

## 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
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	40.0	

## Footnotes

<sup>8</sup> 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.

<sup>10</sup> 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.

Isabella Casillas Guzman,  
Administrator.

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## SMALL BUSINESS ADMINISTRATION

## 13 CFR Part 121

## RIN 3245-AG88

**Small Business Size Standards:  
Education Services; Health Care and  
Social Assistance; Arts, Entertainment  
and Recreation; Accommodation and  
Food Services; Other Services**

**AGENCY:** U.S. Small Business  
Administration.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Small Business Administration (SBA) is increasing its receipts-based small business size definitions (commonly referred to as "size standards") for North American Industry Classification System (NAICS) sectors related to Education Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; and Other Services. Specifically, SBA is increasing the size standards for 70 industries in those sectors, including 14 industries in NAICS Sector 61 (Education Services), 18 industries in Sector 62 (Health Care and Social Assistance), 11 industries in Sector 71 (Arts, Entertainment and Recreation), four industries in Sector 72 (Accommodation and Food Services), and 23 industries in Sector 81 (Other Services).

**DATES:** This rule is effective May 2, 2022.

## FOR FURTHER INFORMATION CONTACT:

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## SUPPLEMENTARY INFORMATION:

## Discussion of Size Standards

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 and refining capacity, in addition to employees, for the petroleum refining industry 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 tangible net worth and net income-based alternative size standards to determine eligibility for those programs.

In September 2010, Congress passed the Small Business Jobs Act of 2010 (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 five-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.

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 every five years to adopt the Office of Management and Budget's (OMB) quinquennial North American Industry Classification (NAICS) revisions to its table of small business size standards. Effective October 1, 2017, SBA adopted the OMB's 2017 NAICS revisions to its size standards (82 FR 44886, September 27, 2017).<sup>1</sup>

This final rule is one of a series of final rules that will revise size standards of industries grouped by various NAICS sectors. Rather than revise all size standards at one time, SBA is revising size standards by grouping industries within various NAICS sectors that use the same size measure (*i.e.*, employees or receipts). In the prior review, SBA revised size standards mostly on a sector-by-sector basis. As part of the second five-year review of size standards under the Jobs Act, SBA reviewed all receipt-based size standards in NAICS Sectors 61, 62, 71, 72, and 81 to determine whether the existing size standards should be retained or revised based on the current

<sup>1</sup> On December 21, 2021, the U. S. Office of Management and Budget (OMB) published its "Notice of NAICS 2022 Final Decisions . . ." (86 FR 72277), accepting the Economic Classification Policy Committee (ECPC) recommendations, as outlined in the July 2, 2021, **Federal Register** notice (86 FR 35350), for the 2022 revisions to the North American Industry Classification System (NAICS), . . . . In the near future, SBA will issue a proposed rule to adopt the OMB's NAICS 2022 revisions for its table of size standards. SBA anticipates updating its size standards with the NAICS 2022 revisions, effective October 1, 2022.

industry and Federal market data. After its review, SBA published in the November 27, 2020, issue of the **Federal Register** (85 FR 76390) a proposed rule to increase the size standards for 14 industries in NAICS Sector 61 (Education Services), 18 industries in Sector 62 (Health Care and Social Assistance), 11 industries in Sector 71 (Arts, Entertainment and Recreation), four industries in Sector 72 (Accommodation and Food Services), and 23 industries in Sector 81 (Other Services). In this final rule, SBA is adopting the proposed size standards from the November 2020 proposed rule without change.

In conjunction with the current comprehensive size standards review, SBA developed a revised “Size Standards Methodology” (Methodology) for developing, reviewing, and modifying size standards, when necessary. SBA’s revised Methodology provides a detailed description of its analyses of various industry and program factors and data sources, and how the agency uses the results to establish and revise size standards. In the proposed rule itself, SBA detailed how it applied its revised Methodology to review and modify where necessary, the existing size standards for industries covered in this final rule. Prior to finalizing the revised Methodology, SBA issued a notification in the April 27, 2018, edition 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 (84 FR 14587) of the issuance of the final revised Methodology. SBA’s Size Standard Methodology is available on its website at [www.sba.gov/size](http://www.sba.gov/size).

In evaluating an industry’s size standard, SBA examines its characteristics (such as average firm size, startup costs and entry barriers, industry competition and distribution of firms by size) and the small business level and share of Federal contract dollars in that industry. SBA also examines the potential impact a size standard revision might have on its financial assistance programs, and whether a business concern under a revised size standard would be dominant in its industry. SBA analyzed the characteristics of each receipt-based industry in NAICS Sectors 61, 62, 71, 72, and 81, mostly using a special tabulation obtained from the U.S. Bureau of the Census from its 2012 Economic Census (the latest available). The 2012 Economic Census special tabulation 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. To evaluate average asset size, SBA combines the sales to total assets ratios by industry, obtained from the Risk Management Association’s (RMA) Annual eStatement Studies (<http://www.rmahq.org/estatement-studies/>) with the simple average receipts size by industry from the 2012 Economic Census tabulation to estimate the average assets size for each industry. SBA also evaluated the small business level and share of Federal contracts in each of the industries using data from the Federal Procurement Data System—Next Generation (FPDS-NG) for fiscal years 2016–2018. Table 4 of the November 2020 proposed rule, Size Standards Supported by Each Factor for Each Industry (Receipts), shows the results of analyses of industry and Federal contracting factors for each industry and subindustry (exception) covered by the proposed rule. Of the 144 industries and one subindustry (exception) reviewed in the proposed rule, the results from analyses of the latest available data on the five primary factors from Table 4 of the proposed rule supported increasing size standards for 70 industries, decreasing size standards for 63 industries, and retaining size standards for 12 industries. Table 1, Summary of Calculated Size Standards, below, summarizes the analytical results from the proposed rule by NAICS sector.

TABLE 1—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
61 .....	Education Services .....	18	14	4	0
62 .....	Health Care and Social Assistance .....	39	18	18	3
71 .....	Arts, Entertainment and Recreation .....	25	11	11	3
72 .....	Accommodation and Food Services .....	15	4	9	2
81 .....	Other Services .....	48	23	21	4
All Sectors ....	.....	145	70	63	12

In the November 2020 proposed rule, SBA discussed the impacts of the COVID–19 pandemic on small businesses and greater society. Recognizing the wide-ranging economic impacts of the pandemic, SBA decided not to lower any size standards for which the analysis suggested lowering them. Instead, SBA proposed to maintain all size standards for industries in which the analytical results supported a decrease or no change to size standards and adopt all size standards for which the analytical results supported an increase to size

standards. To evaluate the impact of the changes to size standards adopted in this final rule on the Federal contracting market and SBA’s loan programs, SBA analyzed FPDS-NG data for fiscal years 2018–2020 and internal data on its guaranteed loan programs for fiscal years 2018–2020. The results of this analysis can be found in the Regulatory Impact Analysis section of this final rule.

In the proposed rule, SBA sought comments on its proposal to increase size standards for 70 industries and retain the current size standards for the

remaining 75 industries or subindustries in Sectors 61, 62, 71, 72, and 81. Specifically, SBA requested comments on whether the proposed revisions are appropriate for the industries covered by the proposed rule; whether the decision not to lower any size standards is justified by the COVID–19 pandemic; whether the equal weighting of individual factors to derive an industry size standard is appropriate; and

whether the data sources used were appropriate or sufficient.

### Discussion of Comments

SBA received a total of 12 comments on the proposed rule, only three of which were related to size standards; the other nine comments were mostly concerned with impacts from the COVID-19 pandemic and getting qualified for government relief, including the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) Programs, which is beyond the scope of the proposed rule. The comments to the proposed rule are available at [www.regulations.gov](http://www.regulations.gov) (RIN 3245-AG88) and are summarized and discussed below.

### Comments on Proposed Changes to Size Standards

Of the three comments that pertained to size standards, one expressed general support of the proposed size standards increases in the proposed rule, arguing that extending the circle of small businesses will help medium-small businesses that have just exceeded size standards regain small business status and will allow small businesses to grow and still be able to qualify as a small business, which will have a positive effect on the U.S. economy. The second comment supported the SBA's proposed increase to the size standard for NAICS 624410 (Child Day Care Services) from \$8 million to \$8.5 million. The commenter stated that the proposed change supports childcare and

preschool services, which are severely impacted by the COVID-19 pandemic, as the change will enable them to obtain financial support to survive.

The third comment was from an industry association representing amusement or theme parks, water parks, attractions, family entertainment centers, arcades, ariel adventure courses, zoos, aquariums, museums, science centers, and resorts categories, which fall under NAICS 713110 (Amusement and Theme Parks) with the current size standard of \$41.5 million, which happens to be the highest of any receipts-based size standards. Citing increasing operating costs and increased investments to comply with the COVID-19 pandemic requirements, the commenter urged SBA to increase the size standard for NAICS 713110. Specifically, the association urged SBA to either consider changing the measure of SBA size eligibility for NAICS 713110 from receipts to net income or to substantially increase its receipts-based size standard.

### SBA Response

SBA rejects the association's suggestion for the following reasons. First, section 3(a)(2)(C)(ii)(II) of the Small Business Act provides that the size of a business concern providing services (such as those in NAICS 713110) must be determined based on the annual average gross receipts. Accordingly, SBA rejects net income as a measure of size for NAICS 713110. Second, in accordance with its "Size

Standards Methodology" SBA caps the highest receipts-based size standard at \$41.5 million, above which no business concern could be classified as small. Because NAICS 713110 already has the highest possible \$41.5 million receipts-based size standard, SBA cannot increase the size standard for that NAICS code beyond \$41.5 million. SBA agrees with a comment that expressed general support to the proposed rule and another comment that supported the SBA proposed increase to the size standard for NAICS 624410.

### Summary of Adopted Revisions to Size Standards

Based on the evaluation of public comments it received on the proposed rule and on its analyses of industry and Federal contracting factors using the latest available data when the proposed rule was prepared, and given the expressed support for SBA's proposed increases and the absence of any significant adverse comments opposing the increase, SBA is adopting the size standards as proposed in the November 2020 proposed rule. Thus, SBA is increasing the size standards for 14 industries in NAICS Sector 61, 18 industries in Sector 62, 11 industries in Sector 71, four industries in Sector 72, and 23 industries in Sector 81. A summary of SBA's size standards revisions in this rule can be found in Table 2, Summary of Size Standards Revisions in NAICS Sectors 61, 62, 71, 72, and 81.

TABLE 2—SUMMARY OF SIZE STANDARDS REVISIONS IN NAICS SECTORS 61, 62, 71, 72 AND 81

NAICS code	NAICS U.S. industry title	Current size standard (\$ million)	Calculated size standard (\$ million)	Adopted size standard (\$ million)
611110 .....	Elementary and Secondary Schools .....	\$12.0	\$17.5	\$17.5
611210 .....	Junior Colleges .....	22.0	28.5	28.5
611310 .....	Colleges, Universities, and Professional Schools .....	30.0	30.5	30.5
611410 .....	Business and Secretarial Schools .....	8.0	18.0	18.0
611420 .....	Computer Training .....	12.0	14.0	14.0
611430 .....	Professional and Management Development Training .....	12.0	13.0	13.0
611511 .....	Cosmetology and Barber Schools .....	8.0	11.5	11.5
611512 .....	Flight Training .....	30.0	28.0	30.0
611513 .....	Apprenticeship Training .....	8.0	10.0	10.0
611519 .....	Other Technical and Trade Schools .....	16.5	18.5	18.5
611519 (Exception) .....	Job Corps Centers .....	41.5	37.0	41.5
611610 .....	Fine Arts Schools .....	8.0	7.0	8.0
611620 .....	Sports and Recreation Instruction .....	8.0	7.0	8.0
611630 .....	Language Schools .....	12.0	18.0	18.0
611691 .....	Exam Preparation and Tutoring .....	8.0	11.0	11.0
611692 .....	Automobile Driving Schools .....	8.0	9.0	9.0
611699 .....	All Other Miscellaneous Schools and Instruction .....	12.0	14.5	14.5
611710 .....	Educational Support Services .....	16.5	21.0	21.0
621111 .....	Offices of Physicians (except Mental Health Specialists) .....	12.0	14.0	14.0
621112 .....	Offices of Physicians, Mental Health Specialists .....	12.0	8.0	12.0
621210 .....	Offices of Dentists .....	8.0	7.5	8.0
621310 .....	Offices of Chiropractors .....	8.0	6.5	8.0
621320 .....	Offices of Optometrists .....	8.0	6.5	8.0
621330 .....	Offices of Mental Health Practitioners (except Physicians) .....	8.0	7.0	8.0

TABLE 2—SUMMARY OF SIZE STANDARDS REVISIONS IN NAICS SECTORS 61, 62, 71, 72 AND 81—Continued

NAICS code	NAICS U.S. industry title	Current size standard (\$ million)	Calculated size standard (\$ million)	Adopted size standard (\$ million)
621340 .....	Offices of Physical, Occupational and Speech Therapists, and Audiologists.	8.0	11.0	11.0
621391 .....	Offices of Podiatrists .....	8.0	6.5	8.0
621399 .....	Offices of All Other Miscellaneous Health Practitioners .....	8.0	9.0	9.0
621410 .....	Family Planning Centers .....	12.0	16.5	16.5
621420 .....	Outpatient Mental Health and Substance Abuse Centers .....	16.5	14.0	16.5
621491 .....	HMO Medical Centers .....	35.0	39.0	39.0
621492 .....	Kidney Dialysis Centers .....	41.5	41.5	41.5
621493 .....	Freestanding Ambulatory Surgical and Emergency Centers .....	16.5	15.5	16.5
621498 .....	All Other Outpatient Care Centers .....	22.0	22.5	22.5
621511 .....	Medical Laboratories .....	35.0	36.5	36.5
621512 .....	Diagnostic Imaging Centers .....	16.5	15.0	16.5
621610 .....	Home Health Care Services .....	16.5	16.5	16.5
621910 .....	Ambulance Services .....	16.5	20.0	20.0
621991 .....	Blood and Organ Banks .....	35.0	34.5	35.0
621999 .....	All Other Miscellaneous Ambulatory Health Care Services .....	16.5	18.0	18.0
622110 .....	General Medical and Surgical Hospitals .....	41.5	30.0	41.5
622210 .....	Psychiatric and Substance Abuse Hospitals .....	41.5	23.5	41.5
622310 .....	Specialty (except Psychiatric and Substance Abuse) Hospitals .....	41.5	30.0	41.5
623110 .....	Nursing Care Facilities (Skilled Nursing Facilities) .....	30.0	25.0	30.0
623210 .....	Residential Intellectual and Developmental Disability Facilities .....	16.5	15.5	16.5
623220 .....	Residential Mental Health and Substance Abuse Facilities .....	16.5	15.0	16.5
623311 .....	Continuing Care Retirement Communities .....	30.0	22.5	30.0
623312 .....	Assisted Living Facilities for the Elderly .....	12.0	20.5	20.5
623990 .....	Other Residential Care Facilities .....	12.0	14.0	14.0
624110 .....	Child and Youth Services .....	12.0	13.5	13.5
624120 .....	Services for the Elderly and Persons with Disabilities .....	12.0	13.0	13.0
624190 .....	Other Individual and Family Services .....	12.0	14.0	14.0
624210 .....	Community Food Services .....	12.0	17.0	17.0
624221 .....	Temporary Shelters .....	12.0	11.5	12.0
624229 .....	Other Community Housing Services .....	16.5	16.5	16.5
624230 .....	Emergency and Other Relief Services .....	35.0	36.5	36.5
624310 .....	Vocational Rehabilitation Services .....	12.0	13.0	13.0
624410 .....	Child Day Care Services .....	8.0	8.5	8.5
711110 .....	Theater Companies and Dinner Theaters .....	22.0	20.0	22.0
711120 .....	Dance Companies .....	12.0	16.0	16.0
711130 .....	Musical Groups and Artists .....	12.0	13.0	13.0
711190 .....	Other Performing Arts Companies .....	30.0	29.5	30.0
711211 .....	Sports Teams and Clubs .....	41.5	29.5	41.5
711212 .....	Racetracks .....	41.5	33.5	41.5
711219 .....	Other Spectator Sports .....	12.0	14.5	14.5
711310 .....	Promoters of Performing Arts, Sports, and Similar Events with Facilities .....	35.0	23.5	35.0
711320 .....	Promoters of Performing Arts, Sports, and Similar Events without Facilities.	16.5	19.5	19.5
711410 .....	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.	12.0	15.5	15.5
711510 .....	Independent Artists, Writers, and Performers .....	8.0	8.0	8.0
712110 .....	Museums .....	30.0	25.5	30.0
712120 .....	Historical Sites .....	8.0	11.5	11.5
712130 .....	Zoos and Botanical Gardens .....	30.0	25.0	30.0
712190 .....	Nature Parks and Other Similar Institutions .....	8.0	17.0	17.0
713110 .....	Amusement and Theme Parks .....	41.5	41.5	41.5
713120 .....	Amusement Arcades .....	8.0	8.0	8.0
713210 .....	Casinos (except Casino Hotels) .....	30.0	25.0	30.0
713290 .....	Other Gambling Industries .....	35.0	25.0	35.0
713910 .....	Golf Courses and Country Clubs .....	16.5	11.0	16.5
713920 .....	Skiing Facilities .....	30.0	31.0	31.0
713930 .....	Marinas .....	8.0	9.5	9.5
713940 .....	Fitness and Recreational Sports Centers .....	8.0	15.5	15.5
713950 .....	Bowling Centers .....	8.0	11.0	11.0
713990 .....	All Other Amusement and Recreation Industries .....	8.0	7.0	8.0
721110 .....	Hotels (except Casino Hotels) and Motels .....	35.0	30.5	35.0
721120 .....	Casino Hotels .....	35.0	31.0	35.0
721191 .....	Bed-and-Breakfast Inns .....	8.0	6.5	8.0
721199 .....	All Other Traveler Accommodation .....	8.0	8.0	8.0
721211 .....	RV (Recreational Vehicle) Parks and Campgrounds .....	8.0	9.0	9.0
721214 .....	Recreational and Vacation Camps (except Campgrounds) .....	8.0	8.0	8.0
721310 .....	Rooming and Boarding Houses, Dormitories, and Workers' Camps .....	8.0	12.5	12.5
722310 .....	Food Service Contractors .....	41.5	38.0	41.5
722320 .....	Caterers .....	8.0	6.5	8.0

TABLE 2—SUMMARY OF SIZE STANDARDS REVISIONS IN NAICS SECTORS 61, 62, 71, 72 AND 81—Continued

NAICS code	NAICS U.S. industry title	Current size standard (\$ million)	Calculated size standard (\$ million)	Adopted size standard (\$ million)
722330 .....	Mobile Food Services .....	8.0	6.5	8.0
722410 .....	Drinking Places (Alcoholic Beverages) .....	8.0	6.5	8.0
722511 .....	Full-Service Restaurants .....	8.0	10.0	10.0
722513 .....	Limited-Service Restaurants .....	12.0	11.0	12.0
722514 .....	Cafeterias, Grill Buffets, and Buffets .....	30.0	15.5	30.0
722515 .....	Snack and Nonalcoholic Beverage Bars .....	8.0	20.0	20.0
811111 .....	General Automotive Repair .....	8.0	8.0	8.0
811112 .....	Automotive Exhaust System Repair .....	8.0	7.0	8.0
811113 .....	Automotive Transmission Repair .....	8.0	6.5	8.0
811118 .....	Other Automotive Mechanical and Electrical Repair and Maintenance ....	8.0	7.5	8.0
811121 .....	Automotive Body, Paint, and Interior Repair and Maintenance .....	8.0	7.0	8.0
811122 .....	Automotive Glass Replacement Shops .....	12.0	15.5	15.5
811191 .....	Automotive Oil Change and Lubrication Shops .....	8.0	9.5	9.5
811192 .....	Car Washes .....	8.0	8.0	8.0
811198 .....	All Other Automotive Repair and Maintenance .....	8.0	9.0	9.0
811211 .....	Consumer Electronics Repair and Maintenance .....	8.0	22.5	22.5
811212 .....	Computer and Office Machine Repair and Maintenance .....	30.0	17.5	30.0
811213 .....	Communication Equipment Repair and Maintenance .....	12.0	19.5	19.5
811219 .....	Other Electronic and Precision Equipment Repair and Maintenance .....	22.0	22.0	22.0
811310 .....	Commercial and Industrial Machinery and Equipment (except Auto- motive and Electronic) Repair and Maintenance.	8.0	11.0	11.0
811411 .....	Home and Garden Equipment Repair and Maintenance .....	8.0	7.0	8.0
811412 .....	Appliance Repair and Maintenance .....	16.5	12.5	16.5
811420 .....	Reupholstery and Furniture Repair .....	8.0	6.5	8.0
811430 .....	Footwear and Leather Goods Repair .....	8.0	7.5	8.0
811490 .....	Other Personal and Household Goods Repair and Maintenance .....	8.0	6.5	8.0
812111 .....	Barber Shops .....	8.0	8.5	8.5
812112 .....	Beauty Salons .....	8.0	8.5	8.5
812113 .....	Nail Salons .....	8.0	6.5	8.0
812191 .....	Diet and Weight Reducing Centers .....	22.0	24.0	24.0
812199 .....	Other Personal Care Services .....	8.0	6.5	8.0
812210 .....	Funeral Homes and Funeral Services .....	8.0	11.0	11.0
812220 .....	Cemeteries and Crematories .....	22.0	18.5	22.0
812310 .....	Coin-Operated Laundries and Drycleaners .....	8.0	11.5	11.5
812320 .....	Drycleaning and Laundry Services (except Coin-Operated) .....	6.0	7.0	7.0
812331 .....	Linen Supply .....	35.0	32.0	35.0
812332 .....	Industrial Launderers .....	41.5	40.5	41.5
812910 .....	Pet Care (except Veterinary) Services .....	8.0	6.5	8.0
812921 .....	Photofinishing Laboratories (except One-Hour) .....	22.0	26.0	26.0
812922 .....	One-Hour Photofinishing .....	16.5	16.0	16.5
812930 .....	Parking Lots and Garages .....	41.5	25.5	41.5
812990 .....	All Other Personal Services .....	8.0	13.0	13.0
813110 .....	Religious Organizations .....	8.0	11.5	11.5
813211 .....	Grantmaking Foundations .....	35.0	35.0	35.0
813212 .....	Voluntary Health Organizations .....	30.0	27.0	30.0
813219 .....	Other Grantmaking and Giving Services .....	41.5	22.5	41.5
813311 .....	Human Rights Organizations .....	30.0	28.5	30.0
813312 .....	Environment, Conservation and Wildlife Organizations .....	16.5	17.0	17.0
813319 .....	Other Social Advocacy Organizations .....	8.0	16.0	16.0
813410 .....	Civic and Social Organizations .....	8.0	8.5	8.5
813910 .....	Business Associations .....	8.0	13.5	13.5
813920 .....	Professional Organizations .....	16.5	20.5	20.5
813930 .....	Labor Unions and Similar Labor Organizations .....	8.0	14.5	14.5
813940 .....	Political Organizations .....	8.0	12.5	12.5
813990 .....	Other Similar Organizations (except Business, Professional, Labor, and Political Organizations).	8.0	12.0	12.0

Table 3, Summary of Adopted Size Standards Revisions by Sector, summarizes the adopted changes to size standards by NAICS sector.

TABLE 3—SUMMARY OF ADOPTED SIZE STANDARDS REVISIONS BY SECTOR

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards decreased	Number of size standards maintained
61 .....	Education Services .....	18	14	0	4
62 .....	Health Care and Social Assistance .....	39	18	0	21

TABLE 3—SUMMARY OF ADOPTED SIZE STANDARDS REVISIONS BY SECTOR—Continued

NAICS sector	Sector name	Number of size standards reviewed	Number of size standards increased	Number of size standards decreased	Number of size standards maintained
71 .....	Arts, Entertainment and Recreation .....	25	11	0	14
72 .....	Accommodation and Food Services .....	15	4	0	11
81 .....	Other Services .....	48	23	0	25
All Sectors ....	.....	145	70	0	75

### Evaluation of Dominance in Field of Operation

SBA determined that for the industries evaluated under this final rule, no individual firm at or below the adopted size standards would be large enough to dominate its field of operation. At the size standard levels adopted in this final rule, the small business share of total industry receipts among those industries would be, on average, 0.63%, varying from 0.003% to 22.3%. These market shares effectively preclude a firm at or below the adopted size standards from exerting control on any of the industries.

### Alternatives Considered

In response to the unprecedented economic impacts of the COVID-19 pandemic on small businesses and Government response, SBA is adopting increases to size standards where the data suggests increases are warranted, and retaining all current size standards where the data suggested lowering is appropriate. SBA is also retaining all current size standards where the data suggested no changes to the current size standards.

Nonetheless, SBA considered two other alternatives. Alternative Option One was to adopt changes to size standards exactly as suggested by the analytical results. In other words, Alternative Option One would entail increasing size standards for 70 industries, decreasing them for 63 industries, and retaining them at their current levels for 12 industries. Alternative Option Two was to retain all current size standards.

SBA is not adopting Alternative Option One because it 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. Impacts of lowering size standards under Alternative Option One are discussed in detail in the Regulatory Impact Analysis section of this rule. Lowering size standards in the current environment would also run counter to

various measures the Federal Government has implemented to help small businesses and the overall economy recover from the ongoing COVID-19 pandemic. Considering the impacts of the Great Recession and Government actions that followed to support small businesses and the overall economy, SBA also adopted a policy of not decreasing size standards during the first five-year review of size standards, even though the data supported decreases.

Under Alternative Option Two, 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. 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 before adopting changes to size standards. However, SBA is not adopting Alternative Option Two because results discussed in the Regulatory Impact Analysis section, below, shows that retaining all size standards at their current levels would cause otherwise qualified small businesses to forgo various small business benefits becoming available to them under the option of increasing 70 and retaining 75 size standards. Such benefits would include access to Federal contracts set aside for small businesses and capital through SBA's loan and SBIC programs, and exemptions from paperwork and other compliance requirements.

**Compliance With Executive Orders 12866, the Congressional Review Act (5 U.S.C. 801–808), 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 final 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 final rule, including (1) A

statement of the need for the regulatory action, (2) An examination of alternative approaches, and (3) An evaluation of the benefits and costs—both quantitative and qualitative—of the regulatory action and the alternatives considered.

### Regulatory Impact Analysis

#### 1. What is the need for this regulatory action?

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. 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 final rule is part of the second five-year review of size standards in accordance with the Jobs Act. The first five-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 the size standards revisions adopted for industries being reviewed in this final rule will make size standards more reflective of the current economic characteristics of businesses in those

industries and the latest trends in Federal marketplace.

The revisions to the existing size standards for 70 industries in NAICS Sectors 61, 62, 71, 72, and 81 are consistent with SBA's statutory mandate 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 regulatory changes and their alternatives.

*Changes to Size Standards*

Based on the results from the analyses of the latest industry and Federal

contracting data, evaluation of the public comments on the proposed rule, 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 145 industries in Sectors 61, 62, 71, 72, and 81 that have receipts-based size standards, SBA is adopting increases to size standards for 70 industries and maintaining current size standards for the remaining 75 industries (including 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 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 2,016,327 businesses in industries in Sectors 61, 62, 71, 72, and 81 for which SBA evaluated their current receipts-based size standards, 98.0% are considered small under the current size standards. That percentage varies from 95.9% in Sector 61 to 98.8% in Sector 81. Based on the data from FPDS-NG for fiscal years 2018–2020, about 23,250 unique firms in those industries with receipts-based size standards, received at least one Federal contract during that period, of which 76.6% were small under the current size standards. For these sectors, of about \$19 billion in total average annual contract dollars awarded to businesses during that period, 27.9% went to small businesses. From the total small business contract

dollars awarded during the period considered, 66.4% were awarded through various small business set-aside programs and 33.6% were awarded through non-set aside contracts.

Based on the SBA's internal data on its loan programs for fiscal years 2018–2020, small businesses in those industries received, on an annual basis, a total of 21,350 7(a) and 504 loans in that period, totaling about \$12.3 billion, of which 82.3% was issued through the 7(a) program and 17.7% was issued through the CDC/504 program. During fiscal years 2018–2020, small businesses in those industries also received 1,104 loans through the SBA's Economic Injury Disaster Loan (EIDL) program, totaling about \$53.3 million on an annual basis.<sup>2</sup> Table 4, Baseline for All Industries, below, provides these baseline results by sector.

*Increases to Size Standards*

As stated above, of 145 receipts-based size standards in Sectors 61, 62, 71, 72, and 81 reviewed, based on the results from analyses of latest industry and Federal market data as well as impacts of size standards changes on small businesses and the consideration of comments to the proposed rule, SBA is adopting increases to size standards for 70 industries. Below are descriptions of the benefits, costs, and transfer impacts of the increases to size standards adopted in this final rule.

The results of regulatory impact analyses SBA provided in the November 2020 proposed rule were based on the FPDS-NG and SBA loan data for fiscal years 2016–2018. In this final rule, SBA is updating the impact analysis results by using the FPDS-NG and SBA loan data for fiscal years 2018–2020. Accordingly, there can be some differences between the proposed rule and this final rule with respect to impacts of size standards changes on Federal contracts and SBA loans.

TABLE 4—BASELINE FOR ALL INDUSTRIES

	Sector 61	Sector 62	Sector 71	Sector 72	Sector 81	Total
Baseline All Industries (current size standards) .....	18	39	25	15	48	145
Total firms (2012 Economic Census) .....	84,084	653,143	114,926	496,856	667,318	2,016,327
Total small firms under current size standards (2012 Economic Census) ....	80,620	632,077	112,612	490,773	659,559	1,975,640
Small firms as % of total firms .....	95.9%	96.8%	98.0%	98.8%	98.8%	98.0%

<sup>2</sup> The analysis of the disaster loan data excludes physical disaster loans that are available to anyone regardless of size, disaster loans issued to nonprofit entities, and EIDLs issued under the COVID-19 relief program. Effective January 1, 2022, SBA stopped accepting applications for new COVID EIDL loans or advances. Thus, the disaster loan

analysis presented here pertains to the regular EIDL loans only.

SBA estimates impacts of size standards changes on EIDL loans by calculating the ratio of businesses getting EIDL loans to total small businesses (based on the Economic Census data) and multiplying it by the number of impacted small firms. Due to data

limitations, for FY 2019–20, some loans with both physical and EIDL loan components could not be broken into the physical and EIDL loan amounts. In such cases, SBA applied the ratio of EIDL amount to total (physical loan + EIDL) amount using FY 2016–18 data to the FY 2019–20 data to obtain the amount attributable to the EIDL loans.

TABLE 4—BASELINE FOR ALL INDUSTRIES—Continued

	Sector 61	Sector 62	Sector 71	Sector 72	Sector 81	Total
Total contract dollars (\$ million) (FPDS–NG FY2018–2020) .....	\$3,624	\$11,143	\$240	\$837	\$3,270	\$19,114
Total small business contract dollars under current standards (\$ million) (FPDS–NG FY2020–2018) .....	\$1,510	\$2,393	\$170	\$450	\$815	\$5,338.
Small business dollars as % of total dollars (FPDS–NG FY2018–2020) .....	41.7%	21.5%	71.0%	53.8%	24.9%	27.9%
Total No. of unique firms getting contracts (FPDS–NG FY2018–2020) .....	3,651	6,040	971	3,162	10,096	23,251
Total No. of unique small firms getting small business contracts (FPDS–NG FY2018–2020) .....	2,772	4,950	867	2,625	6,935	17,799
Small business firms as % of total firms	75.9%	82.0%	89.3%	83.0%	68.7%	76.6%
No. of 7(a) and 504/CDC loans (FY 2018–2020) .....	872	5,248	2,030	7,838	5,362	21,350
Amount of 7(a) and 504 loans (\$ million) (FY 2018–2020) .....	\$365	\$3,117	\$1,045	\$5,328	\$2,421	\$12,276
No. of EIDL loans (FY 2018–2020) * .....	51	317	101	298	337	1,104
Amount of EIDL loans (\$million) (FY 2018–2020) * .....	\$2.2	\$20.2	\$4.7	\$16.2	\$10.0	\$53.3

\* Excludes COVID–19 related EIDL loans due to their temporary nature. Effective January 1, 2022, SBA stopped accepting applications for new COVID EIDL loans or advances.

#### Benefits of Increasing Size Standards

The most significant benefit to businesses from 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 SBA's various business development and contracting programs. These include the 8(a)/ Business Development (BD) Program, the Small Disadvantaged Businesses (SDB) Program, the Historically Underutilized Business Zones (HUBZone) Program, the Women-Owned Small Businesses (WOSB) Program, the Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) Program, and the Service-Disabled Veteran-Owned Small Businesses (SDVOSB) Program.

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 the Federal Government programs. 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 70 industries in NAICS Sectors 61, 62, 71, 72, and 81 for which it is increasing size standards, about 4,700 firms (see Table 5), not small under the current size standards, will become small under the adopted size standards increases and therefore become eligible for these programs. That represents about 0.4% of all firms classified as small under the current size standards in industries for which SBA is adopting increases to size standards. SBA's revised size standards would result in an increase to the small business share of total receipts in those industries from 37.4% to 38.5%.

With more businesses qualifying as small under the adopted 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 2018–2020, SBA estimates that about 238 firms that are active in Federal contracting in those industries would gain small business status under the adopted size standards. Based on the same data, SBA estimates that those newly qualified small businesses under the increases to 70 size standards could receive Federal small business contracts totaling about \$60 million annually. That represents a 2.3% increase to small business dollars from the baseline. Table 5, Impacts of Increasing Size Standards, provides these results by NAICS sector.

TABLE 5—IMPACTS OF INCREASING SIZE STANDARDS

	Sector 61	Sector 62	Sector 71	Sector 72	Sector 81	Total
No. of industries with increases to size standards .....	14	18	11	4	23	70
Total current small businesses in industries with increases to size standards (2012 Economic Census) .....	53,788	350,287	47,893	243,299	428,410	1,123,676
Additional firms qualifying as small under standards (2012 Economic Census) ....	708	1,464	265	599	1,671	4,708
Percentage of additional firms qualifying as small relative to current small businesses in industries with increases to size standards .....	1.3%	0.4%	0.6%	0.3%	0.4%	0.4%



TABLE 5—IMPACTS OF INCREASING SIZE STANDARDS—Continued

	Sector 61	Sector 62	Sector 71	Sector 72	Sector 81	Total
No. of current unique small firms getting small business contracts in industries with increases to size standards (FPDS-NG FY2018–2020) <sup>1</sup> .....	2,627	2,944	306	689	2,906	9,302
Additional small business firms getting small business status (FPDS-NG FY2018–2020) .....	32	30	9	0	173	238
% increase to small businesses relative to current unique small firms getting small business contracts in industries with increases to size standards (FPDS-NG FY2018–2020) <sup>1</sup> .....	1.2%	1.0%	2.9%	0.0%	6.0%	2.6%
Total small business contract dollars under current standards in industries with increases to size standards (\$ million) (FPDS-NG FY2018–2020) .....	\$1,278	\$1,068	\$26	\$12	\$269	\$2,652
Estimated additional small business dollars available to newly qualified small firms (Using avg dollars obligated to SBs) (\$ million) (FPDS-NG FY 2018–2020) <sup>1</sup> .....	\$25.9	\$15.7	\$2.2	\$0.0	\$16.3	\$60.1
% increase to small business dollars relative to total small business contract dollars under current standards in industries with increases to size standards .....	2.0%	1.5%	8.5%	0.1%	6.0%	2.3%
Total no. of 7(a) and 504 loans to small business in industries with increases to size standards (FY 2018–2020) .....	501	2,795	1,370	3,770	2,374	10,810
Total amount of 7(a) and 504 loans to small businesses in industries with increases to size standards (\$ million) (FY 2018–2020) .....	\$201	\$1,840	\$639	\$1,580	\$936	\$5,196
Estimated no. of 7(a) and 504 loans to newly qualified small firms .....	7	12	8	10	10	47
Estimated 7(a) and 504 loan amounts to newly qualified small firms (\$ million) ..	\$2.8	\$7.9	\$3.7	\$4.2	\$3.9	\$22.6
% increase to 7(a) and 504 loan amounts relative to the total amount of 7(a) and 504 loans in industries with increases to size standards .....	1.4%	0.4%	0.6%	0.3%	0.4%	0.4%
Total no. of EIDL loans to small businesses in industries with increases to size standards (FY 2018–2020) <sup>3</sup> .....	36	178	38	157	171	580
Total amount of EIDL loans to small businesses in industries with increases to size standards (\$ million) (FY 2018–2020) <sup>3</sup> .....	\$1.8	\$11.0	\$1.8	\$9.5	\$5.1	\$29.0
Estimated no. of EIDL loans to newly qualified small firms <sup>3</sup> .....	1	1	1	1	1	5
Estimated EIDL loan amount to newly qualified small firms (\$ million) <sup>3</sup> .....	\$0.05	\$0.06	\$0.05	\$0.06	\$0.03	\$0.25
% increase to EIDL loan amount relative to the total amount of EIDL loans in industries with increases to size standards <sup>3</sup> .....	2.8%	0.6%	2.6%	0.6%	0.6%	0.9%

<sup>1</sup> Total impact represents total unique number of firms impacted to avoid double counting as some firms are participating in more than one industry.

<sup>2</sup> 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 contracting officer's size designation.

<sup>3</sup> Excludes COVID-19 related EIDL loans due to their temporary nature. Effective January 1, 2022, SBA stopped accepting applications for new COVID EIDL loans or advances.

The added competition from more businesses qualifying as small can result in lower prices to the Federal 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 adopted increases to size standards, HUBZone firms might receive more set-aside contracts and fewer full and open contracts, thereby resulting in some cost savings to

agencies. 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. However, such cost savings are likely to be relatively small as only a small fraction of full and open contracts are awarded to HUBZone businesses.

As shown in Table 5, under SBA's 7(a) and 504 loan programs, based on the data for fiscal years 2018–2020, SBA estimates up to about 47 SBA 7(a) and 504 loans totaling about \$ 22.6 million could be made to these newly-qualified small businesses in those industries under the adopted size standards. That represents a 0.4% increase to the loan amount compared to the group baseline.

Newly-qualified small businesses will also benefit from the SBA's EIDL program. Because the benefits provided through this program are 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 disaster loan program data, SBA estimates that, on an annual basis, the newly-defined small businesses under the adopted increases to size standards could receive five disaster loans, totaling about \$0.3 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.

#### *Costs of Increasing Size Standards*

Besides having to register in the System for Award Management (SAM) to be eligible 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 the Federal Government must 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. This final rule does not establish the new size standards for the very first time; rather it intends to modify the existing size standards in accordance with a statutory requirement, the latest data, and other relevant factors.

To the extent that the newly qualified small businesses could become active in Federal procurement, the adopted

increases to size standards may entail some additional administrative costs to the Federal Government as a result of more businesses qualifying as small for Federal small business programs. For example, there will be more firms seeking SBA's 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 mentor-protégé program. With an expanded pool of small businesses, it is likely that Federal agencies would set-aside more contracts for small businesses under the adopted 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 the number size protests processed shows that the number of size protests decreased following the increases to receipts-based size standards as part of the first five-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 fiscal year 2013), as compared to about 500 during fiscal years 2018–2020 when size standards increases were in effect. That represents a 17% decline.

Among those newly-defined small businesses seeking SBA's loans, there could be some additional costs associated with 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 adopted 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 adopted size standards.

However, the additional costs associated with fewer bidders are expected to be minor because, 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 adopted increases to size standards, HUBZone firms might 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 Increasing Size Standards*

The increases to 70 size standards that are adopted in this final rule 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 because total Federal contract dollars available for businesses to compete for will not change with changes to size standards. Although 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 adopted increases to size standards, some unrestricted Federal contracts that 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 larger businesses qualifying as small under the adopted 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 adopted changes in this final rule. In this section, SBA describes and analyzes two such alternatives. Alternative Option One to the final rule, a more stringent alternative to the adopted change, would propose adopting size standards based solely on the analytical results. In other words, the size standards of 70 industries for which the analytical results, as presented in Table 4 of the November 2020 proposed rule, suggest raising them would be raised. However, the size standards of 63 industries or subindustries for which the analytical results suggest lowering them would be lowered. For the 12 remaining industries or subindustries for which the analysis suggested no changes, size standards would be maintained at their current levels. Alternative Option Two would propose retaining size standards for all industries, given the uncertainty generated by the ongoing COVID–19 pandemic. Below, SBA discusses the benefits, costs, and net impacts of each option.

#### *Alternative Option One: Adopting All Calculated Size Standards*

As discussed previously in the Alternatives Considered section of this final 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 five-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 adopt the same general policy of not lowering size standards in the ongoing second five-year comprehensive size standards review as well.

The primary benefit of adopting Alternative Option One would include: (1) 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; (2) Adopting the size standards based on the analytical results would also promote consistency and predictability in SBA's implementation of its authority to set or adjust size standards; and (3) Firms who would remain small would face less competition from larger small firms for the remaining set aside opportunities. Specifically, SBA sought public comment on the impact of adopting the size standards based on 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, costs, and transfer impacts of increasing 70 size standards. Below we discuss the benefits, costs, and transfer impacts of decreasing 63 size standards based on the analytical results.

#### *Benefits of Decreasing Size Standards*

The most significant benefit to businesses from decreases to size standards when 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 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 SBA's business development programs, such as small business, SDB, 8(a)/BD, HUBZone, WOSB, EDWOSB, and SDVOSB programs. The adoption of calculated size standards diminishes the risk of awarding contracts to firms that are not small anymore.

Decreasing size standards may reduce the administrative costs of the Federal Government, because the risk of awarding set-aside contracts to other than small businesses may diminish when the size standards reflect better the structure of the market. This may also diminish the risks of providing SBA's loans to firms that do not need them the most. This may provide a better chance for smaller small firms to grow and benefit from the opportunities available on the Federal marketplace, and strengthen the small business industrial base for the Federal Government.

#### *Costs of Decreasing Size Standards*

Table 6, Impacts of Decreasing Size Standards Under Alternative Option One, below, shows the various impacts of lowering size standards in 63 industries based solely on the analytical results. Based on the 2012 Economic Census, about 1,700 (0.3%) firms would lose their small business status under Alternative Option One. Similarly, based on the FPDS–NG data for fiscal years 2018–2020, 169 (2.4%) small businesses participating in Federal contracting would lose their small status and become ineligible to compete for set-aside contracts. 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, during fiscal years 2018–2020, agencies awarded, on an annual basis, about \$2.2 billion in small business contracts in those 63 industries for which SBA considered decreasing size standards under Alternative Option One. Lowering size standards in 63 industries and subindustries would reduce Federal contract dollars awarded to small businesses by \$110 million or about 5.0% relative to the baseline level.

TABLE 6—IMPACTS OF DECREASING SIZE STANDARDS UNDER ALTERNATIVE OPTION ONE

	Sector 61	Sector 62	Sector 71	Sector 72	Sector 81	Total
No. of industries for which SBA considered decreasing size standards (2012 Economic Census) .....	4	18	11	9	21	63
Total current small businesses in industries for which SBA considered decreasing size standards (2012 Economic Census) .....	26,832	257,179	39,737	243,637	129,388	696,774
Estimated no. of firms losing small status for which SBA considered decreasing size standards (2012 Economic Census) .....	21	828	259	399	211	1,718
% of Firms losing small status relative to current small businesses in industries for which SBA considered decreasing size standards .....	0.08%	0.32%	0.65%	0.16%	0.16%	0.25%
No. of current unique small firms getting small business contracts in industries for which SBA considered decreasing size standards (FPDS-NG FY2018–2020) <sup>1</sup> .....	164	2,083	260	1,920	2,538	6,934
Estimated number of small business firms that would have lost small business status in the decreases that SBA considered <sup>1</sup> .....	1	65	1	25	78	169
% 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 FY2018–2020) <sup>1</sup> .....	0.6%	3.1%	0.4%	1.3%	3.1%	2.4%
Total small business contract dollars under current size standards in industries for which SBA considered decreasing size standards (\$ million) (FPDS-NG FY2018–2020) .....	\$232	\$1,279	\$19	\$437	\$245	\$2,212
Estimated small business dollars not available to firms that would have lost business status (using avg. dollars obligated to SBs) (\$ million) <sup>1</sup> (FPDS-NG FY 2018–2020) <sup>2</sup> .....	\$2.5	\$88.2	\$0.1	\$4.8	\$14.2	\$109.8
% decrease to small business dollars relative to total small business contract dollars under current size standards in industries for which SBA considered decreasing size standards .....	1.1%	6.9%	0.5%	1.1%	5.8%	5.0%
Total no. of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards (FY 2018–2020) .....	371	2,066	507	4,035	1,687	8,666
Total amount of 7(a) and 504 loans to small businesses in industries for which SBA considered decreasing size standards (\$ million) (FY 2018–2020) .....	\$163.4	\$1,100.5	\$342.3	\$3,728.5	\$605.4	\$5,940.1
Estimated no. of 7(a) and 504 loans not available to firms that would have lost small business status .....	1	7	4	7	3	22
Estimated 7(a) and 504 loan amounts not available to firms that would have small status (\$ million) .....	\$0.4	\$3.7	\$6.5	\$6.5	\$1.1	\$18.2
% 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 .....	0.3%	0.3%	1.9%	0.2%	0.2%	0.3%
Total no. of EIDL loans to small businesses in industries for which SBA considered decreasing size standards (FY 2018–2020) .....	15	124	42	130	102	413
Total amount of EIDL loans to small businesses in industries for which SBA considered decreasing size standards (\$ million) (FY 2018–2020) .....	\$0.4	\$8.2	\$2.4	\$6.1	\$3.0	\$20.2
Estimated no. of EIDL loans not available to firms that would have lost small business status .....	1	1	1	1	1	5
Estimated EIDL loan amount not available to firms that would have lost small business status (\$ million) .....	\$0.03	\$0.07	\$0.06	\$0.05	\$0.03	\$0.23
% decrease to EIDL loan amount relative to the baseline .....	6.7%	0.8%	2.4%	0.8%	1.0%	1.1%

<sup>1</sup> Total impact represents total unique number of firms impacted to avoid double counting as some firms are participating in more than one industry.

<sup>2</sup> 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 contracting officer's size designation.

<sup>3</sup> Excludes COVID-19 related EIDL loans due to their temporary nature. Effective January 1, 2022, SBA stopped accepting applications for new COVID EIDL loans or advances.

Because of the importance of these sectors for the Federal procurement, SBA could adopt mitigating measures to reduce the negative impact under the assumptions of Alternative Option One. SBA could adopt one or more of the following three actions: (1) Accept decreases in size standards as suggested by the analytical results; (2) Decrease size standards by a smaller amount than the calculated threshold; and (3) Retain the size standards at their current levels.

Nevertheless, because Federal agencies are still required to meet the statutory small business contracting goal of 23%, actual impacts on the overall set-aside activity are 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 Federal Government for procurements set aside or reserved for small businesses, but SBA cannot quantify this impact. Lowering size standards may cause current small business contract or option holders to lose their small business status, thereby making those dollars unavailable to count toward the agencies' small business procurement goals. Additionally, impacted small businesses will be unable to compete for upcoming options as small businesses.

As shown in Table 6, decreasing 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 2018–2020, SBA estimates that about 22 of SBA's 7(a) and 504 loans with total amounts of \$18.2 million could not be made to those small businesses that would lose eligibility under the reduced size standards. That represents about 0.3% decrease of the loan amounts compared to the baseline. 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 7(a) and 504 loans under the tangible net worth and net income-based alternative size standard.

Businesses losing small business status would also be impacted by way

of access to loans through 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 2018–2020. Because 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 disaster loan data for fiscal years 2018–2020, SBA estimates that, under Alternative Option One, about five of EIDL loans with total amounts of \$0.2 million could not be made to those small businesses that would lose eligibility under the reduced size standards. That represents about 1.1% decrease of the disaster loan amounts compared to the baseline (see Table 6).

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 the Federal Government programs, 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 Decreasing Size Standards Under Alternative One*

If the size standards were decreased under Alternative Option One, it may result in a redistribution of Federal contracts between small businesses losing their small business status and large businesses and between small businesses losing their small business status and small businesses remaining small under the reduced size standards. However, as under the adopted increases to size standards, it would have no impact on the overall economic activity because the total Federal contract dollars available for businesses to compete for will stay the same. Although 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 on an unrestricted basis. As a result, large businesses may have more Federal contracting opportunities. However, because agencies are still required by law to award 23% of Federal dollars to small businesses, SBA expects the movement of set-aside contracts to unrestricted competition to be limited. For the same reason, small businesses 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 Impacts of Alternative Option One*

To estimate the net impacts of Alternative Option One, SBA followed the same methodology used to evaluate the impacts of increasing size standards (see Table 5). However, under Alternative Option One, SBA used the calculated size standards instead of the adopted increases to determine the impacts of changes to current thresholds. The impact of the increases of size standards were already shown in Table 5 above. Table 6 and Table 7, Net Impacts of Size Standards Changes under Alternative Option One, 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 133 industries in NAICS Sectors 61, 62, 71, 72, and 81 for which the analytical results suggested to change size standards, about 2,990 firms would become small under Alternative Option One. That represents about 0.2% of all firms classified as small under the current size standards in these industries. That is about 1,710 fewer firms qualifying as small under Alternative Option One, which represents a 36% reduction from about 4,700 firms that would qualify as small (see Table 5) under the proposal being adopted in this final rule (*i.e.*, increasing 70 and retaining 75 size standards).

TABLE 7—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE

	Sector 61	Sector 62	Sector 71	Sector 72	Sector 81	Total
No. of industries with changes to size standards .....	17	36	22	13	44	132

TABLE 7—NET IMPACTS OF SIZE STANDARDS CHANGES UNDER ALTERNATIVE OPTION ONE—Continued

	Sector 61	Sector 62	Sector 71	Sector 72	Sector 81	Total
Total no. of small business under the current size standards (2012 Economic Census) .....	80,620	607,466	87,630	486,936	557,798	1,820,450
Additional firms qualifying as small under size standards (2012 Economic Census) .....	687	636	6	200	1,460	2,990
% of additional firms qualifying as small relative to total current small businesses .....	0.85%	0.10%	0.01%	0.04%	0.26%	0.16%
No. of current unique small firms getting small business contracts (FPDS-NG FY2018–2020) <sup>1</sup> .....	2,772	4,839	556	2,607	5,292	15,778
Additional small firms getting small business status (FPDS-NG FY2018–2020) <sup>1</sup> .....	31	–35	8	–25	83	52
% increase to small firms relative to current unique small firms getting small business contracts (FPDS-NG FY2018–2020) .....	1.1%	–0.7%	1.4%	–1.0%	1.6%	0.3%
Total small business contract dollars under current size standards (\$ million) (FPDS-NG FY2018–2020) .....	\$1,510	\$2,347	\$44	\$448	\$514	\$4,864
Estimated small business dollars available to newly qualified small firms (\$ million) (FPDS-NG FY 2018–2020) <sup>2</sup> ..	\$23.4	–\$72.6	\$2.1	–\$4.8	\$2.1	–\$49.7
% increase to dollars relative to total small business contract dollars under current size standards .....	1.6%	–3.1%	4.7%	–1.1%	0.4%	–1.0%
Total no. of 7(a) and 504 loans to small businesses (FY 2018–2020) .....	872	5,248	2,030	7,838	5,362	21,350
Total amount of 7(a) and 504 loans to small businesses (FY 2018–2020) .....	\$365	\$3,117	\$1,045	\$5,328	\$2,421	\$12,276
Estimated no. of additional 7(a) and 504 loans to newly qualified small firms .....	6	5	4	3	7	25
Estimated additional 7(a) and 504 loan amount to newly qualified small firms (\$ million) .....	\$2.4	\$4.2	–\$2.7	–\$2.3	\$2.9	\$4.4
% increase to 7(a) and 504 loan amount relative to the total amount of 7(a) and 504 loans to small businesses .....	0.7%	0.1%	–0.3%	0.0%	0.1%	0.04%
Total no. of EIDL loans to small businesses (FY 2018–2020) <sup>3</sup> .....	51	317	101	298	337	1,104
Total amount of EIDL loans to small businesses (FY 2018–2020) <sup>3</sup> .....	\$2.2	\$20.2	\$4.7	\$16.2	\$10.0	\$53.3
Estimated no. of additional EIDL loans to newly qualified small firms <sup>3</sup> .....	0	0	0	0	0	0
Estimated additional EIDL loan amount to newly qualified small firms (\$ million) <sup>3</sup> .....	\$0.02	–\$0.01	–\$0.01	\$0.01	\$0.00	\$0.02
% increase to EIDL loan amount relative to the total amount of EIDL loans to small businesses <sup>3</sup> .....	0.85%	–0.02%	–0.24%	0.08%	0.01%	0.03%

<sup>1</sup> Total impact represents total unique number of firms impacted to avoid double counting as some firms are participating in more than one industry.

<sup>2</sup> 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 contracting officer's size designation.

<sup>3</sup> Excludes COVID-19 related EIDL loans due to their temporary nature. Effective January 1, 2022, SBA stopped accepting applications for new COVID EIDL loans or advances.

Based on the FPDS-NG data for fiscal years 2018–2020, in aggregate, SBA estimates that about 52 active firms in Federal contracting in those industries would gain small business status under Alternative Option One, most of them from Sector 81. This represents an increase of about 0.3% 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 \$49.7 million of Federal procurement dollars would not be available to firms losing their small status. This represents a decrease of 1.0% from the baseline. A large amount of the losses is accounted for by Sector 62 (see Table 7).

Based on the SBA's loan data for fiscal years 2018–2020, the total number of 7(a) and 504 loans will increase by 25 loans, while the total loan amount will increase by about \$4.4 million. This represents a 0.04% increase of the loan amounts relative to the group baseline.

Firms' participation under the SBA's EIDL program will be affected as well. Because 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 loan data, SBA estimates that the total number of disaster loans will be unchanged, while the total loan amount will increase by about \$0.02 million. This represents a 0.03% increase of the loan amounts relative to the baseline.

#### *Alternative Option Two: Retaining All Current Size Standards*

Under this option, given the current COVID-19 pandemic, as discussed elsewhere, SBA considered retaining the current levels of all size standards even though the analytical results suggested changing them. 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. When compared to the baseline, there is a net impact of zero (*i.e.*, zero benefit and zero cost) for retaining all size standards. However, this option would cause otherwise qualified small businesses to forgo various small business benefits (*e.g.*, access to set-aside contracts and capital) that become available to them under the option of increasing 70 and retaining 75 size standards adopted in this final rule. Moreover, retaining all size standards under this option would also be contrary to the SBA's statutory mandate to review and adjust, every five years, all size standards to reflect current industry and Federal market conditions. Retaining all size standards without required periodic adjustments would increasingly exclude otherwise eligible small firms from small business benefits.

#### **Congressional Review Act**

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. SBA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the CRA cannot take effect until 60 days after it is published in the **Federal Register**. OMB's Office of Information and Regulatory Affairs has determined that

this rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### **Final 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 final rule, if adopted, may have a significant impact on a substantial number of small businesses in the industries covered by this final rule. As described above, this final 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 a final regulatory flexibility analysis (FRFA) of this final rule addressing the following questions: (1) What is the need for and objective of the rule? (2) What is SBA's description and estimate of the number of small 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 SBA 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 of the industries covered by this final 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 size standards adopted in this final rule more appropriately reflect the size of businesses that need Federal assistance. The 2010 Jobs Act also requires SBA to review every five years all size standards and make necessary adjustments to reflect market conditions.

##### *2. What is 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 1,820,450 small firms covered by this rulemaking under industries with changes to size standards. Under this final rule, SBA estimates that an additional 2,990 businesses will be defined as small.

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

The size standard changes in this final rule 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 (FAR 52.204–13). For existing contracts, small business contractors are required to update their SAM registration as necessary, to ensure that they reflect the Contractor's current status (FAR 52.219–28). Businesses are also required to verify that their SAM registration is current, accurate, and complete with the submission of an offer for every new contract (FAR 52.204–7 and 52.204–8). Therefore, businesses opting to participate in those programs must comply with SAM requirements. Changes in small business size standards do not result in additional 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 that 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 SBA 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 increasing 70 and maintaining 75 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 70 industries for which the analytical results suggest raising size standards would be raised. However, the size standards of 63 industries for which the analytical results suggest lowering them would be lowered. This would cause a significant number of small businesses to lose their small business status, particularly in Sector 62 (see Table 6). 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 70 and decreasing 63 size standards. SBA believes retaining all size standards at their current levels would be more onerous for small businesses than the option of increasing 70 and retaining 75 size standards. Postponing the adoption of the higher calculated size standards would be detrimental for otherwise small businesses in terms of access to various small business benefits, including access to set-aside contracts and capital through SBA contracting and financial programs, and exemptions from paperwork and other compliance requirements.

#### 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 final 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 2016. 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. The “Size Standards Methodology” white paper explains how SBA establishes, reviews, and modifies its receipts-based and employee-based small business size standards. SBA considered 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 final rule. SBA received a total of 12 comments to the proposed rule. In the Discussion of Comments section of this final rule, SBA summarizes and provides responses to the comments received on the 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 final 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 final 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 final 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 amends 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 694(a)(9); Pub. L. 116–136, Section 1114.

■ 2. In § 121.201, amend the table “Small Business Size Standards by NAICS Industry” by revising the entries for “611110”, “611210”, “611310”, “611410”, “611420”, “611430”, “611511”, “611513”, “611519”, “611519 (Exception)”, “611630”, “611691”, “611692”, “611699”, “611710”, “621111”, “621340”, “621399”, “621410”, “621491”, “621498”, “621511”, “621910”, “621999”, “623312”, “623990”, “624110”, “624120”, “624190”, “624210”, “624230”, “624310”, “624410”, “711120”, “711130”, “711219”, “711320”, “711410”, “712120”, “712190”, “713920”, “713930”, “713940”, “713950”, “721211”, “721310”, “722511”, “722515”, “811122”, “811191”, “811198”, “811211”, “811213”, “811310”, “812111”, “812112”, “812191”, “812210”, “812310”, “812320”, “812921”, “812990”, “813110”, “813312”, “813319”, “813410”, “813910”, “813920”, “813930”, “813940”, and “813990” to 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
*	*	*	*
<b>Sector 61—Educational Services</b>			
<b>Subsector 611—Educational Services</b>			
611110 .....	Elementary and Secondary Schools .....	\$17.5 .....	.....
611210 .....	Junior Colleges .....	28.5 .....	.....
611310 .....	Colleges, Universities and Professional Schools .....	30.5 .....	.....
611410 .....	Business and Secretarial Schools .....	18.0 .....	.....
611420 .....	Computer Training .....	14.0 .....	.....
611430 .....	Professional and Management Development Training .....	13.0 .....	.....
611511 .....	Cosmetology and Barber Schools .....	11.5 .....	.....
*	*	*	*
611513 .....	Apprenticeship Training .....	10.0 .....	.....
611519 .....	Other Technical and Trade Schools .....	18.5 .....	.....
611519 (Exception) ...	Job Corps Centers <sup>16</sup> .....	<sup>16</sup> 41.5 .....	.....
*	*	*	*
611630 .....	Language Schools .....	18.0 .....	.....
611691 .....	Exam Preparation and Tutoring .....	11.0 .....	.....
611692 .....	Automobile Driving Schools .....	9.0 .....	.....
611699 .....	All Other Miscellaneous Schools and Instruction .....	14.5 .....	.....
611710 .....	Educational Support Services .....	21.0 .....	.....
<b>Sector 62—Health Care and Social Assistance</b>			
<b>Subsector 621—Ambulatory Health Care Services</b>			
621111 .....	Offices of Physicians (except Mental Health Specialists) .....	14.0 .....	.....
*	*	*	*
621340 .....	Offices of Physical, Occupational and Speech Therapists and Audiologists .....	11.0 .....	.....
*	*	*	*
621399 .....	Offices of All Other Miscellaneous Health Practitioners .....	9.0 .....	.....
621410 .....	Family Planning Centers .....	16.5 .....	.....
*	*	*	*
621491 .....	HMO Medical Centers .....	39.0 .....	.....
*	*	*	*
621498 .....	All Other Outpatient Care Centers .....	22.5 .....	.....
621511 .....	Medical Laboratories .....	36.5 .....	.....
*	*	*	*
621910 .....	Ambulance Services .....	20.0 .....	.....
*	*	*	*
621999 .....	All Other Miscellaneous Ambulatory Health Care Services .....	18.0 .....	.....
*	*	*	*
<b>Subsector 623—Nursing and Residential Care Facilities</b>			
*	*	*	*
623312 .....	Assisted Living Facilities for the Elderly .....	20.5 .....	.....
623990 .....	Other Residential Care Facilities .....	14.0 .....	.....
<b>Subsector 624—Social Assistance</b>			
624110 .....	Child and Youth Services .....	13.5 .....	.....
624120 .....	Services for the Elderly and Persons with Disabilities .....	13.0 .....	.....
624190 .....	Other Individual and Family Services .....	14.0 .....	.....
624210 .....	Community Food Services .....	17.0 .....	.....
*	*	*	*
624230 .....	Emergency and Other Relief Services .....	36.5 .....	.....
624310 .....	Vocational Rehabilitation Services .....	13.0 .....	.....

## 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
624410 .....	Child Day Care Services .....	8.5	.....
<b>Sector 71—Arts, Entertainment and Recreation</b>			
<b>Subsector 711—Performing Arts, Spectator Sports and Related Industries</b>			
* .....	* .....	*	*
711120 .....	Dance Companies .....	16.0	.....
711130 .....	Musical Groups and Artists .....	13.0	.....
* .....	* .....	*	*
711219 .....	Other Spectator Sports .....	14.5	.....
* .....	* .....	*	*
711320 .....	Promoters of Performing Arts, Sports and Similar Events without Facilities .....	19.5	.....
711410 .....	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures .....	15.5	.....
* .....	* .....	*	*
<b>Subsector 712—Museums, Historical Sites and Similar Institutions</b>			
* .....	* .....	*	*
712120 .....	Historical Sites .....	11.5	.....
* .....	* .....	*	*
712190 .....	Nature Parks and Other Similar Institutions .....	17.0	.....
<b>Subsector 713—Amusement, Gambling and Recreation Industries</b>			
* .....	* .....	*	*
713920 .....	Skiing Facilities .....	31.0	.....
713930 .....	Marinas .....	9.5	.....
713940 .....	Fitness and Recreational Sports Centers .....	15.5	.....
713950 .....	Bowling Centers .....	11.0	.....
* .....	* .....	*	*
<b>Sector 72—Accommodation and Food Services</b>			
<b>Subsector 721—Accommodation</b>			
* .....	* .....	*	*
721211 .....	RV (Recreational Vehicle) Parks and Campgrounds .....	9.0	.....
* .....	* .....	*	*
721310 .....	Rooming and Boarding Houses, Dormitories, and Workers' Camps .....	12.5	.....
<b>Subsector 722—Food Services and Drinking Places</b>			
* .....	* .....	*	*
722511 .....	Full-Service Restaurants .....	10.0	.....
* .....	* .....	*	*
722515 .....	Snack and Nonalcoholic Beverage Bars .....	20.0	.....
<b>Sector 81—Other Services</b>			
<b>Subsector 811—Repair and Maintenance</b>			
* .....	* .....	*	*
811122 .....	Automotive Glass Replacement Shops .....	15.5	.....
811191 .....	Automotive Oil Change and Lubrication Shops .....	9.5	.....
* .....	* .....	*	*
811198 .....	All Other Automotive Repair and Maintenance .....	9.0	.....
811211 .....	Consumer Electronics Repair and Maintenance .....	22.5	.....

## 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
* * * * *			
811213	Communication Equipment Repair and Maintenance	19.5	
* * * * *			
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	11.0	
* * * * *			
<b>Subsector 812—Personal and Laundry Services</b>			
812111	Barber Shops	8.5	
812112	Beauty Salons	8.5	
* * * * *			
812191	Diet and Weight Reducing Centers	24.0	
* * * * *			
812210	Funeral Homes and Funeral Services	11.0	
* * * * *			
812310	Coin-Operated Laundries and Drycleaners	11.5	
812320	Dry cleaning and Laundry Services (except Coin-Operated)	7.0	
* * * * *			
812921	Photofinishing Laboratories (except One-Hour)	26.0	
* * * * *			
812990	All Other Personal Services	13.0	
<b>Subsector 813—Religious, Grantmaking, Civic, Professional and Similar Organizations</b>			
813110	Religious Organizations	11.5	
* * * * *			
813312	Environment, Conservation and Wildlife Organizations	17.0	
813319	Other Social Advocacy Organizations	16.0	
813410	Civic and Social Organizations	8.5	
813910	Business Associations	13.5	
813920	Professional Organizations	20.5	
813930	Labor Unions and Similar Labor Organizations	14.5	
813940	Political Organizations	12.5	
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organizations).	12.0	
* * * * *			

**Footnotes**

<sup>16</sup> NAICS code 611519—Job Corps Centers. For classifying a Federal procurement, the purpose of the solicitation must be for the management and operation of a U.S. Department of Labor Job Corps Center. The activities involved include admissions activities, life skills training, educational activities, comprehensive career preparation activities, career development activities, career transition activities, as well as the management and support functions and services needed to operate and maintain the facility. For SBA assistance as a small business concern, other than for Federal Government procurements, a concern must be primarily engaged in providing the services to operate and maintain Federal Job Corps Centers.

Isabella Casillas Guzman,

Administrator.

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