

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

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

ACTION: Semiannual regulatory agenda.

SUMMARY: This Regulatory Agenda is a semiannual summary of all current and projected rulemakings and completed actions of the Small Business Administration (SBA). SBA expects that this summary information will enable the public to be more aware of, and effectively participate in, SBA’s regulatory activity. SBA invites the public to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments or inquiries to Imelda A. Kish, Law Librarian, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6849, imelda.kish@sba.gov.

Specific

Please direct specific comments and inquiries on individual regulatory activities identified in this Agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: SBA provides this notice under the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 to 612 and Executive Order 12866, “Regulatory Planning and Review,” which require each agency to publish a semiannual agenda of regulations. The Regulatory Agenda is a summary of all current and projected Agency rulemakings, as well as actions completed since the publication of the last Regulatory Agenda. SBA’s last Semiannual Regulatory Agenda was published on June 18, 2015, at 80 FR 35098. The Semiannual Agenda of the SBA conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Beginning with the fall 2007 edition, the Unified Agenda has been

disseminated via the Internet. The complete Unified Agenda will be available online at www.reginfo.gov in a format that greatly enhances a user’s ability to obtain information about the rules in SBA’s Agenda.

The Regulatory Flexibility Act requires federal agencies to publish their regulatory flexibility agendas in the **Federal Register**. Therefore, SBA’s printed agenda entries include regulatory actions that are in the SBA’s regulatory flexibility agenda because they are likely to have a significant economic impact on a substantial number of small entities. Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet.

Dated: September 28, 2015.

Maria Contreras-Sweet,
Administrator.

SMALL BUSINESS ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
383	Immediate, Expedited, and Private Disaster Assistance Loan Programs	3245-AF99
384	Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification.	3245-AG75

SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
385	Small Business Development Center Program Revisions	3245-AE05
386	Loan Program Miscellaneous Amendments	3245-AF85
387	Office of Women Owned Business: Women’s Business Center Program	3245-AG02
388	Small Business HUBZone Program	3245-AG38
389	Small Business Investment Company (SBIC) Program; Impact SBICs (Reg Plan Seq No. 125)	3245-AG66
390	Small Business Investment Companies; Revisions to Passive Business Regulations & Technical Clarifications.	3245-AG67
391	Small Business Timber Set Aside Program	3245-AG69
392	Credit for Lower Tier Small Business Subcontracting	3245-AG71
393	Affiliation for Business Loan Programs and Surety Bond Guarantee Program (Reg Plan Seq No. 126)	3245-AG73

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
394	Small Business Mentor-Protégé Programs (Reg Plan Seq No. 127)	3245-AG24
395	Agent Revocation and Suspension Procedures	3245-AG49
396	Small Business Size Standards: Employee Based Size Standards in Wholesale Trade and Retail Trade ...	3245-AG49
397	Small Business Size Standards for Manufacturing	3245-AG50
398	Small Business Size Standards: Industries With Employee Based Size Standards Not Part of Manufacturing, Wholesale Trade, or Retail Trade.	3245-AG51
399	Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments (Reg Plan Seq No. 128).	3245-AG58
400	Small Business Size Standards: Inflation Adjustment to Monetary Based Size Standards	3245-AG60

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
401	Surety Bond Guarantee Program; Miscellaneous Amendments	3245-AG70

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SMALL BUSINESS ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
402	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs	3245-AG16
403	Record Disclosure and Privacy	3245-AG52

SMALL BUSINESS ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
404	Implementation of Small Business Disaster Response and Loan Improvement Act: Expedited Disaster Assistance Program.	3245-AF88
405	Advisory Small Business Size Decisions	3245-AG59
406	Women-Owned Small Business Federal Contract Program	3245-AG72

SMALL BUSINESS ADMINISTRATION (SBA)

Prerule Stage

383. Immediate, Expedited, and Private Disaster Assistance Loan Programs

Legal Authority: 15 U.S.C. 636(c); 15 U.S.C. 636(j); 15 U.S.C. 657(n)

Abstract: Through this advanced notice of proposed rulemaking, SBA will solicit comments from potential lenders and the public on three guaranteed disaster loan programs: (1) The expedited disaster assistance program (EDAP), under which the SBA would guarantee short-term loans of up to \$150,000 made by private lenders to eligible small businesses located in a catastrophic disaster area; (2) the private disaster assistance program (PDAP), under which SBA would guarantee loans of up to \$2 million made by private lenders to eligible small businesses and homeowners located in a catastrophic disaster area; and (3) the immediate disaster assistance program (IDAP), under which the SBA would guarantee interim loans of up to \$25,000 made by private lenders to eligible small businesses, which would then be repaid with the proceeds of SBA direct disaster loans. SBA will seek input on what program features would be required for lenders to participate in these guaranteed disaster loan programs. SBA plans to use this feedback in drafting proposed rules for the EDAP and PDAP programs and in considering changes to the existing IDAP regulations.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/15	80 FR 63715
ANPRM Comment Period End.	12/21/15	
NPRM	06/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dianna L. Seaborn, Acting Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-3645, *Email:* dianna.seaborn@sba.gov. *RIN:* 3245-AF99

384. • Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification

Legal Authority: Pub. L. 113-291, sec 825; 15 U.S.C. 637(m)

Abstract: Section 825 of the National Defense Authorization Act for Fiscal Year 2015 (NDAA), Public Law 113-291, 128 Stat. 3292, Dec. 19, 2014, included language requiring that women-owned small business concerns and economically disadvantaged women-owned small business concerns are certified by a Federal agency, a State government, the Administrator, or national certifying entity approved by the Administrator as a small business concern owned and controlled by women. SBA is issuing this Advance Notice of Proposed Rulemaking to get public feedback on how best to implement this statutory provision. SBA intends to request information on whether SBA should: Create its own certification program, rely on private

certifiers, allow Federal agencies to create their own certification systems, or create a hybrid system. SBA also intends to request information from the public concerning State government certification programs.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/15	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kenneth Dodds, Director, Office of Government Contracting, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 619-1766, *Fax:* 202 481-2950, *Email:* kenneth.dodds@sba.gov. *RIN:* 3245-AG75

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

385. Small Business Development Center Program Revisions

Legal Authority: 15 U.S.C. 634(b)(6); 15 U.S.C. 648

Abstract: Updates the SBDC program regulations by proposing to amend: (1) procedures for approving applications for new Host SBDCs; (2) approval procedures for travel outside the continental U.S. and U.S. territories; (3) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA

oversight activities; (4) requirements for new or renewal applications for SBDC grants, including the requirements for electronic submission through the approved electronic Government submission facility; (5) procedures regarding the determination to affect suspension, termination or non-renewal of an SBDC's cooperative agreement; and (6) provisions regarding the collection and use of the individual SBDC client data.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/15	80 FR 17708
ANPRM Comment Period End.	06/01/15	
NPRM	07/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: J. Chancy Lyford, Deputy Associate Administrator, Office of Small Development Centers, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7159, *Fax:* 202 481-2613, *Email:* chancy.lyford@sba.gov. *RIN:* 3245-AE05

386. Loan Program Miscellaneous Amendments

Legal Authority: 15 U.S.C. 636(a); 15 U.S.C. 694b

Abstract: Certain lenders have been delegated the authority to make loan decisions without prior approval from SBA under certain circumstances. SBA plans to formalize such delegated authorities in this proposed rule. Several minor modifications to the 504 Loan Program and governance rules for Certified Development Company (CDC) are also proposed in a follow-on to the Final Rule: 504 and 7(a) Loan Program Updates (March 21, 2014), along with alignment of terminology for 7(a) lenders that are federally regulated to synchronize with existing industry requirements. This proposed rule will also propose to amend SBA's Program Fraud Civil Remedies Act regulations. SBA will propose to conform the amount of the penalties that may be imposed under that statute, for making false claims and false statements, to the amount established by the Department of Justice. SBA plans to propose several other miscellaneous amendments to improve oversight and operations of its finance programs.

This rule proposes to make three changes to the Surety Bond Guarantee (SBG) Program. The first would change the threshold for notification to SBA of changes in the contract or bond amount. Secondly, the change would require

sureties to submit quarterly contract completion reports. Finally, SBA proposes to increase the eligible contract limit for the Quick Bond Application and Agreement from \$250,000 to \$400,000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/15	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: John M. Wade, Acting Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-3647, *Email:* john.wade@sba.gov. *RIN:* 3245-AF85

387. Office of Women Owned-Business: Women's Business Center Program

Legal Authority: 15 U.S.C. 631; 15 U.S.C. 656

Abstract: SBA's Office of Women's Business Ownership (OWBO) oversees a network of SBA-funded Women's Business Centers (WBCs) throughout the United States and its territories. WBCs provide management and technical assistance to small business concerns both nascent and established, with a focus on such businesses that are owned and controlled by women, or on women planning to start a business, especially women who are economically or socially disadvantaged. The training and counseling provided by the WBCs encompass a comprehensive array of topics, such as finance, management and marketing in various languages. This rule would propose to codify the requirements and procedures that govern the delivery, funding and evaluation of the management and technical assistance provided under the WBC Program. The rule would address, among other things, the eligibility criteria for selection as a WBC, use of Federal funds, standards for effectively carrying out program duties and responsibilities, and the requirements for reporting on financial and programmatic performance.

Timetable:

Action	Date	FR Cite
ANPRM	04/22/15	80 FR 22434
ANPRM Comment Period End.	06/22/15	
NPRM	05/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Bruce D. Purdy, Deputy Assistant Administrator, Office of Women's Business Ownership, Small

Business Administration, Washington, DC 20416, *Phone:* 202 205-7532, *Email:* bruce.purdy@sba.gov.

RIN: 3245-AG02

388. Small Business Hubzone Program

Legal Authority: 15 U.S.C. 657a

Abstract: SBA has been reviewing its processes and procedures for implementing the HUBZone program and has determined that several of the regulations governing the program should be amended in order to resolve certain issues that have arisen. As a result, the proposed rule would constitute a comprehensive revision of part 126 of SBA's regulations to clarify current HUBZone Program regulations, and implement various new procedures. The amendments will make it easier for participants to comply with the program requirements and enable them to maximize the benefits afforded by participation. In developing this proposed rule, SBA will focus on the principles of Executive Order 13563 to determine whether portions of regulations should be modified, streamlined, expanded or repealed to make the HUBZone program more effective and/or less burdensome on small business concerns. At the same time, SBA will maintain a framework that helps identify and reduce waste, fraud, and abuse in the program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Mariana Pardo, Director, Office of HubZone, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 205-2985, *Email:* mariana.pardo@sba.gov.

RIN: 3245-AG38

389. Small Business Investment Company (SBIC) Program; Impact SBICS

Regulatory Plan: This entry is Seq. No. 125 in part II of this issue of the **Federal Register**.

RIN: 3245-AG66

390. Small Business Investment Companies; Revisions to Passive Business Regulations & Technical Clarifications

Legal Authority: 15 U.S.C. 681 *et seq.*

Abstract: The SBA proposes to revise the regulations for the Small Business Investment Company (SBIC) program to further expand the use of Passive Businesses and provide needed

protections for SBA with regard to such investments. SBICs are generally prohibited from investing in passive businesses under the Small Business Investment Act of 1958 as amended as well as by regulations. Current program regulations provided for two exceptions that allow an SBIC to structure an investment utilizing a passive small business as a pass-through. The first exception identified in 107.720(b)(2) provides that an SBIC may structure an investment utilizing two pass-through entities to make an investment into an active business. The second exception identified in 107.720(b)(3) allows partnership SBICs with SBA prior approval to invest in a wholly owned passive business that in turn provides financing to an active small business only if a direct financing would cause its investors to incur Unrelated Business Taxable Income (UBTI). The second exception is commonly known as a blocker corporation. The current rule creates unnecessary complications in defining two exceptions and does not provide SBA with sufficient protections. SBA proposes to simplify the rule to allow a more flexible two pass-through entity structure but provides SBA certain protections to offset risks associated with passive investment structures. As part of the proposed rule, SBA will also make technical corrections and clarifications.

Timetable:

Action	Date	FR Cite
NPRM	10/05/15	80 FR 60077
NPRM Comment Period End.	12/04/15	
Final Rule	05/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Theresa M. Jamerson, Senior Policy Advisor, Investment Division, Small Business Administration, 409 3rd Street SW., Washington, DC 20461, *Phone:* 202 205-7563, *Email:* theresa.jamerson@sba.gov.
RIN: 3245-AG67

391. Small Business Timber Set Aside Program

Legal Authority: 15 U.S.C. 631; 15 U.S.C. 644(a)

Abstract: The U.S. Small Business Administration (SBA or Agency) is proposing to amend its Small Business Timber Set-Aside Program (the Program) regulations. The Small Business Timber Set-Aside Program is rooted in the Small Business Act, which tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property.

Accordingly, the Program requires Timber sales to be set aside for small business when small business participation falls below a certain amount. SBA is considering comments received during the ANPRM process, including on issues such as, but not limited to, whether the saw timber volume purchased through stewardship timber contracts should be included in calculations, and whether the appraisal point used in set-aside sales should be the nearest small business mill. In addition, SBA is considering data from the timber industry to help evaluate the current program and economic impact of potential changes.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/15	80 FR 15697
ANPRM Comment Period End.	05/26/15	
NPRM	03/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David W. Loines, Area Director, Office of Government Contracting, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7311, *Email:* david.loines@sba.gov.
RIN: 3245-AG69

392. Credit for Lower Tier Small Business Subcontracting

Legal Authority: Pub. L. 113-66, sec 1614

Abstract: The U.S. Small Business Administration (SBA or Agency) proposes to amend its regulations to implement Section 1614 of the National Defense Authorization Act (NDAA) of 2014, Pub. L. 113-66, December 26, 2013. Under the statute, when an other than small prime contractor has an individual subcontracting plan for a contract, the large business may receive credit towards its small business subcontracting goals for subcontract awards made to small business concerns at any tier. Currently, other than small business prime contractors only report on their performance awarding subcontracts to small businesses at the first tier level.

Timetable:

Action	Date	FR Cite
NPRM	10/06/15	80 FR 60300
NPRM Comment Period End.	12/07/15	
Final Rule	07/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kenneth Dodds, Director, Office of Government Contracting, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 619-1766, *Fax:* 202 481-2950, *Email:* kenneth.dodds@sba.gov.
RIN: 3245-AG71

393. Affiliation for Business Loan Programs and Surety Bond Guarantee Program

Regulatory Plan: This entry is Seq. No. 126 in part II of this issue of the **Federal Register**.

RIN: 3245-AG73

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

394. Small Business Mentor—Protégé Programs

Regulatory Plan: This entry is Seq. No. 127 in part II of this issue of the **Federal Register**.

RIN: 3245-AG24

395. Agent Revocation and Suspension Procedures

Legal Authority: 15 U.S.C. 634 ; 15 U.S.C. 642

Abstract: This rule establishes detailed procedures for the suspension and revocation of an Agent's privilege to do business with the United States Small Business Administration (SBA) within a single Part of the Code of Federal Regulations; removes 8(a) program specific procedures for Agent suspension and revocation; clarifies existing and related regulations as to suspension, revocation, and debarment; and removes Office of Hearings and Appeals jurisdiction over Agent suspensions and revocations and government-wide debarment and suspension actions. This rule will also conform SBA suspension and revocation procedures for Agents with general government-wide nonprocurement suspension and debarment procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/16/14	79 FR 62060
NPRM Comment Period Extended.	12/12/14	79 FR 73853
NPRM Comment Period End.	12/15/14	
Second NPRM Comment Period End.	02/14/15	
Final Rule	10/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Debra Mayer, Chief, Supervision and Enforcement, Office of Credit Risk Management, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7577, *Email:* debra.mayer@sba.gov, *RIN:* 3245-AG40

396. Small Business Size Standards: Employee Based Size Standards in Wholesale Trade and Retail Trade

Legal Authority: 15 U.S.C. 632(a)

Abstract: On May 19, 2014, the U.S. Small Business Administration (SBA) published a proposed rule to increase employee based size standards in 46 industries in North American Industry Classification System (NAICS) Sector 42, Wholesale Trade, and in one industry in Sector 44-45, Retail Trade. As a part of its comprehensive size standards review required by the Small Business Jobs Act of 2012, SBA reviewed all 71 industries in Sector 42 and two industries with employee based size standards in Sector 44-45 to determine whether their size standards should be retained or revised. The proposed revisions, if adopted, will primarily affect eligibility for SBA's financial assistance programs. This is one of the rules that will examine industries grouped by an NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at <http://www.sba.gov/size>, to this proposed rule. SBA expects to publish the final rule in the near future.

Note: The title for this rule has been changed since the rule was first reported in the Regulatory Agenda on January 8, 2013, from "Small Business Size Standards for Wholesale Trade" to "Small Business Size Standards: Employee Based Size Standards for Wholesale Trade and Retail Trade." The title was changed to make it clear that the rule also addresses industries with employee based size standards in Retail Trade.

Timetable:

Action	Date	FR Cite
NPRM	05/19/14	79 FR 28631
NPRM Comment Period End.	07/18/14	
Final Rule	11/00/15	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov, *RIN:* 3245-AG49

397. Small Business Size Standards for Manufacturing

Legal Authority: 15 U.S.C. 632(a)

Abstract: This rule proposes to increase employee based size standards for 209 industries in North American Industry Classification System (NAICS) Section 31-33, Manufacturing. SBA also proposes to increase the refining capacity component of the Petroleum Refiners (NAICS 324110) size standard to 200,000 barrels per calendar day total capacity for businesses that are primarily engaged in petroleum refining. The rule also proposes to eliminate the requirement that 90 percent of a refiner's output being delivered should be refined by the bidder. As a part of its comprehensive size standards review required by the Small Business Jobs Act of 2010, SBA evaluated all 364 industries in NAICS Sector 31-33 to determine whether their size standards should be retained or revised. This is one of the rules that examined industries grouped by an NAICS Sector. SBA has applied its "Size Standards Methodology," which is available on its Web site at <http://www.sba.gov/size>, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/10/14	79 FR 54146
NPRM Comment Period End.	11/10/14	
Final Rule	01/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov, *RIN:* 3245-AG50

398. Small Business Size Standards: Industries With Employee Based Size Standards Not Part of Manufacturing, Wholesale Trade, or Retail Trade

Legal Authority: 15 U.S.C. 632(a)

Abstract: This rule proposes to increase the employee-based size standards for 30 industries and three exceptions and decrease them for three industries that are not a part of NAICS Sector 31-33 (Manufacturing) Sector 42 (Wholesale Trade) and Sector 44-45 (Retail Trade). Additionally, SBA proposes to remove the Information Technology Value Added Resellers exception under NAICS 541519 (Other Computer Related Services) together with its 150-employee size standard. Similarly, SBA proposes to eliminate

the Offshore Marine Air Transportation Services exception under NAICS 481211 and 481212 and Offshore Marine Services exception under NAICS Subsector 483 and their \$30.5 million receipts based size standard. As part of its comprehensive size standards review required by the Small Business Jobs Act of 2010 SBA evaluated 57 industries and five exceptions with employee based size standards that are not in NAICS Sectors 31-33 42 or 4445. This is one of the rules that examined industries grouped by an NAICS Sector. SBA has applied its Size Standards Methodology, which is available on its Web site at <http://www.sba.gov/size> to this proposed rule.

Please Note: The title for this rule has been changed since it was first announced in the Regulatory Agenda on January 8, 2013 to add the words or Retail Trade at the end of the previous title. This change makes it clear that industries in the retail trade with employee based size standards are also not addressed in the rule.

Timetable:

Action	Date	FR Cite
NPRM	09/10/14	79 FR 53646
NPRM Rule Correction.	10/20/14	79 FR 62576
NPRM Comment Period End.	11/10/14	
Final Rule	01/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov, *RIN:* 3245-AG51

399. Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments

Regulatory Plan: This entry is Seq. No. 128 in part II of this issue of the **Federal Register**.

RIN: 3245-AG58

400. Small Business Size Standards: Inflation Adjustment to Monetary Based Size Standards

Legal Authority: 15 U.S.C. 632(a)

Abstract: On June 12, 2014, SBA issued an interim final rule with request for comments to adjust its monetary small business size standards (*i.e.*, receipts, net income, net worth, and financial assets), for the effects of inflation that have occurred since the last inflation adjustment, which was effective August 19, 2008. The interim final rule aimed to restore small

business eligibility to businesses that have lost their small business status due to inflation. The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to review and adjust (as necessary) all size standards within five years of its enactment. SBA's Small Business Size Regulations at 13 CFR 121.102(c) require the same quinquennial (or less) review and adjustment. The rule did not increase the \$750,000 size standard for agricultural enterprises, which is established by the Small Business Act (§ 3(a)(1)). The alternate size standard used in the 7(a) and 504 business loan programs is unaffected by this adjustment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/14	79 FR 33647
Interim Final Rule Effective.	07/14/14	
Interim Final Rule Comment Period End.	08/11/14	
Final Rule	11/00/15	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG60

401. Surety Bond Guarantee Program; Miscellaneous Amendments

Legal Authority: 15 U.S.C. 694b
Abstract: This rule will change the regulations for SBA's Surety Bond Guarantee Program in four areas. First, as a condition for participating in the Prior Approval and Preferred Programs, the rule will clarify that a Surety must directly employ underwriting and claims staffs sufficient to perform and manage these functions, and final settlement authority for claims and recovery is vested only in salaried employees of the Surety. Second, the rule will provide that all costs incurred by the Surety's salaried claims staff are ineligible for reimbursement by SBA, but the Surety may seek reimbursement for amounts paid for specialized services that are provided by outside consultants in connection with the processing of a claim. Third, the rule will modify the criteria for determining when a Principal that caused a Loss to SBA is ineligible for a bond guaranteed by SBA. Fourth, the rule will modify the criteria for admitting Sureties to the Preferred Surety Bond Guarantee Program by increasing the Surety's

underwriting limitation, as certified by the U.S. Treasury Department on its list of acceptable sureties, from at least \$2 million to at least \$6.5 million.

Timetable:

Action	Date	FR Cite
NPRM	04/14/15	80 FR 19886
NPRM Comment Period End.	06/15/15	
Final Rule	11/00/15	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barbara J. Brannan, Management Analyst, Office of Surety Guarantees, Small Business Administration, Washington, DC 20416, *Phone:* 202 205-6545, *Email:* barbara.brannan@sba.gov.
 RIN: 3245-AG70

SMALL BUSINESS ADMINISTRATION (SBA)

Long-Term Actions

402. Small Business Size Standards; Alternative Size Standard for 7(A), 504, and Disaster Loan Programs

Legal Authority: Pub. L. 111-240, sec 1116

Abstract: SBA will amend its size eligibility criteria for Business Loans, certified development company (CDC) loans under title V of the Small Business Investment Act (504) and economic injury disaster loans (EIDL). For the SBA 7(a) Business Loan Program and the 504 program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to both of these programs until SBA's Administrator establishes other alternative size standards. For the disaster loan program, the amendments will provide an alternative size standard for loan applicants that do not meet the Small Business Size Standard for their industries. These alternative size standards do not affect other Federal Government programs, including Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG16

403. Record Disclosure and Privacy

Legal Authority: 5 U.S.C. 301, 552 and 552(a); 31 U.S.C. 9701; 44 U.S.C. 3501 et seq. et seq.; E.O. 12600; 52 FR 23781

Abstract: SBA proposes to amend its Record Disclosure and Privacy regulations to implement the Openness Promotes Effectiveness in our National Government Act. The amendments, among other things, will update the Agency's Freedom of Information Act regulations to adjust the time for the public to submit an appeal of SBA's decision regarding a request for information, correct an obsolete address and provide applicable Web site addresses, and clarify the definition of news media for purposes of assessing processing fees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Linda M. DiGiandomenico, *Phone:* 202 401-8206, *Email:* linda.digiandomenico@sba.gov.
 RIN: 3245-AG52

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

404. Implementation of Small Business Disaster Response and Loan Improvement Act: Expedited Disaster Assistance Program

Legal Authority: 15 U.S.C. 636j
Abstract: This proposed rule would establish and implement an expedited disaster assistance business loan program under which the SBA will guarantee short-term loans made by private lenders to eligible small businesses located in a catastrophic disaster area. The maximum loan amount is \$150,000, and SBA will guarantee timely payment of principal and interest to the lender. The maximum loan term will be 180 days, and the interest rate will be limited to 300 basis points over the Federal funds rate.

Completed:

Reason	Date	FR Cite
Merged With 3245-AF99.	08/20/15	

Regulatory Flexibility Analysis Required: Yes.

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405. Advisory Small Business Size Decisions

Legal Authority: 15 U.S.C. 645(d)(3)
Abstract: The purpose of the statute is to establish procedures for Small Business Development Centers (SBDCs) (SBA grantees) or Procurement Technical Assistance Centers (PTACs) (DOD grantees) to issue advisory size decisions. This rule provides guidance to SBDCs and PTACs regarding the minimum requirements that small business status advisory opinions must meet in order to be deemed adequate by SBA. The rule also requires the SBDC or PTAC issuing the advisory opinion to remit a copy of the opinion to SBA for review, and established a 10 day deadline by which SBA must either accept or reject the advisory opinion. If SBA rejects the advisory opinion, the Agency will notify the entity which issued the opinion and the firm to which it applies, after which time the firm is no longer entitled to rely upon the opinion or invoke the safe harbor provisions of the statute. If SBA accepts the advisory opinion, then the firm may rely on the SBDC or PTAC advisory opinion and is entitled to invoke the safe harbor provision as a defense to punishments imposed under 15 U.S.C. 645, Offenses and Penalties, which prescribes fines and imprisonment for false statements. The rule also makes clear that SBA has the authority to initiate a formal size determination of a

firm that is the subject of a small business status advisory opinion where the Agency concludes that opinion contains information that calls into question the firm’s small business status.

Completed:

Reason	Date	FR Cite
Final Rule	02/11/15	80 FR 7533
Final Rule Effective.	08/10/15	

Regulatory Flexibility Analysis Required: Yes.

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406. Women-Owned Small Business Federal Contract Program

Legal Authority: 15 U.S.C. 637(m); 15 U.S.C. 634(b)(6)

Abstract: Section 825 of the National Defense Authorization Act for Fiscal Year 2015 (NDAA), Pub. L. 113-291, 128 Stat. 3292, Dec. 19, 2014, included language granting contracting officers the authority to award sole source contracts to WOSBs and EDWOSBs. In order to implement this statutory change, SBA is amending 13 CFR part 127 Subpart E by incorporating the statutory language granting authority for sole source contracts. If a contracting officer conducts market research in an industry where a WOSB or EDWOSB set aside is authorized, and the contracting officer cannot identify two or more WOSBs or EDWOSBs that can perform

at a fair and reasonable price, but identifies one WOSB or EDWOSB that can perform at a fair and reasonable price, the contracting officer will be able to award the contract on a sole source basis, if the value of the contract, including options, does not exceed \$6.5 million for manufacturing contracts and \$4 million for all other contracts. Section 825 of the NDAA also accelerated a statutory deadline by two years for SBA to conduct a study to determine the industries where WOSBs and EDWOSBs are substantially underrepresented or underrepresented. SBA must complete the study by January, 2, 2016. SBA also amended the regulatory definition of underrepresentation and substantial underrepresentation to align the regulatory definition with the more general statutory language and to ensure the agency can conduct a study using relevant and reliable methodologies.

Completed:

Reason	Date	FR Cite
NPRM	05/01/15	80 FR 24846
Final Rule	09/14/15	80 FR 55019
Final Rule Effective.	10/14/15	

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3245-AG72

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