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Dated: June 13, 2013.

**Karen G. Mills,**  
*Administrator.*

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**SMALL BUSINESS ADMINISTRATION****13 CFR Part 121****RIN 3245-AG36****Small Business Size Standards: Arts, Entertainment, and Recreation****AGENCY:** U.S. Small Business Administration.**ACTION:** Final rule.

**SUMMARY:** The United States Small Business Administration (SBA) is increasing the small business size standards for 17 industries in North American Industry Classification System (NAICS) Sector 71, Arts, Entertainment, and Recreation, and retaining the current size standards for the remaining eight industries in that Sector. As part of its ongoing comprehensive size standards review, SBA evaluated all size standards for industries in NAICS Sector 71 to determine whether they should be retained or revised.

**DATES:** This rule is effective July 22, 2013.**FOR FURTHER INFORMATION CONTACT:** Jon Haitsuka, Program Analyst, Size Standards Division, (202) 205-6618 or [sizestandards@sba.gov](mailto:sizestandards@sba.gov).

**SUPPLEMENTARY INFORMATION:** To determine eligibility for Federal small business assistance programs, SBA establishes small business size definitions (referred to as size standards) for private sector industries in the United States. The SBA's existing size standards use two primary measures of business size—average annual receipts and number of employees. Financial assets, electric output and refining capacity are used as size measures for a few specialized industries. In addition, SBA's Small Business Investment Company (SBIC), 7(a), and Certified Development Company (CDC or 504) Loan Programs determine small business eligibility using either the industry based size standards or alternative net worth and net income size based standards. At the start of the current comprehensive review of SBA's small business size standards, there were 41 different size standards levels, covering 1,141 NAICS industries and 18 sub-industry activities

(i.e., "exceptions" in SBA's table of size standards). Of these, 31 were based on average annual receipts, seven based on number of employees, and three based on other measures. Presently, there are a total of 1,031 size standards, 516 of which are based on average annual receipts, 499 on number of employees, 10 on megawatt hours, and six on average assets.

Over the years, SBA has received comments that its size standards have not kept up with changes in the economy, and in particular, that they do not reflect changes in the Federal contracting marketplace and industry structure. The last comprehensive review of size standards was during the late 1970s and early 1980s. Since then, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. SBA also makes periodic inflation adjustments to its monetary based size standards. The latest inflation adjustment to size standards was published in the **Federal Register** on July 18, 2008 (73 FR 41237).

SBA recognizes that changes in industry structure and the Federal marketplace since the last overall review have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of its size standards to determine whether existing size standards have supportable bases relative to the current data, and to revise them, where necessary.

In addition, on September 27, 2010, the President of the United States signed the Small Business Jobs Act of 2010 (Jobs Act). The Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18-month period from the date of its enactment and to review all size standards not less frequently than once every 5 years thereafter. Reviewing existing small business size standards and making appropriate adjustments based on current data are also consistent with Executive Order 13563 on improving regulation and regulatory review.

SBA has chosen not to review all size standards at one time. Rather, it is reviewing groups of related industries on a Sector by Sector basis.

As part of SBA's comprehensive review of size standards, the Agency reviewed all size standards in NAICS Sector 71, Arts, Entertainment, and Recreation, to determine whether the

existing size standards should be retained or revised. After its review, SBA published a proposed rule for public comment in the July 18, 2012 issue of the **Federal Register** (77 FR 42211) on its proposal to increase the size standards for 17 industries in NAICS Sector 71. The rule was one of a series of proposed rules that examines industries grouped by NAICS Sector.

In conjunction with current comprehensive size standards review, SBA developed a "Size Standards Methodology" for developing, reviewing, and modifying size standards, when necessary. SBA published the document on its Web site at [www.sba.gov/size](http://www.sba.gov/size) for public review and comments, and also included it as a supporting document in the electronic docket of the proposed rule on NAICS Sector 71 at [www.regulations.gov](http://www.regulations.gov).

In evaluating an industry's size standard, SBA examines its characteristics (such as average firm size, startup costs, industry competition and distribution of firms by size) and the level and small business 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. For the proposed rule, SBA analyzed the characteristics of each industry in NAICS Sector 71, mostly using a special tabulation obtained from the U.S. Bureau of the Census from its 2007 Economic Census (the latest available). SBA also evaluated the level and small business share of Federal contracts in each of those industries using the data from the Federal Procurement Data System—Next Generation (FPDS-NG) for fiscal years 2008–2010. To evaluate the impact of changes to size standards on its loan programs, SBA evaluated internal data on its guaranteed loan programs for fiscal years 2008–2010.

SBA's "Size Standards 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 "Size Standards Methodology" to review and modify, where necessary, the existing size standards for industries in NAICS Sector 71. SBA sought comments from the public on a number of issues about its "Size Standards Methodology," such as whether there are alternative methodologies that SBA should consider; whether there are alternative or additional factors or data sources that

SBA should evaluate; whether SBA's approach to establishing small business size standards makes sense in the current economic environment; whether SBA's application of anchor size standards is appropriate in the current economy; whether there are gaps in SBA's methodology because of the lack of comprehensive data; and whether there are other facts or issues that SBA should consider.

SBA sought comments on its proposal to increase size standards for 17 industries and retain the existing size standards for the remaining eight industries in NAICS Sector 71. Specifically, SBA requested comments on whether the size standards should be revised as proposed and whether the proposed revisions are appropriate. SBA also invited comments on whether its proposed eight fixed levels for receipts based size standard are appropriate and

whether it should adopt common size standards for some industries in NAICS Sector 71.

The SBA's analyses supported keeping the current size standards for three industries and lowering them for five industries in NAICS Sector 71. However, as SBA pointed out in the proposed rule, lowering size standards will reduce the number of firms eligible to participate in Federal small business assistance programs and this is counter to what the Federal government and SBA are doing to help small businesses. Therefore, SBA proposed to retain the current size standards for those five industries and requested comments on whether the Agency should lower size standards for which its analyses might support lowering them.

**Summary of Comments**

SBA received only one comment to the proposed rule. However, the

commenter did not offer any comments or suggestions regarding the proposed revisions to size standards in NAICS Sector 71. Thus, SBA is not making any adjustment to proposed size standards based on this comment.

The comment to the proposed rule is available for public review at <http://www.regulations.gov>, using RIN-3245-AG36.

**Conclusion**

Based on the analyses of relevant industry and program data and evaluation of public comments it received on the proposed rule, SBA has decided to increase the small business size standards for 17 industries in NAICS Sector 71 to the levels it proposed. Those industries and their revised size standards are shown in Table 1, Summary of Revised Size Standards in NAICS Sector 71, below.

TABLE 1—SUMMARY OF REVISED SIZE STANDARDS IN NAICS SECTOR 71

NAICS Industry code	NAICS Industry title	Current size standard (\$ million)	Revised size standard (\$ million)
711110	Theater Companies and Dinner Theaters	\$7.0	\$19.0
711120	Dance Companies	\$7.0	\$10.0
711130	Musical Groups and Artists	\$7.0	\$10.0
711190	Other Performing Arts Companies	\$7.0	\$25.5
711211	Sports Teams and Clubs	\$7.0	\$35.5
711212	Race Tracks	\$7.0	\$35.5
711219	Other Spectator Sports	\$7.0	\$10.0
711310	Promoters of Performing Arts, Sports and Similar Events with Facilities	\$7.0	\$30.0
711320	Promoters of Performing Arts, Sports and Similar Events without Facilities	\$7.0	\$14.0
711410	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	\$7.0	\$10.0
712110	Museums	\$7.0	\$25.5
712130	Zoos and Botanical Gardens	\$7.0	\$25.5
713110	Amusement and Theme Parks	\$7.0	\$35.5
713210	Casinos (except Casino Hotels)	\$7.0	\$25.5
713290	Other Gambling Industries	\$7.0	\$30.0
713910	Golf Courses and Country Clubs	\$7.0	\$14.0
713920	Skiing Facilities	\$7.0	\$25.5

For the reasons as stated above in this final rule and in the proposed rule, SBA has decided to retain the current receipts based size standards for the five industries for which analytical results suggested lowering them. The five industries are the following: NAICS 711510, Independent Artists, Writers, and Performers; NAICS 712120, Historical Sites; NAICS 712190, Nature Parks and Other Similar Institutions; NAICS 713120, Amusement Arcades; and NAICS 713990, All Other Amusement and Recreation Industries. Not lowering size standards for these industries in NAICS Sector 71 is consistent with SBA's recent final rules on NAICS Sector 44-45, Retail Trade (75 FR 61597 (October 6, 2010)), NAICS Sector 72, Accommodation and Food Services (75 FR 61604 (October 6,

2010)), NAICS Sector 81, Other Services (75 FR 61591 (October 6, 2010)), NAICS Sector 54, Professional, Scientific and Technical Services (77 FR 7490 (February 10, 2012)), NAICS Sector 48-49, Transportation and Warehousing (77 FR 10943 (February 24, 2012)), NAICS Sector 53, Real Estate and Rental and Leasing (77 FR 58747 (September 24, 2012)), NAICS Sector 61, Educational Services (77 FR 58739 (September 24, 2012)), NAICS Sector 62, Health Care and Social Assistance (77 FR 58755 (September 24, 2012)), NAICS Sector 51, Information (77 FR 72702 (December 6, 2012)), and NAICS Sector 56, Administrative and Support, Waste Management and Remediation Services (77 FR 72691 (December 6, 2012)). In each of those final rules, SBA adopted its proposal not to reduce small

business size standards for the same reasons. SBA is also retaining the existing size standards for three industries for which the results supported them at their current levels. The three industries are the following: NAICS 713930, Marinas; NAICS 713940, Fitness and Recreational Sports Centers; and NAICS 713950, Bowling Centers.

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

*Executive Order 12866*

The Office of Management and Budget (OMB) has determined that this final rule is not a "significant regulatory action" for purposes of Executive Order

12866. In order to help explain the need of this rule and the rule's potential benefits and costs, SBA is providing below a Cost Benefit Analysis in of this rule. This is also not a "major rule" under the Congressional Review Act, 5 U.S.C. 800.

### Cost Benefit Analysis

#### 1. Is there a need for the regulatory action?

SBA believes that the revised changes to small business size standards for 17 industries in NAICS Sector 71, Arts, Entertainment, and Recreation, reflect changes in economic characteristics of small businesses and the Federal procurement market conditions in those industries. SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To assist the intended beneficiaries of these programs effectively, SBA establishes distinct definitions to determine which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegated to the SBA's Administrator the responsibility for establishing definitions for small business. The Act also requires that small business definitions vary to reflect industry differences. The Jobs Act requires the Administrator to review at least one-third of all size standards within each 18-month period from the date of its enactment, and review all size standards at least every five years thereafter. The supplementary information section of the July 18, 2012 proposed rule and this final rule explained the SBA's methodology for analyzing a size standard for a particular industry.

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

The most significant benefit to businesses obtaining small business status as a result of this final rule is gaining eligibility for Federal small business assistance programs, including SBA's financial assistance programs, economic injury disaster loans, and Federal procurement opportunities intended for small businesses. Federal small business programs provide targeted opportunities for small businesses under SBA's various business development and contracting programs. These include the 8(a), small disadvantaged businesses (SDB), small businesses located in Historically Underutilized Business Zones (HUBZone), women owned small businesses (WOSB), economically disadvantaged women-owned small businesses (EDWOSB), and the service

disabled veteran owned small business (SDVOSB) Programs. Other Federal agencies also may use SBA's size standards for a variety of regulatory and program purposes. These programs help small businesses become more knowledgeable, stable, and competitive. In the 17 industries in NAICS Sector 71 for which SBA has decided to increase size standards, SBA estimates that about 1,450 additional firms will gain small business status and become eligible for these programs. That number is 1.3 percent of total firms that are classified as small under the current size standards in all 25 industries in NAICS Sector 71. SBA estimates that this will increase the small business share of total industry receipts in that Sector from 35 percent under the current size standards to 43 percent under the revised size standards.

The benefits of increasing size standards to a more appropriate level will accrue to three groups: (1) Some businesses that are above the current size standards will gain small business status under the higher size standards, thereby enabling them to participate in Federal small business assistance programs; (2) growing small businesses that are close to exceeding the current size standards will be able to retain their small business status under the higher size standards, thereby enabling them to continue their participation in the programs; and (3) Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs.

Based on the data for fiscal years 2008–2010, more than 45 percent of total Federal contracting dollars spent in all industries in NAICS Sector 71 were accounted for by the 17 industries for which SBA is increasing size standards. SBA estimates that additional firms gaining small business status in those industries under the revised size standards could potentially obtain Federal contracts totaling up to \$5 million per year under the small business, 8(a), SDB, HUBZone, WOSB, EDWOSB and SDVOSB Programs and other unrestricted procurements. The added competition for many of these procurements may also result in lower prices to the Government for procurements reserved for small businesses, although SBA cannot quantify this benefit.

Under SBA's 7(a) and 504 Loan Programs, based on the data for fiscal years 2008–2010, SBA estimates that approximately 15 to 20 additional loans totaling \$4 million to \$6 million in new Federal loan guarantees could be made to the newly defined small businesses under the revised size standards. Under

the Jobs Act, SBA can now guarantee substantially larger loans than in the past. In addition, the Jobs Act established an alternative size standard for SBA's 7(a) and 504 Loan Programs for those applicants that do not meet the size standards for their industries. That is, under the Jobs Act, if a firm applies for a 7(a) or 504 loan but does not meet the size standard for its industry, it might still qualify if, including its affiliates, it has tangible net worth that does not exceed \$15 million and also has average net income after Federal income taxes (excluding any carry-over losses) for its preceding two completed fiscal years that do not exceed \$5 million. Thus, SBA finds it difficult to quantify the actual impact of the revised size standards on its 7(a) and 504 Loan Programs.

Newly defined small businesses will also benefit from SBA's Economic Injury Disaster Loan Program. Since this program is contingent on the occurrence and severity of a disaster, SBA cannot make a meaningful estimate of this impact.

To the extent that all 1,450 newly defined small firms under the revised size standards in NAICS Sector 71 could become active in Federal procurement programs, the revisions to size standards may entail some additional administrative costs to the Federal Government associated with there being more bidders for Federal small business procurement opportunities. In addition, there will be more firms seeking SBA guaranteed loans, more firms eligible for enrollment in the System for Award Management (SAM) and Dynamic Small Business Search database, and more firms seeking certification as 8(a) or HUBZone firms or more firms qualifying for small business, WOSB, EDWOSB, SDVOSB and SDB status. Among these newly defined small businesses seeking SBA's assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. SBA believes that these added administrative costs will be minimal because mechanisms are already in place to handle these requirements.

Additionally, costs to the Federal Government may be higher on some Federal contracts under the higher revised size standards. With a greater number of businesses defined as small, Federal agencies may choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside contracting might result in competition among fewer total bidders, although

there will be more small businesses eligible to submit offers. In addition, higher costs may result when additional full and open contracts are awarded to HUBZone businesses because of price evaluation preference. However, these additional costs associated with fewer bidders are expected to be minor since, by law, procurements may be set aside for small businesses or reserved for the small business, 8(a), HUBZone, WOSB, EDWOSB or SDVOSB Programs only if awards are expected to be made at fair and reasonable prices.

The revised size standards may have some distributional effects among large and small businesses. Although SBA cannot estimate with certainty the actual outcome of gains and losses among small and large businesses, it can identify several probable impacts. There may be a transfer of some Federal contracts from large businesses to small businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more Federal contracts for small businesses. In addition, some agencies may award more Federal contracts to HUBZone concerns instead of large businesses since HUBZone concerns may be eligible for price evaluation adjustments when they compete on full and open bidding opportunities. Similarly, currently defined small businesses may obtain fewer Federal contracts due to the increased competition from more businesses defined as small under the revised size standards. This transfer may be offset by more Federal procurements set aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government will limit the potential transfer of contracts away from large and small businesses under the existing size standards. The SBA cannot estimate with precision the potential distributional impacts of these transfers.

The revisions to the existing size standards in NAICS Sector 71, Arts, Entertainment, and Recreation, are consistent with SBA's statutory mandate to assist small business. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Reviewing and modifying size standards, when appropriate, ensures that intended beneficiaries have access to small business programs designed to assist them.

#### **Executive Order 13563**

A description of the need for this regulatory action and benefits and costs associated with this action, including possible distributions impacts that relate to Executive Order 13563 is included above in the Cost Benefit Analysis under Executive Order 12866.

In an effort to engage interested parties in this regulatory action, SBA presented its methodology (discussed under Supplementary Information in the proposed rule and this rule) to various industry associations and trade groups. SBA also met with various industry groups to obtain their feedback on its methodology and other size standards issues. In addition, SBA also presented its size standards methodology to businesses in 13 cities in the U.S. and sought their input as part of the Jobs Act tours. The presentations also included information on the latest status of the comprehensive size standards review and how interested parties can provide SBA with input and feedback on the size standards review. Moreover, SBA presented the same information to Department of Defense (DoD) contracting personnel at their annual training session. It included updates on what size standards rules SBA was currently reviewing and plans to review in the future. This is important because DoD contracting provides the greatest opportunities for and awards to small businesses.

Additionally, SBA sent letters to the Directors of the Offices of Small and Disadvantaged Business Utilization (OSDBU) at several Federal agencies with considerable procurement responsibilities requesting their feedback on how the agencies use SBA's size standards and whether current standards meet their programmatic needs (both procurement and non-procurement). SBA gave appropriate consideration to all input, suggestions, recommendations, and relevant information obtained from industry groups, individual businesses, and Federal agencies in preparing the July 18, 2012 proposed rule (77 FR 42211) for NAICS Sector 71.

Furthermore, when SBA issued the proposed rule, it notified individuals, government procurement, and companies that had in recent years exhibited an interest by letter, email, or phone, in size standards for NAICS Sector 71 so they could comment.

The review of size standards in NAICS Sector 71, Arts, Entertainment, and Recreation, is consistent with Section 6 of Executive Order 13563 calling for retrospective analyses of

existing rules. The last overall review of size standards occurred during the late 1970s and early 1980s. Since then, except for periodic adjustments for monetary based size standards, most reviews of size standards were limited to a few specific industries in response to requests from the public and Federal agencies. SBA recognizes that changes in industry structure and the Federal marketplace over time have rendered existing size standards for some industries no longer supportable by current data. Accordingly, in 2007, SBA began a comprehensive review of all size standards to ensure that existing size standards have supportable bases and to revise them when necessary. In addition, the Jobs Act directs SBA to conduct a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. Specifically, the Jobs Act requires SBA to conduct a detailed review of at least one-third of all size standards during every 18 month period from the date of its enactment and do a complete review of all size standards not less frequently than once every 5 years thereafter.

#### **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 would not impose any new reporting or record keeping requirements.

#### **Final Regulatory Flexibility Analysis**

Under the Regulatory Flexibility Act (RFA), this final rule may have a significant impact on a substantial number of small entities in NAICS Sector 71, Arts, Entertainment, and Recreation. As described above, this rule may affect small entities seeking

Federal contracts, SBA's 7(a) and 504 Guaranteed Loans, SBA's Economic Injury Disaster Loans, and various small business benefits under other Federal programs.

Immediately below, SBA sets forth a final regulatory flexibility analysis of this final rule addressing the following questions: (1) What are the need for and objective of the rule? (2) What are SBA's description and estimate of the number of small entities 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 which may duplicate, overlap or conflict with the rule? and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

*1. What are the need for and objective of the rule?*

Most of SBA's size standards for the Arts, Entertainment, and Recreation industries had not been reviewed since the 1980s. Technological changes, productivity growth, international competition, mergers and acquisitions and updated industry definitions may have changed the structure of many industries in that Sector. Such changes can be sufficient to support revisions to size standards for some industries. Based on the analysis of the latest industry and program data available, SBA believes that the revised standards in this rule more appropriately reflect the size of businesses in those industries that need Federal assistance. Additionally, the Jobs Act requires SBA to review all size standards and make appropriate adjustments to reflect current data and market conditions.

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

SBA estimates that approximately 1,450 additional firms will become small because of increases in size standards in 17 industries in NAICS Sector 71. That represents 1.3 percent of total firms that are classified as small under the current size standards in all 25 industries in that Sector. This will result in an increase in the small business share of total industry receipts in those industries from about 35 percent under the current size standards

to nearly 43 percent under the revised size standards. SBA does not anticipate a significant competitive impact on smaller businesses in these industries because of this rule. The revised size standards will enable more small businesses to retain their small business status for a longer period. Under current size standards, many small businesses may have lost their eligibility or found it difficult to compete with companies that are significantly larger than they are and this final rule attempts to correct that impact. SBA believes these changes will have a positive impact for existing small businesses and for those that have either exceeded or are about to exceed current size standards.

*3. What are the projected reporting, record keeping, and other compliance requirements of the rule and an estimate of the classes of small entities which will be subject to the requirements?*

Revising size standards does not impose any additional reporting or record keeping requirements on small entities. However, qualifying for Federal procurement and a number of other Federal programs requires that entities register in the System for Award Management (SAM). Therefore, businesses opting to participate in those programs must comply with SAM requirements. There are no costs associated with SAM registration. Revising size standards alters access to SBA's and other Federal programs that are designed to assist small businesses, but does not impose a regulatory burden because they neither regulate nor control business behavior.

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

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

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

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

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

**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 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), 662, 694a(9).

■ 2. In § 121.201, in the table “Small Business Size Standards by NAICS Industry,” revise entries for “711110”, “711120”, “711130”, “711190”, “711211”, “711212”, “711219”, “711310”, “711320”, “711410”, “712110”, “712130”, “713110”, “713210”, “713290”, “713910”, and “713920” to read as follows:

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

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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
* * * * *		*	*
711110	Theater Companies and Dinner Theaters	\$19.0	
711120	Dance Companies	\$10.0	
711130	Musical Groups and Artists	\$10.0	
711190	Other Performing Arts Companies	\$25.5	
711211	Sports Teams and Clubs	\$35.5	
711212	Race Tracks	\$35.5	
711219	Other Spectator Sports	\$10.0	
711310	Promoters of Performing Arts, Sports and Similar Events with Facilities	\$30.0	
711320	Promoters of Performing Arts, Sports and Similar Events without Facilities	\$14.0	
711410	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	\$10.0	
* * * * *		*	*
712110	Museums	\$25.5	
* * * * *		*	*
712130	Zoos and Botanical Gardens	\$25.5	
* * * * *		*	*
713110	Amusement and Theme Parks	\$35.5	
* * * * *		*	*
713210	Casinos (except Casino Hotels)	\$25.5	
713290	Other Gambling Industries	\$30.0	
713910	Golf Courses and Country Clubs	\$14.0	
713920	Skiing Facilities	\$25.5	
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