

**Small Business Administration
Federal Reserve**

Friday
November 29, 1996

Part XL

**Small Business
Administration**

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This is SBA's 35th semiannual agenda of regulations. Although not a regulatory agency, SBA has attempted to draft agendas that met both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Public Law 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual agency official listed for the particular item.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6642.

SUPPLEMENTARY INFORMATION: The SBA agenda contains many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None was directed at specific content nor were any changes suggested or recommended.

The agenda format has four parts. Part I, Prerulemaking, includes investigations and reviews to be conducted prior to deciding whether or not to propose a rule or rule change. Part II, Proposed Rules, includes rulemaking which will be proposed during the 12-month period covered by the agenda. Part III, Final Rules, includes proposed rules which will be finalized during the period covered by the agenda. Part IV, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

The above-described regulations will be developed in a manner which promotes growth in the economy while imposing no unnecessary regulatory burdens on the public. In this regard, SBA has begun a vigorous program of streamlining all its present and prospective regulatory activity so that only absolutely necessary regulations are promulgated.

In its continuing effort to avoid excess regulation, SBA has carefully reviewed its previous agenda and has withdrawn 10 regulatory actions from the April 1996 Agenda. In addition, it is proposing only two new actions in this Agenda, which are also included in The Regulatory Plan.

For this edition of SBA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the Federal Register. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: September 25, 1996.

John T. Spotila,
Acting Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4176	Nondiscrimination in Federally Assisted Programs	3245-AB36
4177	Surety Bond Guarantees; Multiyear Guaranty Authority	3245-AD15

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4178	Minority Enterprise Development/Small Disadvantaged Business	3245-AD70
4179	Small Business Size Regulations Affiliation (Section 610 Review) (Reg Plan Seq. No. 146)	3245-AD82
4180	Minority Small Business and Capital Ownership Development/ Small Disadvantaged Business Status Protest and Appeal Procedure (Section 610 Review) (Reg Plan Seq. No. 147)	3245-AD83
4181	Business Loans Financing Non-Depository Institutions (Section 610 Review) (Reg Plan Seq. No. 148)	3245-AD84
4182	Revision of Small Business Investment Company Regulations	3245-AD85

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

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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4183	Small Business Size Standards for Natural Gas Distribution	3245-AB94
4184	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
4185	Amendments to the Amount of Flood Insurance Coverage Required of Recipients of Certain SBA Assistance	3245-AD28

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4186	Nondiscrimination in Financial Assistance Programs	3245-AB37
4187	Minority Small Business and Capital Ownership Development Program; Eligibility and Contractual Assistance	3245-AC30
4188	Small Business Size Standards; Health Care Services Industries	3245-AC68
4189	Business Loan Policy; Care and Preservation of Collateral (CPCs)	3245-AD21
4190	Business Loans Policy; SBA Guaranty	3245-AD22
4191	Small Business Size Standards (Ostensible Subcontractor Rule)	3245-AD45
4192	Nondiscrimination by Recipients of SBA Assistance and SBA	3245-AD68
4193	Small Business Size Standards; Size Standards by the North American Industry Classification System	3245-AD81

SMALL BUSINESS ADMINISTRATION (SBA)

Prerule Stage

4176. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112

Legal Deadline: None

Abstract: This would have been a technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance. SBA regards it as no longer necessary.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	12/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Erlene M. Patrick, Assistant Administrator for Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416
Phone: 202 205-6750

RIN: 3245-AB36

4177. SURETY BOND GUARANTEES; MULTIYEAR GUARANTY AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: See Additional Information.

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: Legislation was enacted to allow small business access to Office of Surety Guarantee funds on a revolving basis instead of availability

per annual budget. Regulatory changes were considered, but are not needed.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This rule will be published upon enactment of legislation which has been proposed to Congress.

Agency Contact: Robert J. Moffitt, Assistant Administrator, Office of Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245-AD15

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

4178. MINORITY ENTERPRISE DEVELOPMENT/SMALL DISADVANTAGED BUSINESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 637(a); 15 USC 637(d)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This proposed rule would amend both eligibility requirements for and contractual assistance provisions within the SBA's minority enterprise development program. It is designed to streamline the operation of the MED program, to ease certain restrictions perceived to be burdensome on program participants, to clarify certain eligibility requirements, and to delete obsolete regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Procurement, Small Business Administration, 409 Third

Street SW., 7th Floor, Washington, DC 20416

Phone: 202 205-6645

RIN: 3245-AD70

4179. • SMALL BUSINESS SIZE REGULATIONS AFFILIATION (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 146 in Part II of this issue of the Federal Register.

RIN: 3245-AD82

4180. • MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT/ SMALL DISADVANTAGED BUSINESS STATUS PROTEST AND APPEAL PROCEDURE (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 147 in Part II of this issue of the Federal Register.

RIN: 3245-AD83

4181. • BUSINESS LOANS FINANCING NON-DEPOSITORY INSTITUTIONS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 148 in Part II of this issue of the Federal Register.

RIN: 3245-AD84

4182. • REVISION OF SMALL BUSINESS INVESTMENT COMPANY REGULATIONS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 661 et seq; 15 USC 683; 15 USC 687(e); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m

CFR Citation: 13 CFR 107.720(b)(2); 13 CFR 107.720; 13 CFR 107.720(e); 13 CFR 107.692; 13 CFR 107.1500 to 1580

Legal Deadline: None

Abstract: This omnibus rule would permit certain passive companies to be financed by SBICs, permit some previously ineligible real estate businesses to receive financing from SBICs, revises the fee schedule for examinations of SBICs, and makes technical corrections in the regulations providing for computation of profit participation and distribution. It helps complete SBA's streamlining effort in this area.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Saunders Miller, Senior Policy Advisor, Small Business Administration, 409 Third Street SW., Suite 6300, Washington, DC 20416
Phone: 202 205-3646

RIN: 3245-AD85

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

4183. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Priority: Routine and Frequent

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: In 1988, SBA imposed a size standard of 500 employees for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas

contracts. This action confirms that the interim rule has been finalized.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Final Action	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416

Phone: 202 205-6618

RIN: 3245-AB94

4184. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

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Final Rule Stage

Abstract: This proposed rule is part of SBA's regulatory streamlining effort. The SBA and the Office of Government Ethics are jointly issuing this proposed rule which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. This proposed rule will be published at 5 CFR ch XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). This proposed rule is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416

Phone: 202 205-6645

RIN: 3245-AC96

4185. AMENDMENTS TO THE AMOUNT OF FLOOD INSURANCE COVERAGE REQUIRED OF RECIPIENTS OF CERTAIN SBA ASSISTANCE

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 102-395; PL 103-75

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Under the proposed rule, flood insurance would be required in an amount equal to the lesser of (1)

the sum of all liens on the property (including any SBA lien) plus, if the SBA assistance is unsecured, the outstanding balance of the SBA assistance or (2) the insurable value of the property, but in no event would the required insurance exceed the maximum flood insurance available under the National Flood Insurance Act of 1968.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Assistant Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245-AD28

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

4186. NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 15 USC 634(b)(6); PL 85-536; 15 USC 633; 15 USC 634; 15 USC 687; 15 USC 1691; 20 USC 1681 et seq; 29 USC 794

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: This would have been a technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance. SBA no longer regards it as necessary.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Erlene M. Patrick, Assistant Administrator for Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416

Phone: 202 205-6750

RIN: 3245-AB37

4187. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM; ELIGIBILITY AND CONTRACTUAL ASSISTANCE

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing appeals of denials of certain program actions, and denials of requests for waiver of the requirement that, subject to certain conditions, an 8(a) contract must be performed by the contractor to which it was awarded.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William Fisher, Deputy Associate Administrator for Minority, Enterprise Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6410

RIN: 3245-AC30

4188. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE SERVICES INDUSTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise some or all of the 11 size standards within the health care services industries. The current size standard of \$5 million in average annual receipts applies to each health care industry.

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Timetable:

Action	Date	FR Cite
Withdrawn	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245-AC68

4189. BUSINESS LOAN POLICY; CARE AND PRESERVATION OF COLLATERAL (CPCS)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631; 41 USC 403(11)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Section 5(b)(4) of the Small Business Act sets a limit of \$1,000 on the amount of CPC which can be obtained without competitive bid. This section was based on procurement legislation which was in effect at the time the Act was drafted (40 years ago). Since then, the amount contained in procurement regulations has steadily increased. It is currently \$25,000. Unfortunately, the Small Business Act was never amended and remains at \$1,000. This unrealistic limit greatly impedes the field offices' ability to perform their required tasks efficiently. To correct this oversight and to prevent a recurrence, the end of the second sentence of the Small Business Act will be amended to read ". . . or the amount thereof does not exceed the small purchase threshold as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 USC 403(11))." The Agency will use SOP 50 50 1 to set limits on amounts within the small purchase threshold.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Arnold Rosenthal, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416

Phone: 202 205-6481

RIN: 3245-AD21

4190. BUSINESS LOANS POLICY; SBA GUARANTY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: In a previous ruling, the Office of General Counsel stated that the Small Business Act limited the Agency's guaranty to loans only. For this reason, when a participating lender servicing a liquidation account finds a term buyer for assets acquired through foreclosure, the Agency is forced to expend funds to purchase the guaranty and establish the account as an immediate participation even if such action is not in the government's best interest. The first sentence of section 5(b)(7) of the Small Business Act will be amended to read "...dealing with or realizing on loans made under the provisions of this Act and receivables relating thereto or emanating therefrom..." The Agency will use SOP 50 51 1 to establish operating parameters for the loan servicing offices.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Arnold Rosenthal, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street SW., Suite 8000, Washington, DC 20416

Phone: 202 205-6481

RIN: 3245-AD22

4191. SMALL BUSINESS SIZE STANDARDS (OSTENSIBLE SUBCONTRACTOR RULE)

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Ostensible subcontractor and affiliation rule. The rule would permit small businesses to enter into subcontracts with certain public utilities for the lease and use of distribution facilities without being considered affiliated with the public utility where the small business prime contractor adds meaningful value to the contract.

Timetable:

Action	Date	FR Cite
NPRM	01/23/95	60 FR 4389
NPRM Comment Period End	03/24/95	
End Review	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Suite 8100, Washington, DC 20416
Phone: 202 205-6840

RIN: 3245-AD45

4192. NONDISCRIMINATION BY RECIPIENTS OF SBA ASSISTANCE AND SBA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1; 20 USC 1681 to 1686; 29 USC 794; 42 USC 6101 et seq

CFR Citation: 13 CFR 112; 13 CFR 113; 13 CFR 117; 13 CFR 136

Legal Deadline: None

Abstract: In response to President Clinton's Governmentwide Regulatory Reform initiative, the SBA has completed a page-by-page, line-by-line review of all its existing regulations to determine which might be revised or eliminated. This proposed rule would consolidate into one part, four existing parts of SBA's regulations pertaining to

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Completed Actions

compliance by SBA and recipients of SBA assistance with the various applicable civil rights laws of the United States. This consolidation of parts 112, 113, 117 and 136 avoids unnecessary duplication in the regulations and leaves one regulation involving civil rights compliance.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Cheri Wolff, Chief Counsel for Administrative Law, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416

Phone: 202 205-6643

RIN: 3245-AD68

4193. SMALL BUSINESS SIZE STANDARDS; SIZE STANDARDS BY THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: The SBA establishes small business definitions by industry category. The present standard industrial classification system is being replaced by the North American

industry classification system effective January 1977. This rule would convert SBA size standards to the new classification system.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245-AD81

[FR Doc. 96-25325 Filed 11-27-96; 8:45 am]

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