

with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

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18. *NAICS code 541519*—An Information Technology Value Added Reseller (ITVAR) provides a total solution to information technology acquisitions by providing multi-vendor hardware and software along with significant value added services. Significant value added services consist of, but are not limited to, configuration consulting and design, systems integration, installation of multi-vendor computer equipment, customization of hardware or software, training, product technical support, maintenance, and end user support. For purposes of Government procurement, an information technology procurement classified under this exception and 150-employee size standard must consist of at least 15% and not more than 50% of value added services, as measured by the total contract price. In addition, the offeror must comply with the manufacturing performance requirements, or comply with the non-manufacturer rule by supplying the products of small business concerns, unless SBA has issued a class or contract specific waiver of the non-manufacturer rule. If the contract consists of less than 15% of value added services, then it must be classified under a NAICS manufacturing industry. If the contract consists of more than 50% of value added services, then it must be classified under the NAICS industry that best describes the predominate service of the procurement.

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■ 3. Amend § 121.406 by revising paragraph (b)(3) and paragraphs (b)(4) introductory text and (b)(5) introductory text to read as follows:

**§ 121.406 How does a small business concern qualify to provide manufactured products or other supply items under a small business set-aside, service-disabled veteran-owned small business set-aside, WOSB or EDWOSB set-aside, or 8(a) contract?**

\* \* \* \* \*

(b) \* \* \*

(3) The nonmanufacturer rule applies only to procurements that have been assigned a manufacturing or supply NAICS code, or the Information Technology Value Added Resellers (ITVAR) exception to NAICS code 541519. The nonmanufacturer rule does not apply to contracts that have been assigned a service (except for the ITVAR exception to NAICS code 541519), construction, or specialty trade construction NAICS code.

(4) The nonmanufacturer rule applies only to the supply component of a requirement classified as a manufacturing, supply, or ITVAR contract. If a requirement is classified as

a service contract, but also has a supply component, the nonmanufacturer rule does not apply to the supply component of the requirement.

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(5) The Administrator or designee may waive the requirement set forth in paragraph (b)(1)(iv) of this section under the following two circumstances:

\* \* \* \* \*

**Maria Contreras-Sweet,**

*Administrator.*

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

#### RIN 3245-AG50

#### Small Business Size Standards for Manufacturing

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

**ACTION:** Final rule.

**SUMMARY:** The United States Small Business Administration (SBA) is increasing small business size standards for 209 industries in North American Industry Classification System (NAICS) Sector 31-33, Manufacturing. SBA is also modifying the size standard for NAICS 324110, Petroleum Refiners, by increasing the refining capacity component of the size standard to 200,000 barrels per calendar day for businesses that are primarily engaged in petroleum refining and by eliminating the requirement that 90 percent of the output to be delivered be refined by the successful bidder from either crude oil or bona fide feedstocks. The Agency is also updating Footnote 5 to NAICS 326211 to reflect the current Census Product Classification Codes 3262111 and 3262113. As part of its ongoing comprehensive size standards review, SBA evaluated employee based size standards for all 364 industries in NAICS Sector 31-33 to determine whether they should be retained or revised. This rule is one of a series of rules that result from SBA's review of size standards of industries grouped by NAICS Sector.

**DATES:** This rule is effective February 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Jorge Laboy-Bruno, Ph.D., Economist, 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 size standards generally use two primary measures of business size, average annual receipts and average 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), Certified Development Company (CDC/504) and 7(a) Loan Programs determine small business eligibility using either the industry based size standards or an alternative size standard based on both net worth and net income. At the start of the current comprehensive review of size standards, there were 41 different size standards, covering 1,141 NAICS industries and 18 "exceptions." in SBA's table of size standards. Of these, 31 were based on average annual receipts, seven on average number of employees, and three on other measures. Presently, there are 28 different size standards, covering 1047 NAICS industries and 16 "exceptions." Of these NAICS industries and exceptions, 533 are covered by size standards based on average annual receipts, 509 on average number of employees, and five on average assets.

Over the years, some members of the public have remarked that SBA's 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 size standards review was in the late 1970s and early 1980s. Size standards reviews since then, until this comprehensive review, were generally limited to a few specific industries in response to requests from the public and from Federal agencies. SBA also makes periodic inflation adjustments to its monetary based size standards. The latest inflation adjustment to size standards was effective July 14, 2015 (79 FR 33647 (June 12, 2014)).

Because of changes in industry structure and the Federal marketplace since the last overall review, current data no longer supported existing size standards for some industries. Accordingly, in 2007, SBA began a comprehensive review to determine whether existing size standards are consistent with current data, and to revise them, when necessary.

In addition, on September 27, 2010, the President of the United States signed the Small Business Jobs Act of 2010 (Jobs Act), 111 Public Law 240, 124 Stat. 2504, Sep. 27, 2010. 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 review of 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, “Improving Regulation and Regulatory Review.”

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

As part of SBA’s comprehensive size standards review, grouped by NAICS Sector, the Agency reviewed the 364 size standards for industries in NAICS Sector 31–33, Manufacturing, to determine whether they should be retained or revised. After its review, SBA published in the September 10, 2014 issue of the **Federal Register** (79 FR 54145) a proposed rule to increase size standards for 209 industries in NAICS Sector 31–33, Manufacturing. SBA also proposed to amend Footnote 4 to NAICS 324110, Petroleum Refiners, in its table of size standards in two ways: (1) By increasing the refining capacity component of the size standard from 125,000 to 200,000 barrels per calendar day total capacity for businesses that are primarily engaged in petroleum refining, and (2) by eliminating the requirement that 90 percent of the output to be delivered be refined by the successful bidder from either crude oil or bona fide feedstocks. SBA also proposed amending Footnote 5 to NAICS 326211, Tire Manufacturing (except Retreading), to reflect the current Census Product Classification Codes 3262111 and 3262113.

As part of ongoing comprehensive size standards review, SBA developed a “Size Standards Methodology” White Paper 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 included it as a supporting document in the electronic docket of the proposed rule at [www.regulations.gov](http://www.regulations.gov).

In evaluating an industry, SBA generally examines its characteristics (such as average firm size, startup costs, industry competition, and distribution of firms by size) and the level and share of Federal contract dollars that small businesses receive. SBA also examines

the potential impact a size standard revision might have on its financial assistance programs, and whether a business under a revised size standard would be dominant in its industry. SBA analyzed the characteristics of every industry in NAICS 31–33, using mostly a special tabulation obtained from the U.S. Bureau of the Census from its 2007 Economic Census (the latest available). For the proposed rule, SBA also evaluated the small business share of Federal contracts in each of those industries using data from the Federal Procurement Data System—Next Generation (FPDS–NG) for fiscal years 2009–2011. To evaluate the impact of changes to size standards on its loan programs, SBA analyzed internal data on its guaranteed loan programs for fiscal years 2010–2012. In this final rule, SBA has updated the impacts of size standards changes using the FPDS–NG and loan data for fiscal years 2012–2014.

SBA’s “Size Standards Methodology” White Paper 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 September 10, 2014 proposed rule, SBA detailed how it applied its “Size Standards Methodology” to review and modify when necessary, the existing size standards for industries in NAICS Sector 31–33. SBA sought comments from the public on a number of issues about its “Size Standards Methodology,” such as whether SBA should consider other approaches; whether SBA should evaluate alternative or additional factors or data sources; whether SBA’s manner of 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 current or comprehensive data; and whether there are other facts or issues that SBA should consider.

SBA sought comments on its proposed size standards together with other issues that could affect a final determination. Specifically, SBA requested comments on the following:

1. SBA proposed five levels of employee based size standards for industries in Manufacturing and for industries in other Sectors that have employee based size standards (except for Wholesale Trade and Retail Trade): 500 employees, 750 employees, 1,000 employees, 1,250 employees, and 1,500 employees. SBA invited comments on

whether these were appropriate levels and requested suggestions for alternatives, if commenters thought them more appropriate.

2. Consistent with its policy of not lowering any size standards in its recently completed proposed and final rules on receipts based size standards, SBA proposed retaining the current 500-employee minimum and 1,500-employee maximum size standards for all industries in the Manufacturing Sector. In its “Size Standards Methodology,” available at [www.sba.gov/size](http://www.sba.gov/size), SBA had proposed setting the minimum size standard for these industries at 250 employees and the maximum size standard at 1000 employees. That would entail lowering size standards for some industries. SBA invited comments on whether it should maintain the 500-employee minimum and the 1,500-employee maximum size standards or lower them to 250 employees and 1,000 employees, respectively, as the Agency proposed in its “Size Standards Methodology.” SBA requested suggestions on alternative minimum and maximum levels, if commenters thought them more appropriate. For the same reason, SBA also proposed to retain the current size standards for 19 industries when analytical results might support lowering them. SBA had sought comments on whether SBA should lower them solely based on its analysis or retain them at their current levels in view of current economic conditions.

3. SBA sought feedback on whether it should adjust employee based size standards for labor productivity growth. SBA periodically increases receipts based size standards for inflation. Should SBA take labor productivity growth and technological change into consideration when it reviews employee based standards? If so, what data are available to assist SBA in evaluating such factors? What if such an evaluation leads to lower size standards for some industries? How should SBA apply the results to its size standards?

4. SBA sought feedback on whether its proposal to increase size standards for 209 industries and retain current size standards for 155 industries is appropriate, given the economic characteristics of each industry reviewed in the proposed rule. SBA also sought feedback and suggestions on alternative size standards, if commenters thought them more appropriate.

5. SBA invited comments on its proposal to increase the capacity component of the Petroleum Refiners (NAICS 324110) size standard from 125,000 barrels per calendar day (BPCD)

total Operable Atmospheric Crude Oil Distillation capacity to 200,000 BPCD and retain the employee component at the current 1,500-employee level. SBA also welcomed comments on its proposal to allow business concerns to qualify either under the 1,500-employee size standard or under the 200,000 BPCD capacity size standard, if the firm, together with its affiliates, is primarily engaged in petroleum refining. Finally, SBA also requested feedback on its proposal to eliminate the requirement that “[t]he total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.”

6. SBA’s proposed size standards were based on five primary factors—average firm size, average assets size (as a proxy of startup costs and entry barriers), four-firm concentration ratio, distribution of firms by size, and the level and small business share of Federal contracting dollars of the evaluated industries. SBA invited comments on these factors and/or suggestions on other factors that it should consider when evaluating or revising employee based size standards. SBA also sought information on relevant data sources, other than what it uses, if available.

7. SBA gave equal weight to each of the five primary factors in all industries. SBA asked for feedback on whether it should continue giving equal weight to each factor or whether it should give more weight to one or more factors for certain industries. SBA requested that recommendations to weigh some factors more than others include suggested weights for each factor along with supporting information.

8. For analytical simplicity and efficiency, in the proposed rule, SBA refined its size standard methodology to obtain a single value as a proposed size standard instead of a range of values, as in its past size regulations. SBA welcomed any comments on this procedure and suggestions on alternative methods.

#### Summary and Discussion of Comments

SBA received 26 comments to the proposed rule, but only 17 were unique comments as some commenters submitted the same comment more than once. All of the comments are available at [www.regulations.gov](http://www.regulations.gov) (RIN 3245–AG50) and are summarized and discussed below.

#### Comments on NAICS 324110, Petroleum Refiners

Footnote 4 of SBA’s table of size standards relates to NAICS 324110,

Petroleum Refiners. SBA proposed to amend Footnote 4 in two ways: (1) By increasing the refining capacity component of the size standard from 125,000 barrels per calendar day (BPCD) total capacity to 200,000 BPCD total capacity for businesses that are primarily engaged in petroleum refining, and (2) by eliminating the requirement that 90 percent of the output to be delivered be refined by the successful bidder from either crude oil or bona fide feedstocks.

SBA received only one comment on these proposed changes. Specifically, the commenter expressed concerns about removing the requirement that 90 percent of the output to be delivered be refined by the successful bidder from either crude oil or bona fide feedstocks. The commenter contended that the change would have an adverse impact on small businesses under NAICS 424720, Petroleum and Petroleum Product Merchant Wholesalers, particularly those wishing to participate in the Defense Logistics Agency’s (DLA) bulk fuel small business set aside program. To mitigate this, the commenter suggested a provision allowing the procuring agency to source refined petroleum products from small businesses in NAICS 424720 under a small business set-aside program. Assuming that waivers of the nonmanufacturer rule will be eliminated under the proposed rule, the commenter suggested some changes to the waiver rule.

#### SBA’s Response

The changes affect only the small business eligibility of petroleum refiners. They do not affect the eligibility of wholesalers and other suppliers of petroleum products. Companies that qualify as small for supplying petroleum products they did not manufacture or produce can continue to qualify as small under SBA’s nonmanufacturer rule (13 CFR 121.406(b)). Under the nonmanufacturer rule, a business is deemed small if it has 500 or fewer employees (including its affiliates), is primarily engaged in the retail or wholesale trade and normally sells the type of item being supplied, takes ownership or possession of the product, and provides the product of a small manufacturer (in this case, the product of a small petroleum refiner). The proposed changes do not affect the 500-employee nonmanufacturer size standard and hence the eligibility of wholesalers and dealers of petroleum products under the nonmanufacturer rule.

Based on evaluation of relevant industry and procurement data and

public comments to the proposed rule, in this final rule, SBA is adopting the changes to the size standard for NAICS 324110, as proposed. Specifically, SBA is increasing the refining capacity component of the Petroleum Refiners (NAICS 324110) size standard from 125,000 BPCD to 200,000 BPCD total capacity for businesses that are, together with their affiliates, primarily engaged in refining crude petroleum into refined petroleum products. A firm’s “primary industry” is determined in accordance with 13 CFR 121.107. In addition, the final rule eliminates the requirement that 90 percent of output being delivered is refined by a successful bidder. Accordingly, SBA also revises Footnote 4 of SBA’s table of size standards to reflect these changes.

Under the revised size standard, for purposes of Federal procurement, a petroleum refiner can qualify as small under the 1,500-employee size standard or under the 200,000 BPCD total capacity size standard. To qualify under the capacity size standard, the firm, together with its affiliates, must be primarily engaged in refining crude petroleum into refined petroleum products. SBA is removing the requirement that 90 percent of the output to be delivered be refined by the successful bidder from either crude oil or bona fide feedstocks because the general requirement on a supply contract that is set aside for small business is that the small business manufacturer must perform 50 percent of the cost of manufacturing, or may not subcontract more than 50 percent of the contract to another firm.

#### Comments on NAICS 316210, Footwear Manufacturing

SBA received seven comments on NAICS 316210, Footwear Manufacturing. The current size standard for NAICS 316210 is 1,000 employees and SBA proposed to retain it at the current level. Four comments supported SBA’s proposal, while two opposed it. The seventh comment was ambiguous with respect to the size standard. These comments and SBA’s responses are discussed below.

#### Comments Supporting the Current 1,000-Employee Size Standard for NAICS 316210

Three footwear manufacturers supported maintaining the current 1,000-employee size standard for NAICS 316210. All three stated that they are the major and continuous suppliers to the U.S. military, and footwear products they manufacture meet the specifications as required by the U.S. Department of Defense (DoD) and the

Berry Amendment (10 U.S.C. 2533a). The Berry Amendment requires DoD to give preference in procurement to domestically produced, manufactured, or home-grown products, most notably food, clothing, fabrics, and specialty metals. Normally, one would expect special manufacturing requirements to point to the need for a larger size standard, not lower. Additionally, all three argued that, unlike large footwear manufacturers with diversified market and product bases, they rely heavily on small business contracts from the U.S. Defense Logistics Agency (DLA) for their survival. Two of these commenters also agreed with SBA's position of not reducing size standards in the current economic environment.

The first commenter explained that footwear contractors to DoD are often torn between two forces: (1) The need to increase the number of employees to meet DoD's needs, and (2) the need to maintain small business status to compete for DoD contracts. The commenter maintained that footwear manufacturing is highly labor intensive and DoD contract awards and their completions are associated with significant changes in employee headcounts. Significant swings in employee counts also occur with elevated demands for footwear by DoD during times of war, the commenter added. The commenter argued that retaining the current 1,000-employee size standard enables small businesses to meet DoD's needs without jeopardizing their small business status. This would also minimize the frequency of swings between small and large business status among footwear contractors and the impact on the DoD's supply chain, the commenter added. The same commenter stated that it relies on its small business status to be able to compete with large businesses. Many large businesses in the footwear industry are diverse, multi-national corporations with several thousand employees with significantly more resources and cost efficiencies, the commenter explained. The commenter asserted that DoD contracts are often awarded based on the lowest price where large businesses have significant cost advantages, and would be able to squeeze out small businesses if there were no small business protection. The 1,000-employee size standard helps small footwear manufacturers protect themselves as suppliers to DoD, the commenter concluded.

The second commenter also maintained that many contracts it received to supply combat boots to the U.S. military were awarded because of its small business status. Unless the

small business size standard remains at 1,000 employees, its future will be in jeopardy, the commenter added. The commenter asserted that lowering the size standard would have a negative impact on its business and employees it supports. Any change in the size standard below the 1,000-employee level would definitely have a negative impact on its ability to continue manufacturing footwear for DoD and the industry, the commenter noted.

The third commenter, whose primary customers include DoD/DLA, supported keeping the 1,000-employee size standard because it allows for employment fluctuations during the course of contract performance. The commenter stated that, prior to October 1, 2012, when the size standard for NAICS 316210 was 500 employees, the majority of DoD contracts for combat boots went to large businesses with several thousand employees against which the company had a difficult time competing on a full and open basis. There are significant differences in resources available to companies with many thousands of employees versus those with less than 1,000 employees, the commenter added. To demonstrate that the company has been the foremost innovator for military footwear, the commenter provided numerous new combat boots it developed over the years. In light of the decimation of U.S. footwear manufacturing industry by imports reducing its share of all footwear purchase in the U.S. to less than 2 percent in 2013, the 500-employee footwear manufacturing size standard established more than a half century ago has grown out of date with the realities of the industry, the commenter explained. This commenter also stated that because the footwear industry is highly labor intensive, one DoD award can easily cause a contractor's employment level to increase by 10–20 percent or more, resulting in a change to its status from a small business to a large business during the course of the contract. This can be very disruptive to the company and its employees, the commenter added. The commenter also provided a detailed analysis of average firm size, startup costs and entry barriers, industry competition, and Federal contracting trends in support of SBA's proposal to maintain the 1,000-employee size standard for Footwear Manufacturing. If the size standard were to revert to 500 employees for NAICS 316210, it would have a lasting negative impact on its business and harm the areas where its employees live, the commenter concluded.

SBA also received a joint comment from two elected officials supporting the 1,000-employee size standard for Footwear Manufacturing on behalf of a footwear manufacturer operating factories in their Districts. They maintained that the company manufactures its Berry Amendment-compliant footwear in the U.S. and is a major supplier to the U.S. military. They supported SBA's proposal to maintain the current 1,000-employee size standard for Footwear Manufacturing in light of decreases in DLA contracts for military boots as it would help the company remain competitive in the market. The commenters added that lowering the size standard is not in the best interest of small footwear manufacturers in the current economic environment.

*Comments Opposing the Current 1,000-Employee Size Standard for NAICS 316210*

SBA received two comments opposing the 1,000-employee size standard for footwear manufacturers. One was from a footwear manufacturing subsidiary of a large multi-national company and the other was from an elected official. These comments and SBA's responses are below.

The first commenter argued that in 2012, SBA, without prior notice or opportunity to comment, issued an interim final rule to revise size standards to conform to NAICS 2012. The commenter also questioned SBA's justification for using an interim final rule (IFR). The commenter asserted that the 1,000-employee size standard for Footwear Manufacturing was adopted solely for administrative reasons without substantive analyses of industry and Federal contracting data as required by the Small Business Act or SBA's own size standards methodology. The commenter further argued that SBA consolidated five separate footwear manufacturing NAICS codes into one footwear manufacturing code (NAICS 316210) and changed the size standard from 500 employees to 1,000 employees by arbitrarily selecting the highest size standard in the group. The commenter added that SBA did not provide a detailed analysis and justification to establish a single size standard for a group of 4-digit NAICS codes as required by 15 U.S.C. 632(a)(7). The commenter maintained that the increase of size standard to 1,000 employees has allowed one or two firms between 500 employees and 1,000 employees to become dominant in the military footwear industry. The commenter contends that has harmed truly small businesses by forcing them to compete

against much larger firms even in small business set aside procurements, as well as large businesses by forcing agencies to use small business set asides and precluding them from participating in the market.

The commenter claimed that the current proposed rule and proposed size standards are fundamentally flawed. The commenter contended that the proposed rule does not meet the requirements of the Jobs Act because the Agency has not held two public forums in different geographic regions of the country as required by the Jobs Act. The commenter claimed that the actual industry data not only fails to support the current 1,000-employee size standard for Footwear Manufacturing, but supports lowering it to below 500 employees. In addition, the commenter argued that SBA failed to explain how the 1,000-employee size standard is appropriate for Footwear Manufacturing. The commenter stated that in addition to being based on the faulty 2012 IFR, the proposed size standard for Footwear Manufacturing is based on insufficient data and is not supported by the publicly available data. The commenter argued that the proposed rule provides no data for start-up costs, industry competition, or size distribution of firms relating to the footwear manufacturing industry. Similarly, there is no discussion on secondary factors (such as technological changes, industry growth trends, and SBA financial assistance and program factors), the commenter contended. The commenter maintained that SBA has not published data related to the vast majority of the primary factors it must consider and has not provided sufficient analysis of the size standard. SBA's failure to gather and consider data on each of the required factors demonstrates that the rulemaking is legally deficient, the commenter argued.

The commenter argued that the limited data SBA provides does not support the 1,000-employee size standard for military footwear manufacturing; the actual data require a lower size standard. The commenter stated that, with the 1,000-employee size standard, every significant domestic manufacturer of military footwear, except for two companies, is now considered a small business. The commenter maintained that publicly available Federal procurement data show that SBA's improper change to a 1,000-employee size standard has allowed "small business" to take a substantial share of the military footwear market. The commenter alleged that SBA's data on Federal contracting is inaccurate because the

Agency has willfully and arbitrarily excluded Federal contracting data after October 2012 from its analysis. For example, SBA asserts that small businesses account for 7.8 percent of the Federal footwear market, while FPDS-NG demonstrates that the actual percentage is much higher, the commenter claimed.

The commenter contended that the 1,000-employee size standard for the footwear manufacturing industry has created a situation where one firm is now dominant in the industry. By raising the size standard from 500 employees to 1,000 employees, SBA has allowed two previously large firms to be reclassified as small, such that six of the eight companies in the industry are "small" businesses, the commenter maintained. Accounting for more than 28 percent of fiscal year 2014 dollars spent in NAICS 316210 nationwide and more than twice the share of other small business, one small business has become dominant in the industry, the commenter argued. SBA cannot adopt size standards which would cause a concern to become dominant in its field of operation, the commenter added. The commenter argued that SBA has provided no data to support its statement that no individual firm at or below the proposed size standards will be large enough to dominate its field of operation. SBA has not performed such an analysis with respect to the footwear manufacturing industry and failed to comply with the statutory requirement that small businesses are only those that are not dominant in their field of operation, the commenter alleged.

The commenter argued that SBA's position not to lower size standards, even when its analysis might support a reduction, is arbitrary and capricious and violates the requirements of the Act and SBA's own methodology. This "policy" is inconsistent with congressional intent and SBA's mission to aid, counsel, assist and protect the interests of small business concerns, the commenter maintained. The commenter added that this policy results in otherwise large businesses being identified as small and being afforded special treatment that was intended for small businesses, with repercussions for the entire industry that SBA is required to consider. The commenter contended that there is no basis to support SBA's assertion that not lowering size standards would create jobs. Changing size standards would have no impact on the government's demands for goods and services and job creation, the commenter explains. In other words, the commenter suggested that there is no impact on the economy and job creation

whether the contracts are performed by large or small businesses. The commenter further argued that SBA failed to consider the impacts the size standard changes would have by precluding certain companies from Federal opportunities or by forcing truly small businesses to compete against otherwise large businesses.

The commenter argued that to comply with U.S. military requirements and the Berry Amendment, military footwear manufacturing involves a very distinct production process from commercial footwear manufacturing. Thus, the commenter recommended that SBA create a military footwear manufacturing exception to NAICS 316210, with a size standard of 500 employees. The commenter argued that, given the special production requirements necessary to comply with the Berry Amendment, the military footwear industry supports a separate industry designation as an exception to NAICS 316210. The commenter recommended that SBA return the size standard for Footwear Manufacturing to 500 employees and create a separate size standard for the military footwear industry as an exception to NAICS 316210 with a size standard well below 500 employees.

The second commenter, an elected official, expressed concerns about the size standard for Footwear Manufacturing. The commenter contended that the size standard for Footwear Manufacturing, increased in 2012 from 500 employees to 1,000 employees, not only endangers an already fragile footwear manufacturing base, but also negatively affects the small businesses the proposed rule is designed to assist. The commenter maintained that, with only a limited number of companies remaining that can produce Berry Amendment compliant footwear, the size standard change for Footwear Manufacturing will have a detrimental impact on the military's ability to procure high quality and consistent products. The commenter added that the proposed 1,000-employee size standard for Footwear Manufacturing has created a dominant firm within the size standard contradicting the intent of the proposed rule. The commenter recommended that SBA reconsider the proposed rule and return the small business size standard for Footwear Manufacturing to 500 employees. This will not only ensure fair competition among the few remaining Berry compliant footwear manufacturers, but will also preserve the military's ability to obtain consistent quality footwear, the commenter concluded.

Another commenter supported a change to NAICS 316210 allowing a separate classification for the Berry Amendment footwear. The commenter also supported changing the small business classification to make the business field more competitive. However, it was not clear whether the comment was for increasing or decreasing the size standard for Footwear Manufacturing.

#### *SBA's Response*

Every five years, with a notice and comment process, the Office of Management and Budget (OMB) reviews and updates the NAICS industry definitions to reflect changes in the U.S. economy. In each NAICS update, OMB may create new industries and merge or modify others. In the 2012 update, effective January 1, 2012, OMB merged the five footwear manufacturing industries into a single, new NAICS industry—NAICS 316210, Footwear Manufacturing. Thus, the commenter's statement that SBA consolidated the five industries into one category is not accurate.

When OMB merges multiple NAICS industries or their parts into a single industry, SBA must determine a size standard for the new industry when adopting the updated NAICS to its table of size standards. For this, as explained in the IFR, SBA used a bright-line approach to adopting the highest size standard among the merged industries as the size standard for the new industry. Of the five merged footwear manufacturing industries, one had a 1,000-employee size standard, while four had a 500-employee size standard. Accordingly, SBA adopted a 1,000-employee size standard for the new footwear manufacturing industry. SBA applied the same approach to determine the size standard for about 25 other new or modified industries in NAICS 2012. SBA had applied this approach to update its size standards in response to the 2002 and 2007 NAICS updates with no adverse comments. To do otherwise and adopt a lower size standard would result in firms being disqualified from small business status without any analysis, comment or opportunity for review. There is no evidence that SBA's approach has ever resulted in firms that are dominant in the industry qualifying as small business concerns.

After receiving no inter-agency comments, SBA published the updated size standards as an IFR on August 20, 2012 (77 FR 49991), with an effective date of October 1, 2012. SBA provided a detailed justification for using the IFR with an effective date of October 1, 2012. The commenter's argument that

SBA provided no opportunity to comment on the rule is incorrect. SBA provided a 60-day comment period for the public and other concerned parties to comment on the size standards changes adopted in the interim final rule. SBA received only one comment on the IFR, which was unrelated to the 1,000-employee size standard for NAICS 316210, Footwear Manufacturing. Therefore, the 1,000-employee size standard for NAICS 316210, Footwear Manufacturing, has been in effect since October 1, 2012.

SBA does not agree with the commenter's assertion that SBA did not provide a detailed analysis and justification for establishing a single size standard for a group of industries at the 4-digit NAICS level as required by 15 U.S.C. 632(a)(7). That requirement only applies when SBA intends to establish a common size standard for a group of existing 6-digit NAICS codes at the 4-digit NAICS Industry Group level. It does not apply to the size standard that SBA adopted for NAICS 316210, Footwear Manufacturing, the new industry that OMB created by merging multiple NAICS industries as part of its NAICS 2012 updates because the five industries have similar production processes.

SBA disagrees with most of the arguments from the commenter regarding the Jobs Act and the analysis in the proposed rule. The commenter's allegation that SBA has not held any public forums under the Jobs Act is simply not correct. To obtain public input on numerous provisions under the Jobs Act, in 2011, SBA presented its size standards methodology to businesses in 13 cities in the U.S. and sought their input. SBA also provided information on the status of the comprehensive size standards review and on how interested parties can provide SBA with input and feedback on the size standards review.

SBA does not agree with the commenter's claim that the Agency failed to explain how the 1,000-employee size standard is appropriate for the footwear manufacturing industry. In the proposed rule, SBA detailed what industry and Federal contracting factors the Agency considered, how they were calculated, what data sources it examined, and how the results were translated to size standards supported by each factor. The 2012 IFR had no impact on the SBA's September 10, 2014 proposed rule to retain the 1,000-employee based size standard for Footwear Manufacturing.

As explained in the September 10, 2014 proposed rule, due to the lack of data on actual start-up costs, SBA uses average assets as a proxy for start-up

costs. SBA calculates average assets by combining the sales to total assets ratio for an industry from the Risk Management Association's (RMA) Annual eStatement Studies with average receipts from the Economic Census data. The 2009–2011 RMA data, the latest available when SBA prepared the proposed rule, did not contain the sales to assets ratio for the Footwear Manufacturing industries. Therefore, the average assets factor was left blank for Footwear Manufacturing. SBA measures industry competition using the four-firm concentration ratio and estimates a size standard only if its value is 40 percent or more. SBA did not have the data to compute the four-firm ratio for Footwear Manufacturing. Thus, that factor was not included in the analysis. As explained in the proposed rule as well as in SBA's size standards methodology, SBA analyzes the size distribution of firms using the Gini coefficient. The Gini coefficient factor was included for Footwear Manufacturing. As part of its review, SBA evaluates small business participation on Federal contracting and SBA's loan programs under both existing and proposed size standards as well.

The Federal contracting factor was evaluated for every industry, including Footwear Manufacturing. The impact on loan programs was evaluated on a more general basis as the vast majority of businesses receiving SBA's loans are well below the size standards. Aggregated impacts of proposed size standards on SBA's financial assistance and Federal procurement were provided as part of the regulatory impact analysis of the proposed rule. It was not practical to include the results for each of the 364 industries covered by the proposed rule. SBA considers secondary factors on a case by case basis. While the commenter complained that SBA did not consider secondary factors, it did not indicate what secondary factors SBA should consider in reviewing the size standard for Footwear Manufacturing. Regarding the publication of data, SBA provided the results for every primary factor and each industry, unless the data were not available or the results were not relevant. Additionally, the majority of the data SBA used in the proposed rule are publicly available.

While the commenter claimed that actual industry data support lowering the size standard for Footwear Manufacturing to below 500 employees, it did not provide any specific industry data or analysis to support its claim. The commenter's allegation that SBA willfully and arbitrarily excluded the Federal contracting data from October 2012 is incorrect. When SBA prepared

the proposed rule, the latest Federal contracting data that were available was for fiscal year 2011. The commenter wrongly interpreted the 7.8 percent Federal contracting factor for Footwear Manufacturing as the small business share of Federal footwear market. As explained in the proposed rule, that value represents the difference between small business share of total industry receipts (36.2%) and small business share of total contract dollars (44.0%) for Footwear Manufacturing.

SBA disagrees with the comment that the 1,000-employee size standard has allowed firms that are dominant in the footwear manufacturing industry to qualify as small. Similarly, SBA also disagrees with the argument that SBA did not perform the dominant analysis for Footwear Manufacturing. SBA examined the market share (*i.e.*, share of total industry's receipts) of firms that would become small under the proposed size standard in each industry and determined that no individual firm at or below the proposed size standard would be large enough to dominate its field of operation. Since it was not practical to include the market share for each of the 364 industries, SBA provided a range of values. Among the industries for which the Agency proposed to change the size standards in Manufacturing, the small business market share varied from 0.02 percent to

18.9 percent, averaging 1.7 percent. For Footwear Manufacturing, that value was 1.9 percent, suggesting that at that level market share no individual firm would be dominant under the proposed 1,000-employee size standard. SBA looks at the share of total industry receipts, not Federal contract dollars, to determine if a firm is dominant in the industry. Again, SBA considers a firm to be dominant when it is dominant in the entire industry, which in this case is NAICS 316210, Footwear Manufacturing. It does not relate to a specific product line manufactured by a particular company in that industry, or a particular agency. Otherwise, the number of companies dominant in their industries, based on a specific product they manufacture, would be too numerous to identify.

Furthermore, the data does not support the argument that the 1,000-employee size standard has harmed the companies below 500 employees by forcing them to compete against companies with 500–1,000 employees for small business set aside procurements. The results from small business goaling data shown in Table 1, "Contract Dollars in Footwear Manufacturing by Business Size," show that the share of companies below 500 employees in total contract dollars in Footwear Manufacturing related industries increased from about 31

percent during fiscal years 2011–2012 (*i.e.*, prior to the 1,000-employee size standard) to 46 percent during fiscal years 2013–2014 (*i.e.*, after the 1,000-employee size standard). More importantly, small business dollars awarded to firms below 500 employees increased from \$32 million to \$49 million, an increase of more than 50 percent. Similarly, the results also do not support the argument that the 1,000-employee size standard has reduced Federal opportunities for firms that are above the size standard. As can be seen from the table, dollars awarded to firms above 1,000 employees have increased more than 50 percent from \$18 million per year during fiscal years 2011–2012 to more than \$27 million during fiscal years 2013–2014. It is not that firms between 500 and 1,000 employees that became small under the 1,000-employee size standard are getting more contracts now, thereby reducing opportunities for firms below 500 employees and those above 1,000 employees. The data shows that they continued to get those contracts, but as small businesses under the 1,000-employee size standard. In fact, firms between 500 and 1,000 employees lost some of their market share to firms below 500 employees and those above 1,000 employees under the higher size standard.

TABLE 1—CONTRACT DOLLARS IN FOOTWEAR MANUFACTURING BY BUSINESS SIZE  
[In \$ million]

Business size (number of employees)	Average 2011–2012	Average 2013–2014
<b>Other than small business</b>		
NA .....	3.2	0.1
>=500 .....	0.3	0.5
>500 to >=1,000 .....	45.4	5.3
>1,000 .....	18.4	27.6
Other than small total .....	67.3	33.4
<b>Small business</b>		
NA .....	3.3	1.0
>=500 .....	31.6	48.6
>500 to >=1,000 .....	1.8	23.1
>1,000 .....	0.3	0.2
Small total .....	36.9	72.9
<b>Overall</b>		
NA .....	6.5	1.1
>=500 .....	31.9	49.1
>500 to >=1,000 .....	47.2	28.4
>1,000 .....	18.7	27.8
Overall total .....	104.3	106.4

SBA is unable to verify the argument that one previously large business that

became small under the 1,000-employee size standard captured more than 28

percent of total small business dollars awarded under NAICS 316210 in 2014.

Based on the analysis of contract data for Fiscal year 2014, SBA found no individual firm receiving more than 12 percent of small business dollars awarded under for NAICS 316210. Moreover, because agencies still continued to apply older footwear manufacturing NAICS codes (albeit incorrectly) for footwear contracts, the results based on NAICS 316210 alone would be misleading. Using the data for all footwear manufacturing related NAICS codes, SBA found that no individual firm accounted for more than 19 percent of small business dollars awarded in those NAICS codes for fiscal year 2014. These levels of market share do not suggest that the size standard has classified dominant firms as small.

SBA disagrees with the comment that the Agency’s decision not to lower any size standards was arbitrary and capricious and violates the statute and Agency’s methodology. Although not lowering small business size standards has been SBA’s general policy to enhance small business participation in Federal programs in the current economic environment, SBA does make exceptions. For example, in a final rule (RIN 3245–AG51) published elsewhere in this **Federal Register**, SBA has lowered size standards for three mining industries that are not part of Manufacturing, Wholesale Trade, or Retail Trade. In the September 10, 2014 proposed rule, SBA provided a detailed analysis to explain why lowering size standards would be against the best interests of small businesses. SBA believes that businesses below 500 employees will be better off competing with companies up to 1,000 employees for small business set aside procurements than competing for unrestricted procurements against

companies that have several thousand employees. Because small businesses do not have the economies of scale (automation, marketing, production, technology, etc.) that larger enterprises have, small businesses generally increase their employees, resources, and tools when they get a new contract. As a result, SBA believes that small businesses will add more to the economy by hiring people, and purchasing equipment, materials, and technology that larger businesses might already have on hand.

SBA disagrees and does not see the need for creating an exception for military footwear manufacturing. According to the information provided by the commenter, there exist numerous firms that are already in compliance with the Berry Amendment. SBA is not convinced with the rationale why a lower size standard is warranted to comply with contracts with certain requirements. The Berry Amendment requires DoD to give preference in procurement to domestically produced, manufactured, or home-grown products, most notably food, clothing, fabrics, and specialty metals. Normally, one would expect special manufacturing requirements to point to the need for a larger size standard, not lower.

In addition, the available industry data does not support a 500-employee size standard for Footwear Manufacturing, especially for military footwear manufacturing. Firms serving the military footwear market are, on average, considerably larger than the rest of the firms in the industry. Thus, it would be inconsistent to have a lower size standard for the military footwear market and a higher standard for the rest of the industry. Furthermore, compliance with the Berry Amendment is not a function of the size of the

business performing a contract. Rather, it is a function of the origin of the products, which small businesses can certainly manufacture. Moreover, there are several small footwear manufacturers that manufacture footwear that is compliant with the Berry Amendment.

Most importantly, SBA is concerned that lowering the size standard would reduce the pool of small businesses that are available to meet the DLA/DoD requirements under small business procurements for military footwear. This would cause the Government to procure its needs through more full and open competition, thereby forcing smaller firms, including those between 500 employees and 1,000 employees, to compete with firms many times their size.

In response to the comments, SBA updated the Federal contracting factor for Footwear Manufacturing using FPDS–NG data for fiscal years 2013–2014. It should be noted that the Federal contracting factor is calculated based on the 1,000-employee size standard for NAICS 316210. Following OMB’s merging of five footwear manufacturing industries to one industry, RMA’s eStatement Studies started publishing the sales to total assets ratio for the new industry (NAICS 316210). Accordingly, using that data for years 2012–2014, SBA is now also able to calculate the average assets factor for NAICS 316210, which was not included in the proposed rule. The updated results are shown in Table 2 “Updated Size Standards Analysis for Footwear Manufacturing (No. of Employees),” below. As can be seen from the table, the updated results reconfirm the 1,000-employee size standard for NAICS 316210, Footwear Manufacturing.

TABLE 2—UPDATED SIZE STANDARDS ANALYSIS FOR FOOTWEAR MANUFACTURING  
[Number of Employees]

	Simple average firm size (number of employees)	Weighted average firm size (number of employees)	Average assets size (\$ million)	Four-firm ratio (%)	Four-firm average size (number of employees)*	Gini coefficient	Federal contract factor (%)	Calculated size standard (number of employees)
Factor .....	55	550	3.7	.....	NA	0.827	3.8	1,000
Size standard .....	500	1,500	500	.....	NA	1,500	1,000	

\*Size standard for four-firm average size is not calculated because there is no data to compute the four-firm ratio.

Therefore, based on the analyses of all supportive and opposing comments on the proposed rule and latest industry and contracting data available when this final rule was prepared, SBA is retaining the 1,000-employee size

standard for Footwear Manufacturing (NAICS 316210), as proposed.

**Comments on Subsector 315, Apparel Manufacturing**

SBA received four comments on size standards for industries within NAICS Subsector 315, Apparel Manufacturing.

SBA proposed to increase the size standard for seven industries in that subsector from 500 employees to 750 employees.

A commenter supported proposed increases to size standards for the apparel manufacturing industries from



500 employees to 750 employees. The commenter argued that the current 500-employee size standard has been a major deterrent in its ability to hire and retain employees to meet unexpected surges in demand of clothing items by DLA from small businesses, especially in times of war. Higher size standards are important for small clothing manufacturers to remain eligible to compete for small business set aside purchases by DoD and DLA, the commenter observed. The commenter pointed out that, because these industries are labor intensive, higher size standards will offer small businesses greater opportunities to hire more people in different areas of the country.

A labor organization also supported proposed increases to size standards for NAICS codes 315210 (Cut and Sew Apparel Contractors), 315220 (Men's and Boys' Cut and Sew Apparel Manufacturing), 315240 (Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing), and 315280 (Other Cut and Sew Apparel Manufacturing) from 500 employees to 750 employees. These NAICS codes apply to procurement of military apparel by DoD and DLA to support U.S. troops, and the current 500-employee size standard has made it difficult for small business apparel contractors to meet demands during surges in troop support acquisitions (also referred to as surge capability), the commenter maintained. The 500-employee size standard has created persistent capacity and price problems for small businesses, the commenter added. The organization stated that small apparel contractors find themselves torn between the need to maintain the surge capabilities expected by the DLA and the need to maintain the small business status necessary to compete for DLA uniform contracts. Therefore, the 750-employee size standard will allow small apparel and clothing contractors to expand production temporarily when demand surges without jeopardizing their small business status, the commenter maintained. The capability to meet unexpected surges in demand for items such as uniforms and body armor is critical to maintaining warfighter readiness, the organization noted. Citing a May 2013 survey of DLA's clothing and apparel contractors, the organization stated that 90 percent of respondents were dependent on DoD contracts for their financial viability.

An Alaska Native Corporation representative opposed the proposed 750-employee size standard for Subsector 315, Apparel Manufacturing. The Corporation owns several small

disadvantaged businesses in the apparel manufacturing industry, the commenter observed. The commenter argued that raising the size standard would negatively affect the growth of their company and profits of their shareholders. Raising size standards would make a greater number of large companies eligible for small business status, thereby increasing competition in the apparel manufacturing market and reducing opportunities for their company and other small businesses, the commenter explained. This would be detrimental in light of decreases in Federal government spending in the apparel manufacturing market over the last 5 years because there would be more companies bidding on fewer contracts and fewer opportunities for true small businesses, the commenter concluded.

Another commenter recommended a 250-employee size standard for several industries within Subsector 315, namely NAICS 315210 (Cut and Sew Apparel Contractors), 315220 (Men's and Boys' Cut and Sew Apparel Manufacturing), 315240 (Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing), 315280 (Other Cut and Sew Apparel Manufacturing), and 315990 (Apparel Accessories and Other Apparel Manufacturing). The commenter argued that the 250-employee size standard would offer protection for emerging small businesses, given the fragility of the clothing and textile industry. However, the commenter provided no data or analysis to support the argument.

#### *SBA's Response*

Based on its analysis of industry and Federal procurement data and public comments, SBA has determined that it will adopt the 750-employee size standard for the seven industries in Subsector 315, Apparel Manufacturing, as proposed. In recent years, DLA has strived to increase its awards for procuring military clothing through small businesses. This has put strains on many small businesses, according to the commenters, to meet DLA's expected surge capabilities while maintaining their small business size status. The increase from 500 employees to 750 employees will allow a number of small businesses to take on these contracts and to hire more workers without jeopardizing their eligibility. Based on data from the Economic Census and System of Award Management (SAM), only about 10 additional businesses that are primarily involved in Apparel Manufacturing will qualify as small under the 750-employee size standard. SBA does not believe that

the higher size standard will cause a significant negative impact on existing small businesses. Therefore, SBA is adopting the 750-employee size standard for all industries in NAICS Subsector 315, Apparel Manufacturing.

#### *Comments on NAICS 327993, Mineral Wool Manufacturing*

A comment from a trade association for manufacturers of fiber glass and rock and slag wool insulation addressed the size standard for NAICS 327993, Mineral Wool Manufacturing. Specifically, the association supported SBA's proposal to increase the size standard for NAICS 327993 from 750 employees to 1,500 employees.

#### *SBA's Response*

Because there were no comments opposed to this increase, SBA is adopting the 1,500 employee size standard for NAICS 327993, as proposed.

#### **Comments on NAICS 336412, Aircraft Engine and Engine Parts Manufacturing; and NAICS 336413, Other Aircraft Part and Auxiliary Equipment Manufacturing**

SBA proposed increasing the size standards for NAICS 336412 from 1,000 employees to 1,500 employees and for NAICS 336413 from 1,000 employees to 1,250 employees. A military aircraft parts and auxiliary equipment manufacturer supported the proposed increases to size standards for both industries, but recommends that SBA adopt the same 1,500-employee size standard for NAICS 336413 as well, instead of the proposed 1,250-employee size standard. The commenter argued that the differences in manufacturing engine parts and other aircraft equipment are minimal. The single size standard for both industries would provide uniform employee levels for small business eligibility and offer them more flexibility to adjust to the requirements of the marketplace, the commenter explained.

#### *SBA's Response*

SBA has not adopted the recommendation for three reasons. First, although product lines and production methods may be related, there exist significant differences in industry characteristics between the two industries. For example, based on the 2007 Economic Census, the average size of firms is 230 employees for NAICS 336412 as compared to 146 employees for NAICS 336413. Similarly, average assets size is about \$74 million for NAICS 336412 as opposed to only \$26 million for NAICS 336413. Second, the

size standards for aircraft, aircraft parts and equipment related exceptions to NAICS 541712 (Research and Development in the Physical, Engineering and Life Sciences (except Biotechnology)) are tied to size standards for industries within NAICS Industry Group 3364 (Aerospace Product and Parts Manufacturing). Therefore, changing size standards for any of the industries in NAICS Industry Group 3364 would also require changing the size standards for exceptions under NAICS 541712. Third, the National Defense Authorization Act of fiscal year 2013 (NDAA 2013) limits establishing a single or common size standard for multiple industries without proper justification and without publishing such a size standard for public comments. Obviously, given the industry data that support different size standards for the two industries, it would be difficult to justify the single size standard for them in accordance with NDAA 2013. As part of its quinquennial review of all size standards required by the Jobs Act, SBA will reevaluate the size standards for those industries in the coming years and consider the recommendation at that time.

For the above reasons, in this final rule, SBA is adopting the 1,500-employee size standard for NAICS 336412 and the 1,250-employee size standard for NAICS 336413, as proposed.

#### **Comments on NAICS 611512, Flight Training**

A commenter supported increasing size standards for NAICS Sector 31–33 manufacturing, specifically increasing the size standard for NAICS 336413 from 1,000 employees to 1,250 employees. The commenter, operating primarily in NAICS 611512 (Flight Training), advocated for the creation of a separate manufacturing NAICS code for “Military Defense Training” with a size standard of 1,500 employees. Contracting Officers have recently been utilizing NAICS 336413 for solicitations for services contracts involving military training due to its higher size standard and technical nature of military training, the commenter explained. NAICS 611512 and its \$27.5 million receipts based size standard do not reflect the requirements for military defense training, the commenter added. The commenter argued that flight training can more realistically be categorized under NAICS Sector 31–33 (Manufacturing) rather than under Sector 61 (Education).

#### *SBA's Response*

SBA cannot make the suggested change for several reasons. First, the September 10, 2014 proposed rule and this final rule only apply to industries in NAICS Sector 31–33, Manufacturing. The September 10, 2014 proposed rule did not address NAICS 611512, Flight Training. SBA evaluated NAICS 611512 and its size standard in a proposed rule (76 FR 70667 (November 15, 2011)) that was part of its comprehensive review of Sector 61, Educational Services. In the final rule, SBA determined that data did not support an increase in the size standard for NAICS 611512. The final rule (77 FR 58739 (September 24, 2012)) fully explains and justifies how SBA arrived at its determination that the then existing \$25.5 million size standard for NAICS 611512 should remain unchanged. It was increased for inflation to \$27.5 million, effective July 14, 2014, along with increases to all other monetary based size standards (79 FR 33647 (June 12, 2014)).

Second, SBA has no authority or expertise to create new NAICS codes or modify existing ones. Creating or modifying NAICS industry definitions or codes is done through the U.S. Economic Classification Policy Committee under the Office of Management and Budget (OMB) in cooperation with statistical agencies from the U.S., Canada, and Mexico. If the commenter believes that a new NAICS code is warranted for military flight training, it should approach OMB (see <http://www.census.gov/eos/www/naics/>). Every five years, OMB updates NAICS codes and definitions, the next being the NAICS 2017 updates.

For Federal procurement, the contracting officer must specify the NAICS code and size standard in accordance with the principal purpose of the procurement (13 CFR 121.402(b)). When the government purchases manufactured products, the contracting officer must assign the appropriate NAICS code and size standard from Sector 31–33. There may be ancillary services that accompany the manufactured product, but if the principal purpose of the procurement action is to purchase product, then the NAICS code and small business size standard are from the manufacturing sector. If a service is the primary purpose of the procurement, it should be classified under the appropriate services NAICS code and size standard. When the government procures both products and services, it must determine which is the greater part of the contract, and must assign the appropriate NAICS code and size

standard (13 CFR 121.402(b)). Any interested party adversely affected by a contracting officer's NAICS code designation may appeal that designation to SBA's Office of Hearings and Appeals (OHA) (see 13 CFR 121.1101–1103).

#### **Comments on NAICS 321212, Softwood Veneer and Plywood Manufacturing**

A commenter opposed SBA's proposal to increase the size standard for Softwood Veneer and Plywood Manufacturing (NAICS 321212) from 500 employees to 1,250 employees. The commenter maintained that the increase would have an impact on the majority of manufacturers in this industry by affecting the availability of Federal timber, because it would increase the competition for the timber sale set aside for small businesses in this industry by enlarging the pool of eligible small business manufacturers. The commenter argued that the proposed size standard increase is not warranted because companies that qualify as small under the current size standard already exist. The commenter was concerned that by allowing larger companies to qualify as small the proposed increase to the size standard for NAICS 321212 would negatively impact a number of companies that have made business decisions to remain below the 500-employee size standard to benefit from the SBA's timber set-aside program. With the proposed 1,250-employee size standard, the plywood and veneer manufacturers below 500 employees would lose the protection provided by the program, the commenter concluded.

#### *SBA's Response*

With respect to the argument that an increase to the size standard for NAICS 321212 or any other wood product manufacturing industry would negatively impact firms participating in the SBA's Commercial Timber Sale Set-Aside Program, the wood manufacturing industry size standards do not apply to determine eligibility for purposes of that program. Rather, the size standard for the timber sale set-aside program (except for salvage timber) is 500 employees (see 13 CFR 121.507), which SBA did not propose to increase.

The arguments that there are already small businesses under the existing size standard, that firms have made business decisions to remain small to benefit from the program, and that they would lose small business protection if additional firms qualify as small, are not valid reasons for not revising the size standard when the relevant industry data warrants doing so. Of the 14 industries in NAICS Subsector 321, Wood Product Manufacturing, based on

the results of the evaluation of industry characteristics (such as average firm size, industry concentration, and distribution of firms by size) and the Federal contracting factor, SBA proposed increasing the size standards for NAICS 321212 and four others, and retaining the current 500-employee size standard for nine industries. As can be seen from the results in Table 3 of the September 10, 2014 proposed rule, the industries for which SBA proposed increasing the size standards had significantly higher average firm size, four-firm concentration ratio and Gini coefficient than others. To still maintain their size standard at the 500-employee level would be inconsistent with SBA's mandate to adjust size standards based on current industry and market data. Moreover, based on the Economic Census and SAM data for NAICS 321212, only about five additional firms will qualify as small under the 1,250-employee size standard, suggesting that the higher size standard will have very minimal impact on businesses below the current 500-employee size standard. For these reasons, SBA is adopting the 1,250-employee size standard for NAICS 321212, as proposed. Similarly, SBA is adopting proposed size standards increases for four other industries in Subsector 321.

#### Other Comments

Two commenters offered general assessments of SBA's proposed rule. Both supported SBA's proposed five employee based size standard levels for Manufacturing and their incremental increases of 250 employees rather than 500 employees; however, one suggested that SBA should incorporate the sixth level at 250 employees and set the maximum employee based standard at 1,000 employees. A lower size standard would protect emerging manufacturers that are not able to compete with established larger businesses, the commenter explained. One opposed proposed increases to size standards in Manufacturing arguing that higher size standards would allow manufacturers to create less productive, low paying jobs, while the other commenter supported the increases except for industries in Subsector 315 for which the commenter suggested a lower 250-employee size standard.

Both commenters argued that the Agency should lower size standards when the analysis supports lowering them. One argued that not lowering size

standards would encourage manufacturers not to upgrade their facilities with advanced manufacturing techniques and allow larger manufacturers to compete with true small manufacturers. While one commenter suggested that SBA should not adjust employee based size standards for labor productivity growth and focus on protecting emerging businesses instead, the other pointed out that the lack of data on labor productivity would make adjusting size standards based on labor productivity difficult. One commenter supported weighing all factors equally, while the other suggested weighing some factors more than others for certain industries. In addition to employee counts, the second commenter suggested other criteria for establishing size standards, including business tenure (5 years), subcontracting limitations, revenue limits (\$30 million), and net worth limits (\$5 million). Lastly, both commenters endorsed SBA's approach to use a single value as a size standard as opposed to a range of values.

#### *SBA's Response*

Some of the issues the commenters have raised (such as lowering minimum and maximum size standards, using different factors and weighing them differently from others, lowering size standards, etc.) will be addressed when SBA updates its "Size Standards Methodology" for the next round of size standards review. With respect to SBA's policy of not lowering size standards when the data support doing so, SBA provided a detailed explanation in the proposed rule with respect to why lowering size standards is not in the best interest of small businesses in the current economic climate. SBA is concerned that lowering maximum and minimum levels of size standards would cause untold numbers of small businesses to lose their eligibility for Federal programs.

Incorporation of net worth into SBA's table of size standards is not practicable. It is not a value that lends itself to comparing businesses in a particular industry. A company's net worth can be affected by a number of things, such as debt, repurchased corporate stock, etc. Furthermore, data on net worth is not available by industry.

Other criteria proposed by the commenter would, SBA believes, be too nebulous, temporary, and subjective and therefore not useful when establishing

size standards that usually must remain static and in place for a number of years. Establishing small business eligibility based on multiple criteria (such as revenue limit, net worth limit, and employee count), as suggested by the commenter, would create unnecessary complexity and confusion in size standards.

#### **NAICS 326211, Tire Manufacturing (Except Retreading)**

In the September 10, 2014 proposed rule, SBA proposed amending Footnote 5 to the table of size standards relating to NAICS 326211, Tire Manufacturing (except Retreading). In the absence of comments opposing the proposed amendment, SBA is amending Footnote 5, as proposed, by replacing the former Census classification codes 30111 and 30112 with the new Census Product Classification Codes 3262111 and 3262113 respectively.

#### **Conclusions**

Based on the analyses of the latest industry and Federal contracting data available and thorough evaluation of all public comments on the proposed rule, SBA is adopting all size standards changes in NAICS Sector 31–33, Manufacturing, as proposed. Specifically, SBA is increasing size standards for 209 industries in NAICS Sector 31–33. These industries, along with their current and revised size standards are shown in Table 3 "Summary of Size Standards Revisions in NAICS Sector 31–33." SBA is also increasing the refining capacity component of the size standard for NAICS 324110 (Petroleum Refiners) from 125,000 barrels per calendar day (BPCD) to 200,000 BPCD for businesses that are primarily engaged in petroleum refining and eliminating the requirement that 90 percent of the output to be delivered be refined by the successful bidder from either crude oil or bona fide feedstocks. To qualify under the capacity size standard, the firm, together with its affiliates, must be primarily engaged in refining crude petroleum into refined petroleum products. To reflect these changes, SBA is also amending Footnote 4 of SBA's table of size standards. Finally, the Agency is also updating Footnote 5 to NAICS 326211 to reflect the current Census Product Classification Codes 3262111 and 3262113.

TABLE 3—SUMMARY OF SIZE STANDARDS REVISIONS IN NAICS SECTOR 31–33

NAICs code	NAICS U.S. industry title	Current size standard (number of employees)	Revised size standard (number of employees)
311111	Dog and Cat Food Manufacturing	500	1,000
311211	Flour Milling	500	1,000
311221	Wet Corn Milling	750	1,250
311314	Cane Sugar Manufacturing	750	1,000
311340	Nonchocolate Confectionery Manufacturing	500	1,000
311351	Chocolate and Confectionery Manufacturing from Cacao Beans	500	1,250
311352	Confectionery Manufacturing from Purchased Chocolate	500	1,000
311411	Frozen Fruit, Juice, and Vegetable Manufacturing	500	1,000
311412	Frozen Specialty Food Manufacturing	500	1,250
311421	Fruit and Vegetable Canning	500	1,000
311422	Specialty Canning	1,000	1,250
311423	Dried and Dehydrated Food Manufacturing	500	750
311511	Fluid Milk Manufacturing	500	1,000
311512	Creamery Butter Manufacturing	500	750
311513	Cheese Manufacturing	500	1,250
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing	500	750
311520	Ice Cream and Frozen Dessert Manufacturing	500	1,000
311611	Animal (except Poultry) Slaughtering	500	1,000
311612	Meat Processed from Carcasses	500	1,000
311613	Rendering and Meat Byproduct Processing	500	750
311615	Poultry Processing	500	1,250
311710	Seafood Product Preparation and Packaging	500	750
311812	Commercial Bakeries	500	1,000
311813	Frozen Cakes, Pies, and Other Pastries Manufacturing	500	750
311821	Cookie and Cracker Manufacturing	750	1,250
311824	Dry Pasta, Dough, and Flour Mixes Manufacturing from Purchased Flour	500	750
311830	Tortilla Manufacturing	500	1,250
311911	Roasted Nuts and Peanut Butter Manufacturing	500	750
311919	Other Snack Food Manufacturing	500	1,250
311920	Coffee and Tea Manufacturing	500	750
311930	Flavoring Syrup and Concentrate Manufacturing	500	1,000
311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing	500	750
312111	Soft Drink Manufacturing	500	1,250
312112	Bottled Water Manufacturing	500	1,000
312113	Ice Manufacturing	500	750
312120	Breweries	500	1,250
312130	Wineries	500	1,000
312140	Distilleries	750	1,000
312230	Tobacco Manufacturing	1,000	1,500
313110	Fiber, Yarn, and Thread Mills	500	1,250
313230	Nonwoven Fabric Mills	500	750
314110	Carpet and Rug Mills	500	1,500
314120	Curtain and Linen Mills	500	750
315110	Hosiery and Sock Mills	500	750
315190	Other Apparel Knitting Mills	500	750
315210	Cut and Sew Apparel Contractors	500	750
315220	Men's and Boys' Cut and Sew Apparel Manufacturing	500	750
315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing	500	750
315280	Other Cut and Sew Apparel Manufacturing	500	750
316992	Women's Handbag and Purse Manufacturing	500	750
321212	Softwood Veneer and Plywood Manufacturing	500	1,250
321213	Engineered Wood Member (except Truss) Manufacturing	500	750
321219	Reconstituted Wood Product Manufacturing	500	750
321911	Wood Window and Door Manufacturing	500	1,000
321991	Manufactured Home (Mobile Home) Manufacturing	500	1,250
322121	Paper (except Newsprint) Mills	750	1,250
322130	Paperboard Mills	750	1,250
322211	Corrugated and Solid Fiber Box Manufacturing	500	1,250
322219	Other Paperboard Container Manufacturing	750	1,000
322220	Paper Bag and Coated and Treated Paper Manufacturing	500	750
322230	Stationery Product Manufacturing	500	750
322291	Sanitary Paper Product Manufacturing	500	1,500
323117	Books Printing	500	1,250
324191	Petroleum Lubricating Oil and Grease Manufacturing	500	750
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	750	1,250
325199	All Other Basic Organic Chemical Manufacturing	1,000	1,250
325211	Plastics Material and Resin Manufacturing	750	1,250
325312	Phosphatic Fertilizer Manufacturing	500	750
325320	Pesticide and Other Agricultural Chemical Manufacturing	500	1,000

TABLE 3—SUMMARY OF SIZE STANDARDS REVISIONS IN NAICS SECTOR 31–33—Continued

NAICs code	NAICS U.S. industry title	Current size standard (number of employees)	Revised size standard (number of employees)
325411	Medicinal and Botanical Manufacturing	750	1,000
325412	Pharmaceutical Preparation Manufacturing	750	1,250
325413	In-Vitro Diagnostic Substance Manufacturing	500	1,250
325414	Biological Product (except Diagnostic) Manufacturing	500	1,250
325510	Paint and Coating Manufacturing	500	1,000
325611	Soap and Other Detergent Manufacturing	750	1,000
325612	Polish and Other Sanitation Good Manufacturing	500	750
325613	Surface Active Agent Manufacturing	500	750
325620	Toilet Preparation Manufacturing	500	1,250
325992	Photographic Film, Paper, Plate, and Chemical Manufacturing	500	1,500
326111	Plastics Bag and Pouch Manufacturing	500	750
326112	Plastics Packaging Film and Sheet (including Laminated) Manufacturing	500	1,000
326113	Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing	500	750
326122	Plastics Pipe and Pipe Fitting Manufacturing	500	750
326140	Polystyrene Foam Product Manufacturing	500	1,000
326150	Urethane and Other Foam Product (except Polystyrene) Manufacturing	500	750
326160	Plastics Bottle Manufacturing	500	1,250
326191	Plastics Plumbing Fixture Manufacturing	500	750
326211	Tire Manufacturing (except Retreading)	1,000	1,500
326220	Rubber and Plastics Hoses and Belting Manufacturing	500	750
326291	Rubber Product Manufacturing for Mechanical Use	500	750
327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing	750	1,000
327212	Other Pressed and Blown Glass and Glassware Manufacturing	750	1,250
327213	Glass Container Manufacturing	750	1,250
327215	Glass Product Manufacturing Made of Purchased Glass	500	1,000
327310	Cement Manufacturing	750	1,000
327332	Concrete Pipe Manufacturing	500	750
327410	Lime Manufacturing	500	750
327420	Gypsum Product Manufacturing	1,000	1,500
327910	Abrasive Product Manufacturing	500	750
327993	Mineral Wool Manufacturing	750	1,500
331110	Iron and Steel Mills and Ferroalloy Manufacturing	1,000	1,500
331315	Aluminum Sheet, Plate, and Foil Manufacturing	750	1,250
331511	Iron Foundries	500	1,000
331512	Steel Investment Foundries	500	1,000
332111	Iron and Steel Forging	500	750
332112	Nonferrous Forging	500	750
332215	Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing	500	750
332216	Saw Blade and Handtool Manufacturing	500	750
332311	Prefabricated Metal Building and Component Manufacturing	500	750
332313	Plate Work Manufacturing	500	750
332321	Metal Window and Door Manufacturing	500	750
332410	Power Boiler and Heat Exchanger Manufacturing	500	750
332420	Metal Tank (Heavy Gauge) Manufacturing	500	750
332431	Metal Can Manufacturing	1,000	1,500
332510	Hardware Manufacturing	500	750
332911	Industrial Valve Manufacturing	500	750
332912	Fluid Power Valve and Hose Fitting Manufacturing	500	1,000
332913	Plumbing Fixture Fitting and Trim Manufacturing	500	1,000
332919	Other Metal Valve and Pipe Fitting Manufacturing	500	750
332991	Ball and Roller Bearing Manufacturing	750	1,250
332992	Small Arms Ammunition Manufacturing	1,000	1,250
333111	Farm Machinery and Equipment Manufacturing	500	1,250
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing	500	1,500
333120	Construction Machinery Manufacturing	750	1,250
333132	Oil and Gas Field Machinery and Equipment Manufacturing	500	1,250
333242	Semiconductor Machinery Manufacturing	500	1,500
333244	Printing Machinery and Equipment Manufacturing	500	750
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing	750	1,250
333611	Turbine and Turbine Generator Set Units Manufacturing	1,000	1,500
333612	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing	500	750
333613	Mechanical Power Transmission Equipment Manufacturing	500	750
333618	Other Engine Equipment Manufacturing	1,000	1,500
333911	Pump and Pumping Equipment Manufacturing	500	750
333912	Air and Gas Compressor Manufacturing	500	1,000
333913	Measuring and Dispensing Pump Manufacturing	500	750
333921	Elevator and Moving Stairway Manufacturing	500	1,000
333923	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing	500	1,250

TABLE 3—SUMMARY OF SIZE STANDARDS REVISIONS IN NAICS SECTOR 31–33—Continued

NAICs code	NAICS U.S. industry title	Current size standard (number of employees)	Revised size standard (number of employees)
333992 .....	Welding and Soldering Equipment Manufacturing .....	500	1,250
333995 .....	Fluid Power Cylinder and Actuator Manufacturing .....	500	750
333996 .....	Fluid Power Pump and Motor Manufacturing .....	500	1,250
334111 .....	Electronic Computer Manufacturing .....	1,000	1,250
334112 .....	Computer Storage Device Manufacturing .....	1,000	1,250
334210 .....	Telephone Apparatus Manufacturing .....	1,000	1,250
334220 .....	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing ...	750	1,250
334412 .....	Bare Printed Circuit Board Manufacturing .....	500	750
334413 .....	Semiconductor and Related Device Manufacturing .....	500	1,250
334417 .....	Electronic Connector Manufacturing .....	500	1,000
334418 .....	Printed Circuit Assembly (Electronic Assembly) Manufacturing .....	500	750
334510 .....	Electromedical and Electrotherapeutic Apparatus Manufacturing .....	500	1,250
334511 .....	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing.	750	1,250
334513 .....	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables.	500	750
334514 .....	Totalizing Fluid Meter and Counting Device Manufacturing .....	500	750
334515 .....	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals .....	500	750
334516 .....	Analytical Laboratory Instrument Manufacturing .....	500	1,000
334517 .....	Irradiation Apparatus Manufacturing .....	500	1,000
334614 .....	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing .....	750	1,250
335110 .....	Electric Lamp Bulb and Part Manufacturing .....	1,000	1,250
335121 .....	Residential Electric Lighting Fixture Manufacturing .....	500	750
335210 .....	Small Electrical Appliance Manufacturing .....	750	1,500
335221 .....	Household Cooking Appliance Manufacturing .....	750	1,500
335222 .....	Household Refrigerator and Home Freezer Manufacturing .....	1,000	1,250
335224 .....	Household Laundry Equipment Manufacturing .....	1,000	1,250
335228 .....	Other Major Household Appliance Manufacturing .....	500	1,000
335312 .....	Motor and Generator Manufacturing .....	1,000	1,250
335313 .....	Switchgear and Switchboard Apparatus Manufacturing .....	750	1,250
335911 .....	Storage Battery Manufacturing .....	500	1,250
335932 .....	Noncurrent-Carrying Wiring Device Manufacturing .....	500	1,000
336111 .....	Automobile Manufacturing .....	1,000	1,500
336112 .....	Light Truck and Utility Vehicle Manufacturing .....	1,000	1,500
336120 .....	Heavy Duty Truck Manufacturing .....	1,000	1,500
336212 .....	Truck Trailer Manufacturing .....	500	1,000
336213 .....	Motor Home Manufacturing .....	1,000	1,250
336214 .....	Travel Trailer and Camper Manufacturing .....	500	1,000
336310 .....	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing .....	750	1,000
336320 .....	Motor Vehicle Electrical and Electronic Equipment Manufacturing .....	750	1,000
336330 .....	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing .....	750	1,000
336340 .....	Motor Vehicle Brake System Manufacturing .....	750	1,250
336350 .....	Motor Vehicle Transmission and Power Train Parts Manufacturing .....	750	1,500
336360 .....	Motor Vehicle Seating and Interior Trim Manufacturing .....	500	1,500
336370 .....	Motor Vehicle Metal Stamping .....	500	1,000
336390 .....	Other Motor Vehicle Parts Manufacturing .....	750	1,000
336412 .....	Aircraft Engine and Engine Parts Manufacturing .....	1,000	1,500
336413 .....	Other Aircraft Parts and Auxiliary Equipment Manufacturing .....	1,000	1,250
336414 .....	Guided Missile and Space Vehicle Manufacturing .....	1,000	1,250
336415 .....	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing ...	1,000	1,250
336510 .....	Railroad Rolling Stock Manufacturing .....	1,000	1,500
336611 .....	Ship Building and Repairing .....	1,000	1,250
336612 .....	Boat Building .....	500	1,000
336991 .....	Motorcycle, Bicycle, and Parts Manufacturing .....	500	1,000
336992 .....	Military Armored Vehicle, Tank, and Tank Component Manufacturing .....	1,000	1,500
336999 .....	All Other Transportation Equipment Manufacturing .....	500	1,000
337110 .....	Wood Kitchen Cabinet and Countertop Manufacturing .....	500	750
337121 .....	Upholstered Household Furniture Manufacturing .....	500	1,000
337122 .....	Nonupholstered Wood Household Furniture Manufacturing .....	500	750
337124 .....	Metal Household Furniture Manufacturing .....	500	750
337125 .....	Household Furniture (except Wood and Metal) Manufacturing .....	500	750
337211 .....	Wood Office Furniture Manufacturing .....	500	1,000
337214 .....	Office Furniture (except Wood) Manufacturing .....	500	1,000
337910 .....	Mattress Manufacturing .....	500	1,000
337920 .....	Blind and Shade Manufacturing .....	500	1,000
339112 .....	Surgical and Medical Instrument Manufacturing .....	500	1,000
339113 .....	Surgical Appliance and Supplies Manufacturing .....	500	750
339114 .....	Dental Equipment and Supplies Manufacturing .....	500	750
339115 .....	Ophthalmic Goods Manufacturing .....	500	1,000

TABLE 3—SUMMARY OF SIZE STANDARDS REVISIONS IN NAICS SECTOR 31–33—Continued

NAICs code	NAICS U.S. industry title	Current size standard (number of employees)	Revised size standard (number of employees)
339920 .....	Sporting and Athletic Goods Manufacturing .....	500	750
339940 .....	Office Supplies (except Paper) Manufacturing .....	500	750
339992 .....	Musical Instrument Manufacturing .....	500	1,000
339993 .....	Fastener, Button, Needle, and Pin Manufacturing .....	500	750
339995 .....	Burial Casket Manufacturing .....	500	1,000

### Evaluation of Dominance in Field of Operation

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) defines a small business concern as one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets a specific small business definition or size standard established by SBA's Administrator. SBA considers as part of its evaluation whether a business concern at a proposed or revised size standard would be dominant in its field of operation. SBA has determined that for the industries for which it has revised size standards in this final rule, no individual firm at or below the revised size standard will be large enough to dominate its field of operation. At the revised size standards that are adopted in this final rule, the small business share of total industry receipts among those industries for which SBA has revised size standards is, on average, 1.7 percent, ranging from a minimum of 0.02 percent to a maximum of 18.9 percent. SBA determines that these market shares effectively preclude a firm at or below the revised size standards from exerting control on any of the industries.

### 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 a significant regulatory action for purposes of Executive Order 12866. Accordingly, in the next section SBA provides a Regulatory Impact Analysis of this rule. However, this rule is not a "major rule" under the Congressional Review Act, 5 U.S.C. 800.

#### Regulatory Impact Analysis

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

SBA believes that the size standards revisions in this rule are a better reflection of the economic

characteristics of small businesses and the Federal government marketplace in the affected industries. SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To determine the intended beneficiaries of these programs, SBA establishes distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegates to SBA's Administrator the responsibility for establishing small business definitions. The Act also requires that small business definitions vary to reflect industry differences. The Jobs Act further requires SBA to review all size standards and make necessary adjustments to reflect market conditions. The supplementary information section of this rule explains 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 affected by this rule is their gaining or maintaining eligibility for Federal small business assistance programs. These include SBA's financial assistance programs, economic injury disaster loans, and Federal procurement programs intended for small businesses. Federal procurement programs provide targeted opportunities for small businesses under SBA's business development programs, such as 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 service-disabled veteran-owned small businesses (SDVOSB). Federal agencies may also use SBA's size standards for a variety of other regulatory and program purposes. These programs assist small businesses to become more knowledgeable, stable, and competitive. SBA estimates that in the 209 industries for which it is increasing size standards

about 1,250 firms, not small under the current size standards, will become small and therefore eligible for these programs. That is about 0.4 percent of all firms classified as small under the current size standards in all industries that SBA reviewed for the September 10, 2014 proposed rule and this final rule. SBA anticipates that the small business share of total receipts in those industries will increase from 26 percent to 29 percent.

Four groups can benefit from the revised size standards: (1) Some businesses that are above the current size standards may 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; (3) Federal agencies that will have a larger pool of small businesses from which to draw for their small business procurement programs; and, (4) wholesalers and dealers that sell products to the Federal government as small businesses under the nonmanufacturer rule (13 CFR 121.406(b)) will have additional sources of goods to fill their orders.

SBA estimates that firms gaining small business status under the revised size standards might receive Federal contracts totaling \$150 million to \$160 million annually under SBA's small business, 8(a), SDB, HUBZone, WOSB, EDWOSB, and SDVOSB Programs, as well as other unrestricted procurements. The added competition for many of these procurements can also result in lower prices to the Government for procurements reserved for small businesses, but SBA cannot quantify this benefit.

SBA provides financial assistance to small businesses under its 7(a) and 504 Loan Programs. Under SBA's 7(a) and 504 Loan Programs, based on the fiscal years 2012–2014 data, SBA estimates approximately 20 to 25 SBA loans

totaling about \$10 million to \$15.0 million could be made to these newly defined small businesses under the revised size standards. However, it is impractical to try to estimate the number and total amount of loans with any precision. There are two reasons for this: (1) Under the Jobs Act, SBA can now guarantee substantially larger loans than in the past; and (2) as described above, the Jobs Act established a higher alternative size standard (\$15 million in tangible net worth and \$5 million in net income after income taxes) for business concerns that do not meet the size standards for their industry.

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

In addition, newly defined small businesses will also benefit through reduced fees, less paperwork, and fewer compliance requirements that are available to small businesses throughout the Federal government.

To the extent that 1,250 newly defined small firms may become active in Federal procurement programs, the revised size standards might also add administrative costs to the government because there are now more businesses eligible for Federal small business programs. For example, there will be more firms seeking SBA's guaranteed loans, more firms eligible for enrollment in the SAM database, and more firms seeking certification as 8(a) or HUBZone firms or qualifying for small business, WOSB, EDWOSB, SDVOSB, and SDB status. Among those newly defined small businesses seeking Federal assistance, there could be additional costs associated with compliance and verification of small business status and administration of size protests. However, SBA believes that these added administrative costs will be minimal because there are mechanisms in place to handle these requirements.

Additionally, some Federal government contracts might have higher costs. With a greater number of businesses defined as small under the revised size standards, Federal agencies may set aside more contracts to small businesses, rather than use full and open competition. The movement from unrestricted to small business set-aside contracting might result in competition among fewer total bidders, although there will be more small businesses eligible to submit offers. However, the additional costs associated with fewer bidders are expected to be minor since, by law, procurements may be set aside

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. In addition, there may be higher costs when more full and open contracts are awarded to HUBZone businesses that receive price evaluation preferences.

Revised size standards might have distributional effects among large and small business contractors. Although SBA cannot estimate with certainty the actual outcome of the gains and losses among small and large businesses, it can identify several probable impacts. Some Federal contracts may be transferred to small businesses from large businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more contracts for small businesses. In addition, some Federal contracts may be awarded to HUBZone concerns instead of large businesses since they are eligible for price evaluation preferences when they compete on a full and open basis.

Similarly, some businesses defined small under the current size standards may receive fewer Federal contracts due to increased competition from more businesses now defined as small under higher size standards. This transfer may be offset by a greater number of small business set-aside procurements. 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 from large and currently defined small businesses. Because there are so many variables affecting the Federal market, SBA cannot estimate the potential distributional impacts of these transfers with any degree of precision.

The increased size standards for 209 industries and the modification of the size standard for NAICS 324110 in Sector 31–33 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

Descriptions of the need for this regulatory action and benefits and costs associated with this action including possible distributional impacts that relate to Executive Order 13563 are included in the Regulatory Impact Analysis under Executive Order 12866, above.

In an effort to engage interested parties in this action, SBA presented its size standards methodology (discussed above under Supplementary Information) to various industry associations and trade groups. SBA also met with a number of industry groups and individual businesses to get their feedback on its methodology and other size standards issues. The Agency additionally conferred with Federal procurement officials that purchase products manufactured by a number of industries for which SBA proposed to increase size standards. In addition, as part of its Jobs Act tour SBA presented its size standards methodology to businesses in 13 cities in the U.S. and sought their input. The presentations included information on the latest status of the comprehensive size standards review and on how interested parties can provide SBA with input and feedback on size standards.

Moreover, 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 size 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 this rule.

Finally, the SBA has maintained a roster of parties (government and industry) that have expressed interest in various manufacturing industries over the last few years, and sent each of them a copy of the September 10, 2014 proposed rule to assure they had ample time and opportunity to provide comments.

Increasing size standards for the industries covered in this rule is consistent with Executive Order 13563, Section 6, calling for retrospective analyses of existing rules. The last comprehensive 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 from Federal agencies. The majority of employee based size standards, including those in NAICS Sector 31–33, have not been reviewed since they were first established. 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 its size standards to ensure that existing size standards have supportable bases and to revise them when necessary. In addition, the Jobs Act requires 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 rule has no 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 rule has no federalism implications warranting preparation of a federalism assessment.

#### **Paperwork Reduction Act**

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule imposes no new reporting or record keeping requirements.

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

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small businesses in the industries covered by this rule. As described above, this rule may affect small businesses seeking Federal contracts, loans under SBA's 7(a), 504 and Economic Injury Disaster

Loan Programs, and assistance under other Federal small business programs.

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

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

Changes in industry structure, technological changes, productivity growth, mergers and acquisitions, and updated industry definitions have changed the structure of many industries reviewed in the September 10, 2014 proposed rule and this final rule. Such changes can be sufficient to warrant revisions to current size standards for some industries. Based on the analysis of the latest data available, SBA believes that the revised size standards in this rule more appropriately reflect the size of businesses that need Federal assistance. The Jobs Act also requires SBA to review all size standards and make necessary adjustments to reflect market conditions.

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

SBA estimates that about 1,250 additional firms will become small because of revised size standards for 209 industries in NAICS Sector 31–33. That represents 0.4 percent of total firms that are small under current size standards in all industries in that Sector. This will result in an increase in the small business share of total industry receipts in Sector 31–33 from 26 percent under the current size standards to 29 percent under the size standards adopted in this final rule. The revised size standards will enable more small businesses to retain their small business status for a longer period and many others to regain small business status that may have exceeded current size standards, making it difficult for them to compete with companies that are significantly larger than they are. SBA believes that the overall impact of this rule will be positive for existing small businesses, as well as for those that exceed the current

size standards but are on the low end of those that are not small. They might otherwise be called or referred to as mid-sized businesses, although SBA only defines what is a small business concern. That is, entities that do not meet SBA's small business size standards are considered "other than small."

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

The size standard changes impose no additional reporting or record keeping requirements on small businesses. However, qualifying for Federal procurement and a number of other programs requires that businesses register in the SAM database and certify in SAM that they are small at least once annually. Therefore, businesses opting to participate in those programs must comply with SAM requirements. Additionally, businesses affected by the changes, if they are already registered in SAM, must update their certifications and affirmations. However, there are no costs associated with SAM registration or certification. Changing size standards alters access to SBA's programs 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 § 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 "Table of Statutory and Regulatory Size Standards Set by Agencies Other than SBA" (60 FR 57988, November 24, 1995). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

However, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The Regulatory Flexibility Act authorizes an agency to establish an alternative small business definition for purposes of compliance with that Act, 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 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 the reasons set forth in the preamble, SBA amends 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

2. Amend § 121.201 in the table “Small Business Size Standards by NAICS Industry” as follows:

a. Revise the entries for “311111”, “311211”, “311221”, “311314”, “311340”, “311351”, “311352”,

“311411”, “311412”, “311421”, “311422”, “311423”, “311511”, “311512”, “311513”, “311514”, “311520”, “311611”, “311612”, “311613”, “311615”, “311710”, “311812”, “311813”, “311821”, “311824”, “311830”, “311911”, “311919”, “311920”, “311930”, “311941”, “312111”, “312112”, “312113”, “312120”, “312130”, “312140”, “312230”, “313110”, “313230”, “314110”, “314120”, “315110”, “315190”, “315210”, “315220”, “315240”, “315280”, “316992”, “321212”, “321213”, “321219”, “321911”, “321991”, “322121”, “322130”, “322211”, “322219”, “322220”, “322230”, “322291”, “323117”, “324110”, “324191”, “325194”, “325199”, “325211”, “325312”, “325320”, “325411”, “325412”, “325413”, “325414”, “325510”, “325611”, “325612”, “325613”, “325620”, “325992”, “326111”, “326112”, “326113”, “326122”, “326140”, “326150”, “326160”, “326191”, “326211”, “326220”, “326291”, “327110”, “327212”, “327213”, “327215”, “327310”, “327332”, “327410”, “327420”, “327910”, “327993”, “331110”, “331315”, “331511”, “331512”, “332111”, “332112”, “332215”, “332216”, “332311”, “332313”, “332321”, “332410”, “332420”, “332431”, “332510”, “332911”, “332912”, “332913”, “332919”, “332991”,

“332992”, “333111”, “333112”, “333120”, “333132”, “333242”, “333244”, “333415”, “333611”, “333612”, “333613”, “333618”, “333911”, “333912”, “333913”, “333921”, “333923”, “333992”, “333995”, “333996”, “334111”, “334112”, “334210”, “334220”, “334412”, “334413”, “334417”, “334418”, “334510”, “334511”, “334513”, “334514”, “334515”, “334516”, “334517”, “334614”, “335110”, “335121”, “335210”, “335221”, “335222”, “335224”, “335228”, “335312”, “335313”, “335911”, “335932”, “336111”, “336112”, “336120”, “336212”, “336213”, “336214”, “336310”, “336320”, “336330”, “336340”, “336350”, “336360”, “336370”, “336390”, “336412”, “336413”, “336414”, “336415”, “336510”, “336611”, “336612”, “336691”, “336992”, “336999”, “337110”, “337121”, “337122”, “337124”, “337125”, “337211”, “337214”, “337910”, “337920”, “339112”, “339113”, “339114”, “339115”, “339920”, “339940”, “339992”, “339993”, and “339995”; and

■ b. Revise footnotes 3, 4, 5, and 7.

The revisions read as follows:

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

\* \* \* \* \*

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
311111	Dog and Cat Food Manufacturing		1,000
311211	Flour Milling		1,000
311221	Wet Corn Milling		1,250
311314	Cane Sugar Manufacturing		1,000
311340	Nonchocolate Confectionery Manufacturing		1,000
311351	Chocolate and Confectionery Manufacturing from Cacao Beans		1,250
311352	Confectionery Manufacturing from Purchased Chocolate		1,000
311411	Frozen Fruit, Juice, and Vegetable Manufacturing		1,000
311412	Frozen Specialty Food Manufacturing		1,250
311421	Fruit and Vegetable Canning <sup>3</sup>		3,100
311422	Specialty Canning		1,250
311423	Dried and Dehydrated Food Manufacturing		750
311511	Fluid Milk Manufacturing		1,000
311512	Creamery Butter Manufacturing		750
311513	Cheese Manufacturing		1,250
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing		750
311520	Ice Cream and Frozen Dessert Manufacturing		1,000
311611	Animal (except Poultry) Slaughtering		1,000
311612	Meat Processed from Carcasses		1,000

## SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
311613	Rendering and Meat Byproduct Processing		750
311615	Poultry Processing		1,250
311710	Seafood Product Preparation and Packaging		750
*	*	*	*
311812	Commercial Bakeries		1,000
311813	Frozen Cakes, Pies, and Other Pastries Manufacturing		750
311821	Cookie and Cracker Manufacturing		1,250
311824	Dry Pasta, Dough, and Flour Mixes Manufacturing from Purchased Flour		750
311830	Tortilla Manufacturing		1,250
311911	Roasted Nuts and Peanut Butter Manufacturing		750
311919	Other Snack Food Manufacturing		1,250
311920	Coffee and Tea Manufacturing		750
311930	Flavoring Syrup and Concentrate Manufacturing		1,000
311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing		750
*	*	*	*
312111	Soft Drink Manufacturing		1,250
312112	Bottled Water Manufacturing		1,000
312113	Ice Manufacturing		750
312120	Breweries		1,250
312130	Wineries		1,000
312140	Distilleries		1,000
312230	Tobacco Manufacturing		1,500
313110	Fiber, Yarn, and Thread Mills		1,250
*	*	*	*
313230	Nonwoven Fabric Mills		750
*	*	*	*
314110	Carpet and Rug Mills		1,500
314120	Curtain and Linen Mills		750
*	*	*	*
315110	Hosiery and Sock Mills		750
315190	Other Apparel Knitting Mills		750
315210	Cut and Sew Apparel Contractors		750
315220	Men's and Boys' Cut and Sew Apparel Manufacturing		750
315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing		750
315280	Other Cut and Sew Apparel Manufacturing		750
*	*	*	*
316992	Women's Handbag and Purse Manufacturing		750
*	*	*	*
321212	Softwood Veneer and Plywood Manufacturing		1,250
321213	Engineered Wood Member (except Truss) Manufacturing		750
*	*	*	*
321219	Reconstituted Wood Product Manufacturing		750
321911	Wood Window and Door Manufacturing		1,000
*	*	*	*
321991	Manufactured Home (Mobile Home) Manufacturing		1,250
*	*	*	*
322121	Paper (except Newsprint) Mills		1,250
*	*	*	*
322130	Paperboard Mills		1,250
322211	Corrugated and Solid Fiber Box Manufacturing		1,250
*	*	*	*
322219	Other Paperboard Container Manufacturing		1,000
322220	Paper Bag and Coated and Treated Paper Manufacturing		750
322230	Stationery Product Manufacturing		750
322291	Sanitary Paper Product Manufacturing		1,500
*	*	*	*
323117	Books Printing		1,250

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
* * * * *		*	*
324110	Petroleum Refineries <sup>4</sup>		4,150
* * * * *		*	*
324191	Petroleum Lubricating Oil and Grease Manufacturing		750
* * * * *		*	*
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing		1,250
325199	All Other Basic Organic Chemical Manufacturing		1,250
325211	Plastics Material and Resin Manufacturing		1,250
* * * * *		*	*
325312	Phosphatic Fertilizer Manufacturing		750
* * * * *		*	*
325320	Pesticide and Other Agricultural Chemical Manufacturing		1,000
325411	Medicinal and Botanical Manufacturing		1,000
325412	Pharmaceutical Preparation Manufacturing		1,250
325413	In-Vitro Diagnostic Substance Manufacturing		1,250
325414	Biological Product (except Diagnostic) Manufacturing		1,250
325510	Paint and Coating Manufacturing		1,000
* * * * *		*	*
325611	Soap and Other Detergent Manufacturing		1,000
325612	Polish and Other Sanitation Good Manufacturing		750
325613	Surface Active Agent Manufacturing		750
325620	Toilet Preparation Manufacturing		1,250
* * * * *		*	*
325992	Photographic Film, Paper, Plate, and Chemical Manufacturing		1,500
* * * * *		*	*
326111	Plastics Bag and Pouch Manufacturing		750
326112	Plastics Packaging Film and Sheet (including Laminated) Manufacturing		1,000
326113	Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing		750
* * * * *		*	*
326122	Plastics Pipe and Pipe Fitting Manufacturing		750
* * * * *		*	*
326140	Polystyrene Foam Product Manufacturing		1,000
326150	Urethane and Other Foam Product (except Polystyrene) Manufacturing		750
326160	Plastics Bottle Manufacturing		1,250
326191	Plastics Plumbing Fixture Manufacturing		750
* * * * *		*	*
326211	Tire Manufacturing (except Retreading) <sup>5</sup>		<sup>5</sup> 1,500
* * * * *		*	*
326220	Rubber and Plastics Hoses and Belting Manufacturing		750
326291	Rubber Product Manufacturing for Mechanical Use		750
* * * * *		*	*
327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing		1,000
* * * * *		*	*
327212	Other Pressed and Blown Glass and Glassware Manufacturing		1,250
327213	Glass Container Manufacturing		1,250
327215	Glass Product Manufacturing Made of Purchased Glass		1,000
327310	Cement Manufacturing		1,000
* * * * *		*	*
327332	Concrete Pipe Manufacturing		750
* * * * *		*	*
327410	Lime Manufacturing		750
327420	Gypsum Product Manufacturing		1,500
327910	Abrasive Product Manufacturing		750

## SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
* * * * *			
327993	Mineral Wool Manufacturing		1,500
* * * * *			
331110	Iron and Steel Mills and Ferroalloy Manufacturing		1,500
* * * * *			
331315	Aluminum Sheet, Plate, and Foil Manufacturing		1,250
* * * * *			
331511	Iron Foundries		1,000
331512	Steel Investment Foundries		1,000
* * * * *			
332111	Iron and Steel Forging		750
332112	Nonferrous Forging		750
* * * * *			
332215	Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing		750
332216	Saw Blade and Handtool Manufacturing		750
332311	Prefabricated Metal Building and Component Manufacturing		750
* * * * *			
332313	Plate Work Manufacturing		750
332321	Metal Window and Door Manufacturing		750
* * * * *			
332410	Power Boiler and Heat Exchanger Manufacturing		750
332420	Metal Tank (Heavy Gauge) Manufacturing		750
332431	Metal Can Manufacturing		1,500
* * * * *			
332510	Hardware Manufacturing		750
* * * * *			
332911	Industrial Valve Manufacturing		750
332912	Fluid Power Valve and Hose Fitting Manufacturing		1,000
332913	Plumbing Fixture Fitting and Trim Manufacturing		1,000
332919	Other Metal Valve and Pipe Fitting Manufacturing		750
332991	Ball and Roller Bearing Manufacturing		1,250
332992	Small Arms Ammunition Manufacturing		1,250
* * * * *			
333111	Farm Machinery and Equipment Manufacturing		1,250
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing		1,500
333120	Construction Machinery Manufacturing		1,250
* * * * *			
333132	Oil and Gas Field Machinery and Equipment Manufacturing		1,250
* * * * *			
333242	Semiconductor Machinery Manufacturing		1,500
* * * * *			
333244	Printing Machinery and Equipment Manufacturing		750
* * * * *			
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.		1,250
* * * * *			
333611	Turbine and Turbine Generator Set Units Manufacturing		1,500
333612	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing		750
333613	Mechanical Power Transmission Equipment Manufacturing		750
333618	Other Engine Equipment Manufacturing		1,500
333911	Pump and Pumping Equipment Manufacturing		750
333912	Air and Gas Compressor Manufacturing		1,000
333913	Measuring and Dispensing Pump Manufacturing		750
333921	Elevator and Moving Stairway Manufacturing		1,000

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
333923	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing		1,250
333992	Welding and Soldering Equipment Manufacturing		1,250
333995	Fluid Power Cylinder and Actuator Manufacturing		750
333996	Fluid Power Pump and Motor Manufacturing		1,250
334111	Electronic Computer Manufacturing		1,250
334112	Computer Storage Device Manufacturing		1,250
334210	Telephone Apparatus Manufacturing		1,250
334220	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing		1,250
334412	Bare Printed Circuit Board Manufacturing		750
334413	Semiconductor and Related Device Manufacturing		1,250
334417	Electronic Connector Manufacturing		1,000
334418	Printed Circuit Assembly (Electronic Assembly) Manufacturing		750
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing		1,250
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing.		1,250
334513	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables.		750
334514	Totalizing Fluid Meter and Counting Device Manufacturing		750
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals		750
334516	Analytical Laboratory Instrument Manufacturing		1,000
334517	Irradiation Apparatus Manufacturing		1,000
334614	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing		1,250
335110	Electric Lamp Bulb and Part Manufacturing		1,250
335121	Residential Electric Lighting Fixture Manufacturing		750
335210	Small Electrical Appliance Manufacturing		1,500
335221	Household Cooking Appliance Manufacturing		1,500
335222	Household Refrigerator and Home Freezer Manufacturing		1,250
335224	Household Laundry Equipment Manufacturing		1,250
335228	Other Major Household Appliance Manufacturing		1,000
335312	Motor and Generator Manufacturing		1,250
335313	Switchgear and Switchboard Apparatus Manufacturing		1,250
335911	Storage Battery Manufacturing		1,250
335932	Noncurrent-Carrying Wiring Device Manufacturing		1,000
336111	Automobile Manufacturing		1,500
336112	Light Truck and Utility Vehicle Manufacturing		1,500
336120	Heavy Duty Truck Manufacturing		1,500
336212	Truck Trailer Manufacturing		1,000
336213	Motor Home Manufacturing		1,250
336214	Travel Trailer and Camper Manufacturing		1,000

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
336310	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing		1,000
336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing		1,000
336330	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing		1,000
336340	Motor Vehicle Brake System Manufacturing		1,250
336350	Motor Vehicle Transmission and Power Train Parts Manufacturing		1,500
336360	Motor Vehicle Seating and Interior Trim Manufacturing		1,500
336370	Motor Vehicle Metal Stamping		1,000
336390	Other Motor Vehicle Parts Manufacturing		1,000
*	*	*	*
336412	Aircraft Engine and Engine Parts Manufacturing		1,500
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing <sup>7</sup>		<sup>7</sup> 1,250
336414	Guided Missile and Space Vehicle Manufacturing		1,250
336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing		1,250
*	*	*	*
336510	Railroad Rolling Stock Manufacturing		1,500
336611	Ship Building and Repairing		1,250
336612	Boat Building		1,000
336991	Motorcycle, Bicycle, and Parts Manufacturing		1,000
336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing		1,500
336999	All Other Transportation Equipment Manufacturing		1,000
337110	Wood Kitchen Cabinet and Countertop Manufacturing		750
337121	Upholstered Household Furniture Manufacturing		1,000
337122	Nonupholstered Wood Household Furniture Manufacturing		750
337124	Metal Household Furniture Manufacturing		750
337125	Household Furniture (except Wood and Metal) Manufacturing		750
*	*	*	*
337211	Wood Office Furniture Manufacturing		1,000
*	*	*	*
337214	Office Furniture (except Wood) Manufacturing		1,000
*	*	*	*
337910	Mattress Manufacturing		1,000
337920	Blind and Shade Manufacturing		1,000
*	*	*	*
339112	Surgical and Medical Instrument Manufacturing		1,000
339113	Surgical Appliance and Supplies Manufacturing		750
339114	Dental Equipment and Supplies Manufacturing		750
339115	Ophthalmic Goods Manufacturing		1,000
*	*	*	*
339920	Sporting and Athletic Goods Manufacturing		750
*	*	*	*
339940	Office Supplies (except Paper) Manufacturing		750
*	*	*	*
339992	Musical Instrument Manufacturing		1,000
339993	Fastener, Button, Needle, and Pin Manufacturing		750
*	*	*	*
339995	Burial Casket Manufacturing		1,000
*	*	*	*

\* \* \* \* \*  
Footnotes

3. NAICS code 311421—For purposes of Government procurement for food canning and preserving, the standard of 1,000 employees excludes agricultural labor as defined in 3306(k) of the

Internal Revenue Code, 26 U.S.C. 3306(k).  
4. NAICS code 324110—To qualify as small for purposes of Government procurement, the petroleum refiner, including its affiliates, must be a concern that has either no more than 1,500 employees or no more than

200,000 barrels per calendar day total Operable Atmospheric Crude Oil Distillation capacity. Capacity includes all domestic and foreign affiliates, all owned or leased facilities, and all facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. To qualify

under the capacity size standard, the firm, together with its affiliates, must be primarily engaged in refining crude petroleum into refined petroleum products. A firm's "primary industry" is determined in accordance with 13 CFR 121.107.

5. *NAICS code 326211*—For Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census NAICS Product Classification codes 3262111 and 3262113, provided that:

(a) The value of tires within Census NAICS Product Classification codes 3262113 that it manufactured in the United States during the previous

calendar year is more than 50 percent of the value of its total worldwide manufacture,

(b) The value of pneumatic tires within Census NAICS Product Classification codes 3262113 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period, and

(c) The value of the principal product that it manufactured, produced, or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products

manufactured or otherwise produced or sold in the United States during that period.

\* \* \* \* \*

7. *NAICS code 336413*—Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under NAICS code 336413.

\* \* \* \* \*

**Maria Contreras-Sweet,**  
*Administrator.*

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