposing $750 million as it would include about 81 percent of the financial institutions and 5.3 percent of total assets of all financial institutions as compared to 77.3 percent of institutions and about 4.6 percent of total assets under the current $600 million. Similarly, it would include about 75.2 percent of institutions and 12.08 percent of the total assets of all minority owned institutions, as compared to 71.4 percent of institutions and 10.4 percent of total assets under the current $600 million.

The proposed $750 million assets-based size standard would apply to the following four industries within NAICS Subsector 522, Credit Intermediation and Related Activities: NAICS 522110 (Commercial Banking), NAICS 522120 (Savings Institutions), NAICS 522190 (Other depository Credit Intermediation), and NAICS 522210 (Credit Card Issuing).

NAICS 522130, Credit Unions

A credit union is a cooperative, not-for-profit financial institution owned and controlled by its members. Credit unions are established and operated for the purpose of promoting thrift and providing credit at competitive rates and other financial services to their membership. Generally, they could be corporate credit unions, Federal, or State credit unions. Because this industry includes only not-for-profit institutions, SBA does not consider them small business concerns for Federal government assistance. The small business regulations state that a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States (*see* 13 CFR 121.05(a)(1)). However, SBA determines size standard for this industry because it is useful for other purposes, such as rulemaking. Table 9, Calculated Industry Factors for Credit Unions, provides the calculated factors for Credit Unions. Between 2011 and 2018, the total number of concerns diminished by 24 percent, but at the same time the total assets increased by a factor of 1.34. The simple average almost doubled (1.77) between 2011 and 2018 in real terms, and the weighted average grew by a factor of more than 1.5. The four firm concentration ratio increased by a factor of 1.24. Gini coefficient did not change significantly during the period. All these factors support an increase of size standard for Credit Unions and SBA proposes $750 million as well. With this size standard, the percentage of small firms will increase to 92.8 percent compared to 91.2 percent with the current $600 million size standard. Similarly, the share of small business assets will increase to about 30 percent from 25.7 percent.

TABLE 9—CALCULATED INDUSTRY FACTORS FOR CREDIT UNIONS

[All monetary values are in millions of 2018 dollars]

Year	Number of institutions	Total assets	Simple average firm size	Weighted average firm size	Four-firm ratio (%)	Gini coefficient
2011	7,240	$1,096,069.7	$151.4	$3,720.2	9.8	0.828
2018	5,492	1,470,839.4	267.8	5,687.5	12.2	0.833

Source: NCUA,*https://www.ncua.gov/analysis/credit-union-corporate-call-report-data/quarterly-dat.*

Special Considerations

NAICS Subsector 525, Funds, Trusts and Other Financial Vehicles

As noted earlier, the 2012 Economic Census special tabulation includes data only for two NAICS codes within NAICS Subsector 525: NAICS 525910, Open-End Investment Funds, and NAICS 525990, Other Financial Vehicles. Because all industries in that Subsector currently share the same $35.0 million receipts-based size standard, SBA applies the results based on data for NAICS 525910 and 525990, as shown in Table 4 (above), to all remaining industries within this Subsector and initially proposes the same common size standard of $32.5 million in average annual receipts for all six industries in Subsector 525. While that represents a slight decrease from the current $35.0 million level, this would have virtually no impacts on the number of small firms nor on the amount of Federal contract dollars awarded to small firms under the current size standards. However, while lowering size standards would cause no or very little impact on small businesses in those industries, in response to the COVID–19 emergency and its impacts on small businesses and the overall economy, SBA is proposing to maintain the size standards for those industries at their current levels. SBA seeks comments on this proposal as well as suggestion on alternative data sources, if any, to evaluate those industries.

NAICS 524126, Direct Property and Causality Insurance Carriers

The current size standard for NAICS 524126, Direct Property and Causality Insurance, is 1,500 employees, which SBA has not reviewed in this proposed rule. SBA will review this size standard together with other employee-based size standards at a later date. Until then, SBA proposes to retain the current 1,500-employee size standard for NAICS 524126.

Summary of Calculated Size Standards

Of the one hundred-twenty four (124) industries and two (2) subindustries (exceptions) reviewed in this proposed rule, the results from analyses of the latest available data on the five primary factors from Table 4, Size Standards Supported by Each Factor for Each Industry (millions of dollars), above, would support increasing size standards for forty five (45) industries, decreasing size standards for sixty-nine (69) industries, and retaining size standards for 9 industries and 2 subindustries. Additionally, SBA retained the size standard for one industry that the Economic Census does not cover. Table 10, Summary of Calculated Size Standards, summarizes these results by NAICS sector.

TABLE 10—SUMMARY OF CALCULATED SIZE STANDARDS

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards decreased	Number of size standards unchanged
48–49	Transportation and Warehousing	43	18	23	2
51	Information	19	8	9	2
52	Finance and Insurance	39	* 10	24	5
53	Real Estate and Rental and Leasing *	25	9	13	3
All Sectors		126	45	69	12

* Includes five assets-based size industries.

Evaluation of SBA Loan Data

Before proposing or deciding on an industry's size standard revision, SBA also considers the impact of size standards revisions on SBA's loan programs. Accordingly, SBA examined its internal 7(a) and 504 loan data for fiscal years 2016–2018 to assess whether the calculated size standards in Table 4 above need further adjustments to ensure credit opportunities for small businesses through those programs. For the industries reviewed in this rule, the data shows that it is mostly businesses much smaller than the current or proposed size standards that receive SBA's 7(a) and 504 loans. For example, for industries covered by this rule, more than 99.0 percent of 7(a) and 504 loans in fiscal years 2016–2018 went to businesses below the current or proposed size standards.

Proposed Changes to Size Standards

Based on the analytical results in Table 4 and considerations of impacts of calculated size standards in terms of access by currently small businesses to SBA's loans, as discussed above, of a total of one hundred twenty six (126) industries or subindustries (exceptions) with monetary-based size standards in Sectors 48–49, 51, 52 and 53 that are covered by this rule, and considering the current emergency situation due to the COVID–19 pandemic and its impacts on small businesses and the overall economy, SBA proposes to increase size standards for 45 industries, and retain the current size standards for the remaining 81 industries.

Special Considerations

On March 13, 2020, the ongoing Coronavirus Disease 2019 (COVID–19) was declared a pandemic of enough severity and magnitude to warrant an emergency declaration for all states, territories, and the District of Columbia. With the COVID–19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, and local public health measures that are being taken to minimize the public's exposure to the virus. These measures, some of which are government-mandated, are being implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, are being implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.

The Coronavirus Aid, Relief, and Economic Security Act (the CARES Act or the Act) (Pub. L. 116–136) was enacted on March 27, 2020, to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans under a new program titled the Paycheck Protection Program (PPP). Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the PPP. The PPP and loan forgiveness are intended to provide economic relief to small businesses nationwide adversely impacted under the COVID–19. On April 24, 2020, additional funding for the CARES Act, including for the PPP, was provided.

The Agency is following closely the development of the pandemic and the economic situation and recovery. The consequence of the initial response of the public to the COVID–19 pandemic as well as the different measures taken by the Government to contain it (*e.g.* stay at home orders, social distancing, etc.) have resulted in the present economic decline. A variety of economic indicators such as the Gross Domestic Product (GDP) and the unemployment rate shows that this recession is significantly worse than any other recession since World War II. The GDP decreased nearly 5 percent, and the Personal consumption in goods and services decreased 6.8 percent in the first quarter of 2020; in May 2020, personal income decreased 4.2 percent and the unemployment rate increased from 3.5 percent in February 2020 to 11.1 percent in June 2020, and also for the month of June 2020, Non-farm payroll decreased by 15 million since February 2020. Specifically for the sectors evaluated in this proposed rule, more recent data in June 2020 shows that the unemployment rate for Transportation and Utilities was 12.9 percent, for the sector of Information 12.0 percent and for the Financial Activities, 5.1 percent. In June 2019, the unemployment rates for these sectors were 3.7, 2.7 and 2 percent, respectively. The latest Federal Reserve Board's Monetary Policy Report shows that in general the most impacted firms in these sectors are small businesses.[3].

Accordingly, in view of above impacts on small businesses from the COVID–19 pandemic and Federal government efforts to provide relief to small businesses and support to the overall economy, SBA proposes to increase size standards for 45 industries, and retain the current size standards for 81 industries even though analytical results suggest that 69 of those 81 size standards could be lowered.

The proposed size standards are presented in Table 11, Proposed Size Standards Revisions. Also presented in Table 11 are current and calculated size standards for comparison.

[3] Board of Governors of the Federal Reserve System (June 2020), Monetary Policy Report, p. 24 (see *https://www.federalreserve.gov/monetarypolicy/files/20200612_mprfullreport.pdf*) and U.S. Census Bureau, Small Busines Pulse Survey (*https://portal.census.gov/pulse/data*). The latest is a recent survey created by the Census Bureau to provide high-frequency, detailed information on participation in small business-specific initiatives such as the Paycheck Protection Program.

TABLE 11—PROPOSED SIZE STANDARDS REVISIONS

NAICS codes	NAICS U.S. industry title	Calculated size standard ($ million)	Proposed size standard ($ million)	Current size standard ($ million)
481219	Other Nonscheduled Air Transportation	$22.0	$22.0	$16.5
484110	General Freight Trucking, Local	9.0	30.0	30.0
484121	General Freight Trucking, Long-Distance, Truckload	22.0	30.0	30.0
484122	General Freight Trucking, Long-Distance, Less Than Truckload.	38.0	38.0	30.0
484210	Used Household and Office Goods Moving	21.0	30.0	30.0
484220	Specialized Freight (except Used Goods) Trucking, Local.	15.0	30.0	30.0
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance.	22.0	30.0	30.0
485111	Mixed Mode Transit Systems	25.5	25.5	16.5
485112	Commuter Rail Systems	41.5	41.5	16.5
485113	Bus and Other Motor Vehicle Transit Systems	28.5	28.5	16.5
485119	Other Urban Transit Systems	33.0	33.0	16.5
485210	Interurban and Rural Bus Transportation	28.0	28.0	16.5
485310	Taxi Service	13.0	16.5	16.5
485320	Limousine Service	12.5	16.5	16.5
485410	School and Employee Bus Transportation	26.5	26.5	16.5
485510	Charter Bus Industry	13.0	16.5	16.5
485991	Special Needs Transportation	13.0	16.5	16.5
485999	All Other Transit and Ground Passenger Transportation.	16.0	16.5	16.5
486210	Pipeline Transportation of Natural Gas	36.5	36.5	30.0
486990	All Other Pipeline Transportation	31.5	40.5	40.5
487110	Scenic and Sightseeing Transportation, Land	18.0	18.0	8.0
487210	Scenic and Sightseeing Transportation, Water	12.5	12.5	8.0
487990	Scenic and Sightseeing Transportation, Other	22.0	22.0	8.0
488111	Air Traffic Control	30.5	35.0	35.0
488119	Other Airport Operations	25.5	35.0	35.0
488190	Other Support Activities for Air Transportation	27.5	35.0	35.0
488210	Support Activities for Rail Transportation	30.0	30.0	16.5
488310	Port and Harbor Operations	38.0	41.5	41.5
488320	Marine Cargo Handling	39.0	41.5	41.5
488330	Navigational Services to Shipping	26.5	41.5	41.5
488390	Other Support Activities for Water Transportation	23.5	41.5	41.5
488410	Motor Vehicle Towing	7.0	8.0	8.0
488490	Other Support Activities for Road Transportation	16.0	16.0	8.0
488510	Freight Transportation Arrangement	17.5	17.5	16.5
488991	Packing and Crating	17.5	30.0	30.0
488999	All Other Support Activities for Transportation	22.0	22.0	8.0
491110	Postal Services	8.0	8.0	8.0
492210	Local Messengers and Local Delivery	10.5	30.0	30.0
493110	General Warehousing and Storage	25.0	30.0	30.0
493120	Refrigerated Warehousing and Storage	32.0	32.0	30.0
493130	Farm Product Warehousing and Storage	13.5	30.0	30.0
493190	Other Warehousing and Storage	32.0	32.0	30.0
511210	Software Publishers	40.0	41.5	41.5
512110	Motion Picture and Video Production	33.0	35.0	35.0
512120	Motion Picture and Video Distribution	26.0	34.5	34.5
512131	Motion Picture Theaters (except Drive-Ins)	39.5	41.5	41.5
512132	Drive-In Motion Picture Theaters	11.0	11.0	8.0
512191	Teleproduction and Other Postproduction Services	19.5	34.5	34.5
512199	Other Motion Picture and Video Industries	25.0	25.0	22.0
512240	Sound Recording Studios	9.5	9.5	8.0
512290	Other Sound Recording Industries	20.0	20.0	12.0
515111	Radio Networks	41.5	41.5	35.0
515112	Radio Stations	36.0	41.5	41.5
515120	Television Broadcasting	41.5	41.5	41.5
515210	Cable and Other Subscription Programming	41.5	41.5	41.5
517410	Satellite Telecommunications	38.5	38.5	35.0
517919	All Other Telecommunications	33.0	35.0	35.0
518210	Data Processing, Hosting, and Related Services	33.0	35.0	35.0
519110	News Syndicates	32.0	32.0	30.0
519120	Libraries and Archives	18.5	18.5	16.5
519190	All Other Information Services	26.5	30.0	30.0
522110	Commercial Banking	750 million in assets	750 million in assets	600 million in assets
522120	Savings Institutions	750 million in assets	750 million in assets	600 million in assets
522130	Credit Unions	750 million in assets	750 million in assets	600 million in assets
522190	Other Depository Credit Intermediation	750 million in assets	750 million in assets	600 million in assets
522210	Credit Card Issuing	750 million in assets	750 million in assets	600 million in assets

TABLE 11—PROPOSED SIZE STANDARDS REVISIONS—Continued

NAICS codes	NAICS U.S. industry title	Calculated size standard ($ million)	Proposed size standard ($ million)	Current size standard ($ million)
522220	Sales Financing	38.0	41.5	41.5
522291	Consumer Lending	41.5	41.5	41.5
522292	Real Estate Credit	40.0	41.5	41.5
522293	International Trade Financing	31.0	41.5	41.5
522294	Secondary Market Financing	41.5	41.5	41.5
522298	All Other Nondepository Credit Intermediation	35.5	41.5	41.5
522310	Mortgage and Nonmortgage Loan Brokers	13.0	13.0	8.0
522320	Financial Transactions Processing, Reserve, and Clearinghouse Activities.	39.5	41.5	41.5
522390	Other Activities Related to Credit Intermediation	25.0	25.0	22.0
523110	Investment Banking and Securities Dealing	41.0	41.5	41.5
523120	Securities Brokerage	37.0	41.5	41.5
523130	Commodity Contracts Dealing	32.5	41.5	41.5
523140	Commodity Contracts Brokerage	26.5	41.5	41.5
523210	Securities and Commodity Exchanges	33.0	41.5	41.5
523910	Miscellaneous Intermediation	27.0	41.5	41.5
523920	Portfolio Management	35.5	41.5	41.5
523930	Investment Advice	27.5	41.5	41.5
523991	Trust, Fiduciary, and Custody Activities	41.5	41.5	41.5
523999	Miscellaneous Financial Investment Activities	41.5	41.5	41.5
524113	Direct Life Insurance Carriers	37.5	41.5	41.5
524114	Direct Health and Medical Insurance Carriers	38.5	41.5	41.5
524127	Direct Title Insurance Carriers	41.5	41.5	41.5
524128	Other Direct Insurance (except Life, Health, and Medical) Carriers.	39.0	41.5	41.5
524130	Reinsurance Carriers	39.5	41.5	41.5
524210	Insurance Agencies and Brokerages	13.0	13.0	8.0
524291	Claims Adjusting	18.0	22.0	22.0
524292	Third Party Administration of Insurance and Pension Funds.	40.0	40.0	35.0
524298	All Other Insurance Related Activities	27.0	27.0	16.5
525110	Pension Funds	32.5	35.00	35.0
525120	Health and Welfare Funds	32.5	35.0	35.0
525190	Other Insurance Funds	32.5.0	35.0	35.0
525910	Open-End Investment Funds	31.5	35.0	35.0
525920	Trusts, Estates, and Agency Accounts	32.5.0	35.0	35.0
525990	Other Financial Vehicles	32.5	35.0	35.0
531110	Lessors of Residential Buildings and Dwellings	23.5	30.0	30.0
531120	Lessors of Nonresidential Buildings (except Miniwarehouses).	28.0	30.0	30.0
531130	Lessors of Miniwarehouses and Self-Storage Units	20.5	30.0	30.0
531190	Lessors of Other Real Estate Property	16.0	30.0	30.0
531210	Offices of Real Estate Agents and Brokers	13.0	13.0	8.0
531311	Residential Property Managers	11.0	11.0	8.0
531312	Nonresidential Property Managers	17.0	17.0	8.0
531320	Offices of Real Estate Appraisers	8.5	8.5	8.0
531390	Other Activities Related to Real Estate	17.0	17.0	8.0
532111	Passenger Car Rental	41.5	41.5	41.5
532112	Passenger Car Leasing	41.0	41.5	41.5
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing.	41.5	41.5	41.5
532210	Consumer Electronics and Appliances Rental	40.5	41.5	41.5
532281	Formal Wear and Costume Rental	12.5	22.0	22.0
532282	Video Tape and Disc Rental	31.0	31.0	30.0
532283	Home Health Equipment Rental	36.0	36.0	35.0
532284	Recreational Goods Rental	7.5	8.0	8.0
532289	All Other Consumer Goods Rental	11.0	11.0	8.0
532310	General Rental Centers	7.5	8.0	8.0
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	40.0	40.0	35.0
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing.	34.0	35.0	35.0
532420	Office Machinery and Equipment Rental and Leasing	32.5	35.0	35.0
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing.	30.0	35.0	35.0
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).	35.0	41.5	41.5

Table 12, Summary of Proposed Size Standards Revisions by Sector, below, summarizes the proposed changes to size standards in Table 11 (above) by NAICS sector.

TABLE 12—SUMMARY OF PROPOSED SIZE STANDARDS REVISIONS BY SECTOR

NAICS Sector	Sector name	Size standards increased	Size standards lowered	Size standards maintained
48–49	Transportation and Warehousing (1)	18	0	25
51	Information	8	0	11
52*	Finance and Insurance (2)	10	0	29
53	Real Estate and Rental and Leasing (3)	9	0	16
All Sectors (3)		45	0	81

Evaluation of Dominance in Field of Operation

SBA has determined that for the industries which it has evaluated in this proposed rule, no individual firm at or below the proposed size standard would be large enough to dominate its field of operation. At the proposed size standards levels, if adopted, the small business share of total industry receipts among those industries was, on average, 1.9 percent, varying from 0.01 percent to 33.3 percent. Also, at the proposed asset-based size standards levels, banks and thrifts have a share of 0.004 percent, with the minority institutions having a share of 0.32 percent. Credit unions have a market share of 0.05 percent. These market shares effectively preclude a firm at or below the proposed size standards from exerting control on any of the industries.

Alternatives Considered

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs and to review every five years all size standards and make necessary adjustments to reflect the current industry structure and Federal market conditions. Other than varying the levels of size standards by industry and changing the measures of size standards (*e.g.,* using annual receipts vs. the number of employees), no practical alternatives exist to the systems of numerical size standards.

The proposal is to increase size standards where the data suggested increases are warranted, and to retain, in response to the COVID–19 national emergency and resultant economic impacts on small businesses, all current size standards where the data suggested lowering is appropriate.

Nonetheless, SBA also considered two other alternatives. The alternative option one was to propose changes exactly as suggested by the analytical results. The alternative option two was to retain all current size standards.

The first option would cause a substantial number of currently small businesses to lose their small business status and hence to lose their access to Federal small business assistance, especially small business set-aside contracts and SBA's financial assistance in some cases. During the first 5-year review of size standards, some commenters had expressed concerns about the SBA's policy of not lowering size standards based on the analytical results.

As part of the option one, SBA considered but is not proposing to increase 45 size standards as suggested by analytical results and mitigate the impact of the decreases to size standards, by adjusting the calculated sizes considering the impact on small business access to Federal contracting and SBA loans. However, in the present situation with the global COVID–19 pandemic resulting in high levels of risk and dramatic reductions in economic activity of unprecedented nature, SBA presents only the impacts of adopting the analytical results without adjustment in alternative option one. SBA will adopt this approach temporarily and may reevaluate this approach as the economic situation evolves.

Under the second option, given the current COVID–19 pandemic, SBA considered retaining the current level of all size standards even though the current analysis may suggest changing them. SBA considers that the option of retaining all size standards at this moment provides the opportunity to reassess the economic situation once the economic recovery starts. Under this option, as the current situation develops, SBA will be able to assess new data available on economic indicators, federal procurement, and SBA loans as well, before adopting changes to size standards. However, SBA is not adopting option two because the Regulatory Impact Analysis shows that retaining all size standards at their current levels is more onerous for the small businesses than the option of adopting increases of size standards and retaining the rest. SBA may reevaluate this approach as the current economic situation evolves.

Request for Comments

SBA invites public comments on this proposed rule, especially on the following issues:

1. SBA seeks feedback on whether SBA's proposal to increase 45 size standards and retain 81 size standards is appropriate given the results from the latest available industry and Federal contracting data of each industry and subindustry (exception) reviewed in this proposed rule, along with ongoing uncertainty and dramatic contraction in economic activity due to the global COVID–19 pandemic. SBA also seeks suggestions, along with supporting facts and analysis, for alternative standards, if they would be more appropriate than the proposed size standards.
2. SBA also seeks comments on whether SBA should not lower any size standards in view of COVID–19 pandemic and its adverse impacts on small businesses as well as on the overall economic situation when analytical results suggest some size standards could be lowered. SBA believes that lowering size standards under the current economic environment would run counter to what Congress and Federal government are doing to aid and provide relief to the nation's small businesses impacted by the COVID–19 pandemic.
3. Given the uncertainty produced by the global COVID–19 pandemic and the economic consequences, SBA would like to receive comments from the public on the possibility of lowering size standards while mitigating the consequences of the lower standards.
4. Given the lack of industry data at the sub-industry level, SBA has

proposed to leave the size standard for Non-Vessel Owning Common Carriers and Household Good Forwarders (''exception'' under NAICS 488510) at its current level. SBA invites comments, along with supporting information, on this proposal. Alternatively, in view of insignificant Government contracting, SBA also welcomes comments on whether it should continue to have a higher size standard for Non-Vessel Owning Common Carriers and Household Good Forwarders as an ''exception'' under NAICS 488510 or should it apply the same $17.5 million proposed size standard for the overall industry. Finally, given the lack of industry data at the sub-industry level to accurately evaluate the size standard, SBA seeks comments on whether it should eliminate the exception and apply the overall size standard for NAICS 488510.

5. Because of the lack of data to review the industry structure, SBA has proposed to leave the size standard for Postal Service (NAICS 491110) at the current level of $8 million in average annual revenue. SBA invites comments on this proposal as well as suggestions, along with supporting information, if a different size standard is more appropriate.

6. As noted earlier, the 2012 Economic Census special tabulation includes data only for two NAICS codes within NAICS Subsector 525: NAICS 525910, Open-End Investment Funds, and NAICS 525990, Other Financial Vehicles. Because all industries in that Subsector currently share the same $35.0 million receipts based size standard, SBA applies the results based on data for NAICS 525910 and 525990, as shown in Table 4 (above), to all remaining industries within this Subsector, obtaining a common size standard of $32.5 million. While the reduced size standard represents a slight decrease from the current $35.0 million level, SBA decided to retain the current size standards, although this would have virtually no impacts on the number of small firms nor on the amount of Federal contract dollars awarded to small firms under the current size standards. SBA invites comments or suggestions along with supporting information with respect to the following:

a. Whether SBA should adopt common size standards for those industries or establish a separate size standard for each industry, and

b. Whether the reduced common size standards for those industries are at the correct levels or what would be more appropriate if what SBA has proposed are not appropriate.

7. Similarly, SBA proposes a $750 million common assets-based size standard for four industries within NAICS Industry Group 5221, Depository Credit Intermediation (*i.e.,* NAICS 522110, 522120, 522130, and 522190) and on industry in NAICS 5222. Nondepository Credit Intermediation (*i.e.,* NAICS 522210). SBA invites comments or suggestions along with supporting information with respect to whether SBA should adopt common size standards for those industries or establish a separate size standard for each industry.

8. In calculating the overall industry size standard, SBA has assigned equal weight to each of the five primary factors in all industries and subindustries covered by this proposed rule. SBA seeks feedback on whether it should assign equal weight to each factor or on whether it should give more weight to one or more factors for certain industries or subindustries. Recommendations to weigh some factors differently than others should include suggested weights for each factor along with supporting facts and analysis.

9. Finally, SBA seeks comments on data sources it used to examine industry and Federal market conditions, as well as suggestions on relevant alternative data sources that the Agency should evaluate in reviewing or modifying size standards for industries covered by this proposed rule.

Public comments on the above issues are very valuable to SBA for validating its proposed size standards revisions in this proposed rule. Commenters addressing size standards for a specific industry or a group of industries should include relevant data and/or other information supporting their comments. If comments relate to the application of size standards for Federal procurement programs, SBA suggests that commenters provide information on the size of contracts in their industries, the size of businesses that can undertake the contracts, start-up costs, equipment and other asset requirements, the amount of subcontracting, other direct and indirect costs associated with the contracts, the use of mandatory sources of supply for products and services, and the degree to which contractors can mark up those costs.

Compliance With Executive Orders 12866 and 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), Executive Orders 13563, 12988, and 13132, and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is a significant regulatory action for purposes of Executive Order 12866. Accordingly, in the next section SBA provides a Regulatory Impact Analysis of this proposed rule, including: (1) A statement of the need for the proposed action, (2) an examination of alternative approaches, and (3) an evaluation of the benefits and costs—both quantitative and qualitative—of the proposed action and the alternatives considered. However, this rule is not a ''major rule'' under the Congressional Review Act, 5 U.S.C. 800.

Regulatory Impact Analysis

1. What is a need for this regulatory action?

Under the Small Business Act (Act) (15 U.S.C. 632(a)), SBA's Administrator is responsible for establishing small business size definitions (or ''size standards'') and ensuring that such definitions vary from industry to industry to reflect differences among various industries. The Jobs Act requires SBA to review every five years all size standards and make necessary adjustments to reflect current industry and Federal market conditions. This proposed rule is part of the second 5-year review of size standards in accordance with the Jobs Act. The first 5-year review of size standards was completed in early 2016. Such periodic reviews of size standards provide SBA with an opportunity to incorporate ongoing changes to industry structure and Federal market environment into size standards and to evaluate the impacts of prior revisions to size standards on small businesses. This also provides SBA with an opportunity to seek and incorporate public input to the size standards review and analysis. SBA believes that proposed size standards revisions for industries being reviewed in this rule will make size standards more reflective of the current economic characteristics of businesses in those industries and the latest trends in Federal marketplace.

SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development and counseling, and disaster assistance programs. To determine the actual intended beneficiaries of these programs, SBA establishes numerical size standards by industry to identify businesses that are deemed small.

The proposed revisions to the existing size standards for 126 industries in NAICS Sectors 48–49, 51, 52 and 53 are consistent with SBA's statutory mandates to help small businesses grow and create jobs and to review and adjust size standards every five years. This regulatory action promotes the Administration's goals and objectives as well as meets the SBA's statutory responsibility. One of SBA's goals in support of promoting the Administration's objectives is to help small businesses succeed through fair and equitable access to capital and credit, Federal Government contracts and purchases, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries are able to access Federal small business programs that are designed to assist them to become competitive and create jobs.

2. What are the potential benefits and costs of this regulatory action?

OMB directs agencies to establish an appropriate baseline to evaluate any benefits, costs, or transfer impacts of regulatory actions and alternative approaches considered. The baseline should represent the agency's best assessment of what the world would look like absent the regulatory action. For a new regulatory action promulgating modifications to an existing regulation (such as modifying the existing size standards), a baseline assuming no change to the regulation (*i.e.,* making no changes to current size standards) generally provides an appropriate benchmark for evaluating benefits, costs, or transfer impacts of proposed regulatory changes and their alternatives.

Proposed Changes to Size Standards

Based on the results from analyses of latest industry and Federal contracting data, as well as consideration of the impact of size standards changes on small businesses and significant adverse impacts of the COVID–19 emergency on small businesses and the overall economic activity, of the total of 126 industries and exceptions in Sectors 48–49, 51, 52 and 53 that have monetary-based size standards, SBA proposes to increase size standards for 45 industries, and maintain current size standards for remaining 79 industries and 2 exceptions.

The Baseline

For purposes of this regulatory action, the baseline represents maintaining the ''status quo,'' *i.e.,* making no changes to the current size standards. Using the number of small businesses and levels of benefits (such as set-aside contracts, SBA's loans, disaster assistance, etc.) they receive under the current size standards as a baseline, one can examine the potential benefits, costs and transfer impacts of proposed changes to size standards on small businesses and on the overall economy.

Based on the 2012 Economic Census (the latest available), of a total of about 700,544 businesses in industries in Sectors 48–49, 51, 52 (excluding assets-based size standards), and 53 for which SBA evaluated their current receipt based size standards, 97.2 percent are considered small under the current size standards. That percentage varies from 95.8 percent in Sector 51 to 97.9 percent in Sector 53. Additionally, based on the data from FDIC and National Credit Union Administration (NCUA), from a total of about 5,415 depository institutions. 77.3 percent corresponds to small depository institutions, and from a total of 5,492 credit unions, 91.2 percent are small under the current assets-based size standards. Based on the data from FPDS–NG for fiscal years 2016–2018, about 13,964 unique firms in those industries with receipts-based size standards received at least one Federal contract during that period, of which 76.8 percent were small under the current size standards. For these sectors, of $19.5 billion in total average annual contract dollars awarded to businesses during that period, 21.2 percent went to small businesses. From the total small business contract dollars awarded during the period considered, 45.5 percent were awarded through various small business set-aside programs and 54.5 percent were awarded through non-set aside contracts. Based on the FDIC and NCUA data respectively, from a total of $18,034.4 billion in assets, 4.6 percent are owned by small depository institutions. With respect to Credit Unions, from a total of $1,470.8 billion in assets, 25.7 percent are owned by small credit unions.

Based on the SBA's internal data on its loan programs for fiscal years 2016–2018, small businesses in those industries received, on an annual basis, a total of nearly 7,232 7(a) and 504 loans in that period, totaling about $2.7 billion, of which 84.6 percent was issued through the 7(a) program and 15.4 percent was issued through the 504/CDC program. During fiscal years 2016–2018, small businesses in those industries also received 2,544 loans through the SBA's Economic Injury Disaster Loan (EIDL) program, totaling about $208.6 million on an annual basis. Table 13, Baseline for All Industries, below, provides these baseline results by sector, for receipts-based size standards industries and assets-based size standards industries.

Increases to Size Standards

As stated above, of 126 monetary based size standards in Sectors 48–49, 51, 52, and 53 that are reviewed in this rule, based on the results from analyses of latest industry and Federal market data as well as impacts of size standards changes on small businesses, in this rule, SBA proposes to increase 45 size standards, of which 40 are receipts-based and five assets-based. Below are descriptions of the benefits, costs, and transfer impacts of these proposed increases to size standards.

TABLE 13—BASELINE FOR ALL INDUSTRIES

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
Baseline All Industries (current size standards)	43	19	39	25	126
Total firms (Economic Census)	162,147	45,821	220,860	271,716	700,544
Total small firms under current size standards (Economic Census)	156,173	43,915	214,790	265,977	680,855
Small firms as % of total firms	96.3%	95.8%	97.3%	97.9%	97.2%
Total contract dollars ($ million) (FPDS–NG FY2016–2018)	$8,190.0	$7,210.6	$2,997.6	$1,256.8	$22,522.6
Total small business contract dollars under current standards ($ million) (FPDS–NG FY2016–2018)	$1238.0	$1861.9	$382.0	$668.6	$4,530.5
Small business dollars as % of total dollars (FPDS–NG FY2016–2018)	15.1%	25.8%	12.2%	53.2%	20.1%

TABLE 13—BASELINE FOR ALL INDUSTRIES—Continued

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
Total No. of unique firms getting contracts (FPDS–NG FY2016–2018)	4,017	5,634	572	4,276	14,005
Total No. of unique small firms getting small business contracts (FPDS–NG FY2016–2018)	3,117	4,058	309	3,432	10,691
Small business firms as % of total firms	77.5%	72.0%	54.04%	80.3	76.3%
No. of 7(a) and 504/CDC loans (FY 2016–2018)	3,662	524	1,280	1,766	7,232
Amount of 7(a) and 504 loans ($ million) (FY 2016–2018)	$828.5	$210.5	$519.6	$1,135.6	$2,694.2
No. of EIDL loans (FY 2016–2018)	186	31	71	2,256	2,544
Amount of EIDL loans ($million) (FY 2016–2018)	$12.5	$3.3	$3.6	$189.2	$208.6
Total Number of Depository Institutions (FDIC, SDI) (2018)			5,415		
Number of Small Depository Institutions (FDIC, SDI) (2018)			4,188		
Small firms as % of total Depository Institutions (2018)			77.3%		
Total Assets of Depository Institutions ($ million) (FDIC, SDI) (2018)			$18,034,370.50		
Total Assets of Small Depository Institutions ($ million) (FDIC, SDI) (2018)			$837,835.6		
SB Assets as % of Total Assets			4.6%		
Total Number of Credit Unions (NCUA) (2018)			5,492		
Number of small Credit Unions (NCUA) (2018)			5,010		
Small firms as % of total Depository Institutions			91.2%		
Total Assets of Credit Unions ($ million) (NCUA) (2018)			$1,470,838.7		
Total Assets of Small Credit Unions ($ million) (NCUA) (2018)			$377,619.2		
SB Assets as % of Total Assets of Credit Unions			25.67%		

Benefits of Increases to Size Standards

The most significant benefit to businesses from proposed increases to size standards is gaining eligibility for Federal small business assistance programs or retaining that eligibility for a longer period. These include SBA's business loan programs, EIDL program, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted, set-aside opportunities for small businesses under the SBA's various business development and contracting programs, such as 8(a)/BD (business development), small disadvantaged businesses (SDB), small businesses located in Historically Underutilized Business Zones (HUBZone), women-owned small businesses (WOSB), economically disadvantaged women-owned small businesses (EDWOSB), and service-disabled veteran-owned small businesses (SDVOSB).

Besides set-aside contracting and financial assistance discussed above, small businesses also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through Federal government. However, SBA has no data to estimate the number of small businesses receiving such benefits.

Based on the 2012 Economic Census (latest available SBA estimates that in 40 industries in NAICS Sectors 48–49, 51, 52, and 53 for which it has proposed to increase receipts-based size standards, more than 1,790 firms (see Table 13 above), not small under the current size standards, will become small under the proposed size standards increases and therefore become eligible for these programs. That represents about 0.5 percent of all firms classified as small under the current size standards in industries for which SBA has proposed increasing size standards. If adopted, proposed size standards would result in an increase to the small business share of total receipts in those industries from 29.9 percent to 32.7 percent.

With more businesses qualifying as small under the proposed increases to size standards, Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs. Growing small businesses that are close to exceeding the current size standards will be able to retain their small business status for a longer period under the higher size standards, thereby enabling them to continue to benefit from the small business programs.

Based on the FPDS-NG data for fiscal years 2016–2018, SBA estimates that about 60–65 firms that are active in Federal contracting in those industries would gain small business status under the proposed size standards. Based on the same data, SBA estimates that those newly qualified small businesses under the proposed increases to size standards, if adopted, could receive Federal small business contracts totaling about $30.0 million annually. That represents a 3.4 percent increase to small business dollars from the sector baseline.

Based on the FDIC data for fiscal year 2018, SBA estimates that about 200 depository institutions would gain small institutions status under the proposed increases to size standards with an additional $132.4 billion or 15.8 percent increase in small depository institutions' assets. Also, based on the NCUA data for fiscal year 2018, SBA estimates that about 85 credit unions would gain small business status under the proposed increases to size standards, with an additional $56 billion in assets or 14.9 percent increase for small credit unions.

The added competition from more businesses qualifying as small can result in lower prices to the government for procurements set aside or reserved for small businesses, but SBA cannot quantify this impact. Costs could be higher when full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences. However, with agencies likely setting aside more contracts for small businesses in response to the availability of a larger pool of small businesses under the proposed increases to size standards, HUBZone firms might actually end up getting more set-aside contracts and fewer full and open contracts, thereby resulting in some cost savings to agencies. While SBA cannot estimate such costs savings as it is impossible to determine the number and value of unrestricted contracts to be otherwise awarded to HUBZone firms will be awarded as set-asides, such cost savings are likely to be relatively small as only a small fraction of full and open contracts are awarded to HUBZone businesses.

Under SBA's 7(a) and 504 loan programs, based on the data for fiscal years 2016–2018, SBA estimates up to about 14 7(a) and 504 loans totaling about $5.7 million could be made to these newly qualified small businesses in those industries under the proposed size standards. That represents a 0.2 percent increase to the loan amount compared to the Group baseline.

Newly qualified small businesses will also benefit from the SBA's EIDL program. Since the benefit provided through this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact. However, based on the historical trends of the EIDL data, SBA estimates that, on an annual basis, the newly defined small businesses under the proposed increases to size standards, if adopted, could receive 5 EIDL loans, totaling about $0.4 million. Additionally, the newly defined small businesses would also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through the Federal government, but SBA has no data to quantify this impact. Table 14, Impacts of Proposed Increases to Size Standards, provides these results by NAICS sector.

TABLE 14—IMPACTS OF PROPOSED INCREASES TO SIZE STANDARDS

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of industries with proposed increases to size standards	18	8	10	9	45
Total current small businesses in industries with proposed increases to size standards (Economic Census 2012)	27,255	5,368	135,774	150,404	318,800
Additional firms qualifying as small under proposed standards (2012 Economic Census)	184	13	623	970	1,790
Percentage of additional firms qualifying as small relative to current small businesses in industries with proposed increases to size standards	0.7%	0.2%	0.5%	0.6%	0.6%
No. of current unique small firms getting small business contracts in industries with proposed increases to size standards (FPDS–NG FY2016–2018) [1]	520	334	101	1,605	2,553
Additional small business firms getting small business status (FPDS–NG FY2016–2018)	32	4	7	21	63
% increase to small businesses relative to current unique small firms getting small business contracts in industries with proposed increases to size standards (FPDS–NG FY2016–2018) [1]	6.2%	1.2%	6.9%	1.3%	2.5%
Total small business contract dollars under current standards in industries with proposed increases to size standards ($ million) (FPDS–NG FY2016–2018)	$238.5	$149.6	$160.8	$330.8	$879.7
Estimated additional small business dollars available to newly qualified small firms (Using avg dollars obligated to SBs) ($ million) (FPDS–NG FY 2016–2018) [1]	$7.0	$2.0	$6.1	$15.0	$30.1
% increase to small business dollars relative to total small business contract dollars under current standards in industries with proposed increases to size standards	2.9%	1.3%	3.8%	4.5%	3.4%
Total no. of 7(a) and 504 loans to small business in industries with proposed increases to size standards (FY 2016–2018)	412	58	726	745	1,941
Total amount of 7(a) and 504 loans to small businesses in industries with proposed increases to size standards ($ million) (FY 2016–2018)	$160.6	$22.5	$246.0	$230.8	$659.9
Estimated no. of 7(a) and 504 loans to newly qualified small firms	4	1	4	5	14
Estimated 7(a) and 504 loan amounts to newly qualified small firms ($ million)	$2.4	$0.4	$1.4	$1.5	$5.7
% increase to 7(a) and 504 loan amounts relative to the total amount of 7(a) and 504 loans in industries with proposed increases to size standards	0.3%	0.2%	0.3%	0.1%	0.2%
Total no. of EIDL loans to small businesses in industries with proposed increases to size standards (FY 2016–2018)	57	9	0	127	193
Total amount of EIDL loans to small businesses in industries with proposed increases to size standards ($ million) (FY 2016–2018)	$4.9	$0.4	$2.2	$11.8	$19.3
Estimated no. of EIDL loans to newly qualified small firms	2	1	1	1	5
Estimated EIDL loan amount to newly qualified small firms ($ million)	$0.20	$0.04	$0.05	$0.09	$0.4
% increase to EIDL loan amount relative to the total amount of EIDL loans in industries with proposed increases to size standards	1.6%	1.2%	1.4%	0.0%	0.2%
Total current small businesses in industries with Proposed increases to size standards (FDIC) (2018)			4,188		

TABLE 14—IMPACTS OF PROPOSED INCREASES TO SIZE STANDARDS—Continued

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
Additional firms qualifying as small under proposed standards (FDIC)			198		
% Increase small institutions with proposed increases to size standards			4.7%		
Total Assets of Small Depository Institutions ($ million) (FDIC, SDI) (2018)			$837,835.6		
Estimated increase in total assets of Small Depository Institutions ($ million)			$132,439.9		
% increase in total assets of small depository institutions			15.8%		
Number of small Credit Unions (NCUA) (2018)			5,010		
Additional small Credit Unions (NCUA)			84		
% Increase small institutions with proposed increases to size standards			1.7%		
Total Assets of small Credit Unions ($ million) (NCUA) (2018)			$377,619.2		
Estimated increase in total assets of small Credit Unions ($ million)			$56,326.8		
% increase in total assets of small Credit Unions			14.9%		

[1] Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms. Numbers of firms are calculated using the SBA current size standard, not the CO Size Std-These calculations do not include assets-based industries.
[2] Total impact represents total unique number of firms impacted to avoid double counting as some firms are participating in more than one industry. These calculations do not include assets-based industries.

Costs of Increases to Size Standards

Besides having to register in SAM to be able to participate in Federal contracting and update the SAM profile annually, small businesses incur no direct costs to gain or retain their small business status as a result of increases to size standards. All businesses willing to do business with Federal government have to register in SAM and update their SAM profiles annually, regardless of their size status. SBA believes that a vast majority of businesses that are willing to participate in Federal contracting are already registered in SAM and update their SAM profiles annually. More importantly, this proposed rule does not establish the new size standards for the very first time; rather it just intends to modify the existing size standards in accordance with a statutory requirement and the latest data and other relevant factors.

To the extent that the newly qualified small businesses (not depository institutions or credit unions) could become active in Federal procurement, the proposed increases to size standards, if adopted, may entail some additional administrative costs to the government as a result of more businesses qualifying as small for Federal small business programs. For example, there will be more firms seeking SBA loans, more firms eligible for enrollment in the Dynamic Small Business Search (DSBS) database or in *certify.sba.gov,* more firms seeking certification as 8(a)/BD or HUBZone firms or qualifying for small business, SDB, WOSB, EDWOSB, and SDVOSB status, and more firms applying for SBA's 8(a)/BD and all small business mentor-protégé programs. With an expanded pool of small businesses, it is likely that Federal agencies would set aside more contracts for small businesses under the proposed increases to size standards. One may surmise that this might result in a higher number of small business size protests and additional processing costs to agencies. However, the SBA's historical data on size protests shows that the number of size protests decreased following the increases to receipts-based size standards as part of the first 5-year review of size standards. Specifically, on an annual basis, the number of size protests fell from about 600 during fiscal years 2011–2013 (review of most receipts-based size standards was completed by the end of FY 2013), as compared to about 500 during fiscal years 2014–2016 when size standards increases were in effect. That represents a 17 percent decline. Among those newly defined small businesses seeking SBA's loans, there could be some additional costs associated with compliance and verification of their small business status. However, small business lenders have an option of using the tangible net worth and net income based alternative size standard instead of using the industry-based size standards to establish eligibility for SBA's loans. For these reasons, SBA believes that these added administrative costs will be minor because necessary mechanisms are already in place to handle these added requirements.

Additionally, some Federal contracts may possibly have higher costs. With a greater number of businesses defined as small due to the proposed increases to size standards, Federal agencies may choose to set aside more contracts for competition among small businesses only instead of using a full and open competition. The movement of contracts from unrestricted competition to small business set-aside contracts might result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers under the proposed size standards. However, the additional costs associated with fewer bidders are expected to be minor since, by law, procurements may be set aside for small businesses under the 8(a)/BD, SDB, HUBZone, WOSB, EDWOSB, or SDVOSB programs only if awards are expected to be made at fair and reasonable prices.

Costs may also be higher when full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences. However, with agencies likely setting aside more contracts for small businesses in response to the availability of a larger pool of small businesses under the proposed increases to size standards, HUBZone firms might actually end up getting fewer full and open contracts, thereby resulting in some cost savings to agencies. However, such cost savings are likely to be minimal as only a small fraction of unrestricted contracts are awarded to HUBZone businesses.

Transfer Impacts of Increases to Size Standards

The proposed increases to size standards, if adopted, may result in some redistribution of Federal contracts between the newly qualified small businesses and large businesses and between the newly qualified small businesses and small businesses under the current standards. However, it would have no impact on the overall economic activity since total Federal contract dollars available for businesses to compete for will not change with changes to size standards. While SBA cannot quantify with certainty the actual outcome of the gains and losses from the redistribution contracts among different groups of businesses, it can identify several probable impacts in qualitative terms. With the availability of a larger pool of small businesses under the proposed increases to size standards, some unrestricted Federal contracts which would otherwise be awarded to large businesses may be set aside for small businesses. As a result, large businesses may lose some Federal contracting opportunities. Similarly, some small businesses under the current size standards may obtain fewer set-aside contracts due to the increased competition from more advanced businesses qualifying as small under the proposed increases to size standards. This impact may be offset by a greater number of procurements being set aside for all small businesses. With larger businesses qualifying as small under the higher size standards, smaller small businesses could face some disadvantage in competing for set aside contracts against their larger counterparts. However, SBA cannot quantify these impacts.

3. What alternatives have been considered?

Under OMB Circular A–4, SBA is required to consider regulatory alternatives to the proposed changes in the proposed rule. In this section, SBA describes and analyzes two such alternatives to the proposed rule. Alternative Option One to the proposed rule, a more stringent option to the proposed rule, would propose adopting size standards based solely on the analytical results. In other words, the size standards of 45 industries for which the analytical results suggest raising size standards would be raised, and the size standards of 69 industries for which the analytical results suggest lowering size standards would be lowered. Size standards for the remaining 12 industries would be maintained at their current levels. Alternative Option Two, would propose retaining all size standards for all industries, given the uncertainty generated by the ongoing COVID–19 pandemic. Below, SBA discusses and presents the net impacts of each option.

Alternative Option One: Consider Adopting All Calculated Size Standards

As discussed elsewhere in this proposed rule, Alternative Option One would cause a substantial number of currently small businesses to lose their small business status and hence to lose their access to Federal small business assistance, especially small business set-aside contracts and SBA's financial assistance in some cases. These consequences could be mitigated. For example, in response to the 2008 Financial Crisis and economic conditions that followed, SBA adopted a general policy in the first 5-year comprehensive size standards review to not lower any size standard (except to exclude one or more dominant firms) even when the analytical results suggested the size standard should be lowered. Currently, because of the economic challenges presented by the COVID–19 pandemic and the measures taken to protect public health, SBA has decided to propose the same general policy of not lowering size standards in the second 5-year comprehensive size standards review as well.

The primary benefit of adopting Alternative Option One is that SBA's procurement, management, technical and financial assistance resources would be targeted to the most appropriate beneficiaries of such programs according to the analytical results. Adopting the size standards suggested by the analytical results would also promote consistency with analytical results in SBA's exercise of its authority to determine size standards. SBA seeks public comment on the impact of adopting the size standard as suggested by the analytical results.

As explained in the Size Standards Methodology White Paper, in addition to adopting all results of the primary analysis, SBA evaluates other relevant factors as needed such as the impact of the reductions or increases of size standards on the distribution of contracts awarded to small businesses, and may adopt different results with the intention of mitigating potential negative impacts.

We have discussed already the benefits and costs of increasing 45 size standards. Below we discuss the benefits and costs of decreasing 69 size standards.

Benefits of Decreases to Size Standards

The most significant benefit to businesses from decreases to size standards when the SBA's analysis suggests such decreases is to ensure that size standards are more reflective of latest industry structure and Federal market trends and that Federal small business assistance is more effectively targeted to its intended beneficiaries. These include SBA's loan programs, EIDL program, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted, set-aside opportunities for small businesses under SBA's business development programs, such as small business, 8(a)/BD, SDB HUBZone, WOSB, EDWOSB, and SDVOSB programs. The adoption of smaller size standards when the results support them diminishes the risk of awarding contracts to firms which are not small anymore.

Decreasing size standards may reduce the administrative costs of the government, because the risk of awarding contracts to other than small businesses may diminish when the size standards reflect better the structure of the market. The risks of providing SBA's loans to firms that are not needing them the most, or allowing firms that are not eligible for small business set-asides or to participate on the SBA procurement programs will provide for a better chance for smaller firms to grow and benefit from the opportunities available on the Federal market, and strengthen the small business industrial base for the Federal Government.

Costs of Decreases to Size Standards

With fewer businesses qualifying as small under the decreases to size standards, Federal agencies will have a smaller pool of small businesses from which to draw for their small business procurement programs. For example, in Option One, during fiscal years 2016–2018, agencies awarded, on an annual basis, about $3,118 million in small business contracts in those 69 industries for which this Option considered decreasing size standards. Table 15, Impacts of Decreases of Size Standards Under Alternative Option One, below shows that lowering 69 size standards would reduce Federal contract dollars awarded to small businesses by $59.0 million or about 1.9 percent relative to the baseline level, of which more than 50 percent are accounted for by the Transportation and Warehousing sector (NAICS 48–49). Because of the importance of this sector for Federal procurement, SBA would adopt mitigating measures to reduce the negative impact under the assumptions of Option One. SBA could adopt one or more of the following three actions: 1. to accept decreases in size standards as suggested by the analytical results, 2. to decrease size standards by a smaller amount than the calculated threshold, and 3. to retain the size standards at their current levels.

Nevertheless, since Federal agencies are still required to meet the statutory small business contracting goal of 23 percent, actual impacts on the overall set aside activity is likely to be smaller as agencies are likely to award more set aside contracts to small businesses that continue to remain small under the reduced size standards.

With fewer businesses qualifying as small, the decreased competition can also result in higher prices to the Government for procurements set aside or reserved for small businesses, but SBA cannot quantify this impact. Decreases to size standards would have a very minor impact on small businesses applying for SBA's 7(a) and 504 loans because a vast majority of such loans are issued to businesses that are far below the reduced size standards. For example, based on the loan data for fiscal years 2016–2018, Option One estimates that about 36 7(a) and 504 loans with total amounts of $10.7 million could not be available to those small businesses that would lose eligibility under the reduced size standards. That represents about a 0.5 percent decrease of the loan amounts compared to the baseline. Table 15 below shows these results by sector. However, the actual impact could be much less as businesses losing small business eligibility under the decreases to industry-based size standards could still qualify for SBA's loans under the tangible net worth and net income based alternative size standard.

Businesses losing small business status would also be impacted in terms of access to loans through the SBA's EIDL program. However, SBA expects such impact to be minimal as only a small number of businesses in those industries received such loans during fiscal years 2016–2018. Additionally, all those businesses were below the reduced size standards. Since this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact.

Small businesses becoming other than small if size standards were decreased might lose benefits through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses through Federal government, but SBA has no data to quantify this impact. However, if agencies determine that SBA's size standards do not adequately serve such purposes, they can establish a different size standard with an approval from SBA if they are required to use SBA's size standards for their programs.

Transfer Impacts of Decreases to Size standards

If the size standards were decreased under Alternative Option One, it may result in a redistribution of Federal contracts between small businesses losing the small business status and large businesses and between small businesses losing the small business status and small businesses remaining small under the reduced size standards. However, as under the proposed increases to size standards, it would have no impact on the overall economic activity since total Federal contract dollars available for businesses to compete for will stay the same. While SBA cannot estimate with certainty the actual outcome of the gains and losses among different groups of businesses from contract redistribution resulting from decreases to size standards, it can identify several probable impacts. With a smaller pool of small businesses under the decreases to size standards, some set-aside Federal contracts to be otherwise awarded to small businesses may be competed in unrestricted basis. As a result, large businesses may have more Federal contracting opportunities. However, because agencies are still required by law to award 23 percent of dollars to small businesses, SBA expects the movement of set-aside contracts to unrestricted competition to be limited. For the same reason, small businesses remaining small under the reduced size standards are likely to obtain more set aside contracts due to the reduced competition from fewer businesses qualifying as small under the decreases to size standards. With some larger small businesses losing small business status under the decreases to size standards, smaller small businesses would likely become more competitive in obtaining set aside contracts. However, SBA cannot quantify these impacts.

Net Impact of Alternative Option One

To estimate the net impacts of Alternative Option One, SBA followed the same methodology used to evaluate the impacts of the proposed size standards (see Table 14 above). However, under Alternative Option One, SBA used the calculated size standards instead of the proposed ones to determine the impacts of changes to current thresholds. The impact of the increases of the calculated size standards were already shown in Table 14 above. Table 15 above and Table 16, Net Impacts of Size Standards Changes under Alternative Option One, below present the impact of the decreases of size standards and the net impact of adopting the calculated results under Alternative Option One, respectively.

Based on the 2012 Economic Census, SBA estimates that in 114 industries in NAICS Sectors 48–49, 51, 52 and 53 for which the analytical results suggested to change size standards, about 52 firms (see Table 16, below), would become small under the Option One. That represents about 0.01 percent of all firms classified as small under the current size standards.

Based on the FPDS–NG data for fiscal years 2016–2018, SBA estimates that about 89 active firms in Federal contracting in those industries would lose small business status under Alternative Option One, most of them from the Transportation and Warehousing Sector (NAICS 48–49). This represents a decrease of about 0.9 percent of the total number of small businesses participating in Federal contracting under the current size standards. Based on the same data, SBA estimates that about $29.2 million of Federal procurement dollars would not be available to firms losing their small status. This represents a decrease of 0.7 percent from the Group's baseline. Again, most of the losses are accounted for by the NAICS 48–49 Sector.

Based on the SBA's loan data for fiscal years 2016–2018, the total number of 7(a) and 504 loans may decrease by about 22 loans, and the loan amounts by about $5.0 million. This represents a 0.4 percent decrease of the loan amounts relative to the Group baseline.

Firms' Participation under the SBA's EIDL program will be affected as well. Since the benefit provided through this program is contingent on the occurrence and severity of a disaster in the future, SBA cannot make a meaningful estimate of this impact. However, based on the historical trends of the EIDL data, SBA estimates that, on an annual basis, the net impact of the Option One on additional firms is a reduction of five (5) loans, and a reduction of loans amounts by $0.45 million for the Group relative to the baseline. Table 16 provides these results by NAICS sector.

TABLE 15—IMPACTS OF DECREASES OF SIZE STANDARDS UNDER ALTERNATIVE OPTION ONE

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of industries for which SBA considered decreasing size standards (2012 Economic Census)	23	9	24	13	69
Total current small businesses in industries for which SBA considered decreasing size standards (2012 Economic Census)	133,032	39,030	76,036	114,495	510,777
Estimated no. of firms losing small status for which SBA considered decreasing size standards (2012 Economic Census)	1,086	72	246	234	1,738
% of Firms losing small status relative to current small businesses in industries for which SBA considered decreasing size standards	0.50%	0.19%	0.34%	0.21%	0.92%
No. of current unique small firms getting small business contracts in industries for which SBA considered decreasing size standards (FPDS–NG FY2016–2018) [1]	2,668	3,592	155	1,652	7,942
Estimated number of small business firms that would have lost small business status in the decreases that SBA considered	89	19	6	36	143
% decrease to small business firms relative to current unique small firms getting small business contracts in industries for which SBA considered decreasing size standards (FPDS–NG FY2016–2018) [1]	3.3%	0.5%	3.9%	2.2%	1.8%
Total small business contract dollars under current size standards in industries for which SBA considered decreasing size standards ($ million) (FPDS–NG FY2016–2018)	$995	$1,697	$106.0	$320.0	$3,118
Estimated small business dollars not available to firms that would have lost business status (Using avg dollars obligated to SBs) ($ million) [1] (FPDS–NG FY 2016–2018)	$30	$14	$8	$7	$59
% decrease to small business dollars relative to total small business contract dollars under current size standards in industries for which SBA considered decreasing to size standards	3.0%	0.8%	7.8%	2.2%	1.9%
Total no. of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards (FY 2016–2018)	3,250	457	516	964	5,187
Total amount of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards ($ million) (FY 2016–2018)	$668.0	$183.0	$262.5	$883.0	$1,996.5
Estimated no. of 7(a) and 504 loans not available to firms that would have lost small business status	30	1	2	3	36
Estimated 7(a) and 504 loan amounts not available to firms that would have small status ($ million)	$6.5	$0.4	$1.0	$2.7	$10.7
% decrease to 7(a) and 504 loan amounts relative to the total amount of 7(a) and 504 loans in industries for which SBA considered decreasing size standards	1.0%	0.2%	0.4%	0.3%	0.5%
Total no. of EIDL loans to small businesses in industries for which SBA considered decreasing size standards (FY 2016–2018)	129	21	21	2,124	2,295
Total amount of EIDL loans to small businesses in industries for which SBA considered decreasing size standards ($ million) (FY 2016–2018)	$7.6	$2.7	$1.3	$176.9	$188.5
Estimated no. of EIDL loans not available to firms that would have lost small business status	3	1	1	5	10
Estimated EIDL loan amount not available to firms that would have lost small business status ($ million)	$0.2	$0.1	$0.1	$0.4	$0.8
% decrease to EIDL loan amount relative to the baseline	3.0%	4.8%	4.8%	0.2%	0.4%

[1] Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms.
[2] Total impact represents total unique industries impacted to avoid double counting as some industries have large firms gaining small business status and small firms extending small business status.

TABLE 16—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of industries with proposed changes to size standards	41	17	34	22	114
Total no. of small businesses under the current size standards (2012 Economic Census)	156,173	42,803.4	208,456	265,559	669,991
Additional firms qualifying as small under proposed size standards (2012 Economic Census)	−1,002	−60	377	736	52
% of additional firms qualifying as small relative to total current small businesses	−0.64%	−0.14%	0.18%	0.3%	0.01%

TABLE 16—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE—Continued

	Sector 48–49	Sector 51	Sector 52	Sector 53	Total
No. of current unique small firms getting small business contracts (FPDS–NG FY2016–2018) [1]	3,100	3,872	257	3,215	10,264
Additional small firms getting small business status (FPDS–NG FY2016–2018)	−60	−14	1	−16	−89
% increase to small firms relative to current unique small firms getting small business contracts (FPDS–NG FY2016–2018) [1]	−1.9%	−0.4%	0.4%	−0.5%	−0.9%
Total small business contract dollars under current size standards ($ million) (FPDS–NG FY2016–2018)	$1,234.2	$1,846.0	$267.3	$650.6	$3,999
Estimated small business dollars available to newly qualified small firms ($ million) (FPDS–NG FY 2016–2018) [1]	−$23.5	−$11.5	−$2.02	7.9	−$29.2
% increase to dollars relative to total small business contract dollars under current size standards	1.9%	0.63%	0.75%	1.21%	−0.73%
Total no. of 7(a) and 504 loans to small businesses (FY 2016–2018)	3,662	524	1,280	1,766	7,232
Total amount of 7(a) and 504 loans to small businesses (FY 2016–2018)	$828.5	$210.5	$519.6	$1,135.6	$2,694.2
Estimated no. of additional 7(a) and 504 loans to newly qualified small firms	−26	0	2	2	−22
Estimated additional 7(a) and 504 loan amount to newly qualified small firms ($ million)	−$4.1	$0.0	$0.3	−$1.2	−$5.0
% increase to 7(a) and 504 loan amount relative to the total amount of 7(a) and 504 loans to small businesses	−0.5%	0.0%	0.07%	−0.11%	−0.4%
Total no. of EIDL loans to small businesses (FY 2016–2018)	186	31	71	2,256	2,544
Total amount of EIDL loans to small businesses (FY 2016–2018)	$12.5	$3.3	$3.6	$189.2	$208.6
Estimated no. of additional EIDL loans to newly qualified small firms	−1	0	0	−4	−5
Estimated additional EIDL loan amount to newly qualified small firms ($ million)	−$0.03	−$0.1	$0.0	−$0.3	−$0.45
% increase to EIDL loan amount relative to the total amount of EIDL loans to small businesses	−0.2%	−2.7%	−0.3%	−0.2%	−0.2%
Total current small businesses in industries with Proposed increases to size standards (FDIC) (2018)			4,188		
Additional firms qualifying as small under proposed standards (FDIC)			198		
% Increase small institutions with proposed increases to size standards			4.7%		
Total Assets of Small Depository Institutions (FDIC, SDI) (2018)			$837,835.6		
Estimated increase in total assets of Small Depository Institutions			$132,439.90		
% increase in total assets of Small depository institutions			15.8%		
Number of small Credit Unions (NCUA) (2018)			5,010		
Additional small Credit Unions (NCUA)			84		
% Increase small institutions with proposed increases to size standards			1.7%		
Total Assets of small Credit Unions (NCUA) (2018)			$377,619.2		
Estimated increase in total assets of Small Credit Unions			$56,326.80		
% increase in total assets of small Credit Unions			14.9%		

[1] Additional dollars are calculated multiplying average small business dollars obligated per DUNS times change in number of firms.
[2] Total impact represents total unique industries impacted to avoid double counting as some industries have large firms gaining small business status and small firms extending small business status.

Alternative Option Two: To Retain all Current Size Standards

Under this alternative, given the current COVID–19 pandemic, as discussed elsewhere, SBA considered retaining the current level of all size standards even though the current analysis may suggest changing them. SBA considers that the option of retaining all size standards at this moment provides the opportunity to reassess the economic situation once the economic recovery starts. Under this option, as the current situation develops, SBA will be able to assess new data available on economic indicators, federal procurement, and SBA loans as well. SBA estimates a net impact of zero for this option, when compared to the baseline. However, if we compare the proposal of adopting 45 increases to size standards with this alternative approach, the benefits for small businesses of adopting the former will not be attained.

Executive Order 13771

This proposed rule is not subject to the requirements of E.O. 13771 because SBA has determined that most of the rule's impacts are income transfers between small and other than small businesses. According to the E.O. 13771 guidance in OMB M–17–21, dated April 5, 2017 (''E.O. 13771 Guidance''), ''transfers'' are not covered by E.O. 13771. The E.O. 13771 Guidance also states that ''in some cases, [transfer rules] may impose requirements apart from transfers, or transfers may distort markets causing inefficiencies. In those cases, the actions would need to be offset to the extent they impose more than de minimis costs.'' SBA estimates that this rulemaking would impose only de minimis costs on small businesses and would result in negligible compliance costs. Thus, SBA has determined that this rulemaking is exempt from the requirements of E.O. 13771. Details on the estimated costs of this proposed rule can be found in the Regulatory Impact Analysis above.

Initial Regulatory Flexibility Analysis

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities.

This proposed rule, if adopted, may have a significant impact on a substantial number of small businesses in the industries covered by this proposed rule. As described above, this rule may affect small businesses seeking Federal contracts, loans under SBA's 7(a), 504 and EIDL Programs, and assistance under other Federal small business programs.

Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of this proposed rule addressing the following questions: (1) What are the need for and objective of the rule?; (2) What are SBA's description and estimate of the number of small businesses to which the rule will apply?; (3) What are the projected reporting, record keeping, and other compliance requirements of the rule?; (4) What are the relevant Federal rules that may duplicate, overlap, or conflict with the rule?; and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small businesses?

1. What is the need for and objective of the rule?

Changes in industry structure, technological changes, productivity growth, mergers and acquisitions, and updated industry definitions have changed the structure of many the industries covered by this proposed rule. Such changes can be enough to support revisions to current size standards for some industries. Based on the analysis of the latest data available, SBA believes that the revised standards in this proposed rule more appropriately reflect the size of businesses that need Federal assistance. The 2010 Jobs Act also requires SBA to review all size standards and make necessary adjustments to reflect market conditions.

2. What are SBA's description and estimate of the number of small businesses to which the rule will apply?

Based on data from the 2012 Economic Census, SBA estimates that there are about 319,000 small firms covered by this rulemaking under industries with proposed changes to size standards. If the proposed rule is adopted in its present form, SBA estimates that an additional 1,790 businesses will become small.

3. What are the projected reporting, record keeping and other compliance requirements of the rule?

The proposed size standard changes impose no additional reporting or record keeping requirements on small businesses. However, qualifying for Federal procurement and a number of other programs requires that businesses register in SAM and self-certify that they are small at least once annually. Therefore, businesses opting to participate in those programs must comply with SAM requirements. There are no costs associated with SAM registration or certification. Changing size standards alters the access to SBA's programs that assist small businesses but does not impose a regulatory burden because they neither regulate nor control business behavior.

4. What are the relevant Federal rules, which may duplicate, overlap or conflict with the rule?

Under section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988 (November 24, 1995)). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The Regulatory Flexibility Act authorizes an Agency to establish an alternative small business definition, after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)).

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying size standards by industry and changing the size measures, no practical alternative exists to the systems of numerical size standards.

However, SBA considered two alternatives to its proposal to increase 45 size standards and maintain 81 size standards at their current levels. The first alternative SBA considered was adopting size standards based solely on the analytical results. In other words, the size standards of 45 industries for which the analytical results suggest raising size standards would be raised. However, the size standards of 69 industries for which the analytical results suggest lowering size standards would be lowered. This would cause a significant number of small businesses to lose their small business status. Under the second alternative, in view of the COVID–19 pandemic, SBA considered retaining all size standards at the current levels, even though the analytical results may suggest increasing 45 size standards and decreasing 69. Retaining all size standards at their current levels would be more onerous for the small businesses than the option of adopting 45 increases and retaining the rest of size standards, as proposed.

Executive Order 13563

Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. A description of the need for this regulatory action and benefits and costs associated with this action including possible distributional impacts that relate to Executive Order 13563 is included above in the Regulatory Impact Analysis under Executive Order 12866. Additionally, Executive Order 13563, section 6, calls for retrospective analyses of existing rules.

The review of size standards in the industries covered by this proposed rule is consistent with section 6 of Executive Order 13563 and the 2010 Jobs Act which requires SBA to review all size standards and make necessary adjustments to reflect market conditions. Specifically, the 2010 Jobs Act requires SBA to review at least one-third of all size standards during every 18-month period from the date of its enactment (September 27, 2010) and to review all size standards not less frequently than once every five years, thereafter. SBA had already launched a comprehensive review of size standards in 2007. In accordance with the Jobs

Act, SBA completed the comprehensive review of the small business size standard for each industry, except those for agricultural enterprises previously set by Congress, and made appropriate adjustments to size standards for a number of industries to reflect current Federal and industry market conditions. The first comprehensive review was completed in 2015. Prior to 2007, the last time SBA conducted a comprehensive review of all size standards was during the late 1970s and early 1980s.

SBA issued a White Paper entitled ''Size Standards Methodology'' and published a notice in the April 11, 2019, edition of the **Federal Register** (84 FR 14587) to advise the public that the document is available for public review and comments. The ''Size Standards Methodology'' White Paper explains how SBA establishes, reviews, and modifies its receipts-based and employee-based small business size standards. SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in developing size standards for those industries covered by this proposed rule.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this proposed rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule will not impose any new reporting or record keeping requirements.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9); Pub. L. 116–136, Section 1114.

■ 2. In § 121.201 amend the table ''Small Business Size Standards by NAICS Industry'' as follows:

■ a. Revise entries ''481219'', ''484122'', ''485111'' through ''485113'', ''485119'', ''485210'', ''485410'', ''486210'', Subsector 487, entries ''488210'', ''488490'', ''488510'', ''488510 sub-entry'', ''488999'', ''493120'', ''493190'', ''512132'', ''512199'', ''512240'', ''512290'', ''515111'', ''517410'', ''519110'', ''519120'', ''522110'', ''522120'', ''522130'', ''522190'', ''5222210'', ''522310'', ''522390'', ''524210'', ''524292'', ''524298'', ''531210'', ''531311'', ''531312'', ''531320'', ''531390'', ''532282'', ''532283'', ''532289'', and ''532411'' and

■ b. Revise footnote 10.

The revisions read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
* * * * * * *			
	Sectors 48–49—Transportation and Warehousing		
	Subsector 481—Air Transportation		
* * * * * * *			
481219	Other Nonscheduled Air Transportation	$22.0.	
* * * * * * *			
	Subsector 484—Truck Transportation		
* * * * * * *			
484122	General Freight Trucking, Long-Distance, Less Than Truckload	$38.0.	
* * * * * * *			
	Subsector 485—Transit and Ground Passenger Transportation		
485111	Mixed Mode Transit Systems	$25.5.	
485112	Commuter Rail Systems	$41.5.	
485113	Bus and Other Motor Vehicle Transit Systems	$28.5.	
485119	Other Urban Transit Systems	$33.0.	
485210	Interurban and Rural Bus Transportation	$28.0.	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * *	* *	*
485410 ...	School and Employee Bus Transportation	$26.5.	
*	* * * *	* *	*
Subsector 486—Pipeline Transportation			
*	* * * *	* *	*
486210 ...	Pipeline Transportation of Natural Gas	$36.5.	
*	* * * *	* *	*
Subsector 487—Scenic and Sightseeing Transportation			
487110 ...	Scenic and Sightseeing Transportation, Land	$18.0.	
487210 ...	Scenic and Sightseeing Transportation, Water	$12.5.	
487990 ...	Scenic and Sightseeing Transportation, Other	$22.0.	
Subsector 488—Support Activities for Transportation			
*	* * * *	* *	*
488210 ...	Support Activities for Rail Transportation	$30.0.	
*	* * * *	* *	*
488490 ...	Other Support Activities for Road Transportation	$16.0.	
488510 ...	Freight Transportation Arrangement [10]	$17.5 [10].	
488510 (Exception).	Non-Vessel Owning Common Carriers and Household Goods Forwarders	$30.0.	
*	* * * *	* *	*
488999 ...	All Other Support Activities for Transportation	$22.0.	
*	* * * *	* *	*
Subsector 493—Warehousing and Storage			
*	* * * *	* *	*
493120 ...	Refrigerated Warehousing and Storage	$32.0.	
*	* * * *	* *	*
493190 ...	Other Warehousing and Storage	$32.0.	
Sector 51—Information			
*	* * * *	* *	*
Subsector 512—Motion Picture and Sound Recording Industries			
*	* * * *	* *	*
512132 ...	Drive-In Motion Picture Theaters	$11.0.	
*	* * * *	* *	*
512199 ...	Other Motion Picture and Video Industries	$25.0.	
*	* * * *	* *	*
512240 ...	Sound Recording Studios	$9.5.	
*	* * * *	* *	*
512290 ...	Other Sound Recording Industries	$20.0.	
Subsector 515—Broadcasting (except Internet)			
515111 ...	Radio Networks	$41.5.	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * *	* *	*
	Subsector 517—Telecommunications		
*	* * *	* *	*
517410	Satellite Telecommunications	$38.5.	
*	* * *	* *	*
	Subsector 519—Other Information Services		
519110	News Syndicates	$32.0.	
519120	Libraries and Archives	$18.5.	
*	* * *	* *	*
	Sector 52—Finance and Insurance **Subsector 522—Credit Intermediation and Related Activities**		
522110	Commercial Banking [8]	$750 million in assets [8].	
522120	Savings Institutions [8]	$750 million in assets [8].	
522130	Credit Unions [8]	$750 million in assets [8].	
522190	Other Depository Credit Intermediation [8]	$750 million in assets [8].	
522210	Credit Card Issuing [8]	$750 million in assets [8].	
*	* * *	* *	*
522310	Mortgage and Nonmortgage Loan Brokers	$13.0.	
*	* * *	* *	*
522390	Other Activities Related to Credit Intermediation	$25.0.	
*	* * *	* *	*
	Subsector 524—Insurance Carriers and Related Activities		
*	* * *	* *	*
524210	Insurance Agencies and Brokerages	$13.0.	
*	* * *	* *	*
524292	Third Party Administration of Insurance and Pension Funds	$40.0.	
524298	All Other Insurance Related Activities	$27.0.	
*	* * *	* *	*
	Sector 53—Real Estate and Rental and Leasing **Subsector 531—Real Estate**		
*	* * *	* *	*
531210	Offices of Real Estate Agents and Brokers [10]	$13.0 [10].	
531311	Residential Property Managers	$11.0.	
531312	Nonresidential Property Managers	$17.0.	
531320	Offices of Real Estate Appraisers	$8.5.	
531390	Other Activities Related to Real Estate	$17.0.	
	Subsector 532—Rental and Leasing Services		
*	* * *	* *	*
532282	Video Tape and Disc Rental	$31.0.	
532283	Home Health Equipment Rental	$36.0.	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
* * * * * * *			
532289 ...	All Other Consumer Goods Rental	$11.0.	
* * * * * * *			
532411 ...	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	$40.0.	
* * * * * * *			

Footnotes

* * * * *

[8] NAICS Codes 522110, 522120, 522130, 522190, and 522210—A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. "Assets" for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 041 call report form for NAICS Codes 522110, 522120, 522190, and 522210 and the National Credit Union Administration 5300 call report form for NAICS code 522130.

* * * * *

[10] NAICS codes 488510 (excluding the exception), 531210, 541810, 561510, 561520 and 561920—As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenues.

* * * * *

Jovita Carranza,

Administrator.

[FR Doc. 2020–21593 Filed 10–1–20; 8:45 am]

BILLING CODE 8026–03–P