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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245-AF66

Small Business Size Standards; Adoption of 2007 North American Industry Classification System for Size Standards

AGENCY: Small Business Administration.

ACTION: Direct final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is amending its Small Business Size Regulations by incorporating the Office of Management and Budget's (OMB) 2007 modifications of the North American Industry Classification System (NAICS) in its table of small business size standards. These modifications are few in number and result in revisions to size standards for three industries and four activities within other industries.

SBA believes that this rule is routine and non-controversial, and the Agency anticipates no significant adverse comment. If SBA receives a significant adverse comment, it will withdraw the rule. SBA is publishing concurrently in this issue of the **Federal Register** a proposed rule to achieve the same result, that is, to modify its Small Business Size Regulations as contemplated in this direct final rule.

DATES: This rule is effective October 1, 2007, without further action, unless SBA receives a significant adverse comment by September 28, 2007. If SBA

receives any significant adverse comments, the Agency will publish a timely withdrawal of this rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN: 3245-AF66, by any of the following methods:

- *Federal eRulemaking Portal:*

<http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail, for paper, disk, or CD-ROM submissions:* Gary M. Jackson, Division Chief for Size Standards, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416.

- *Hand Delivery/Courier:* Gary M. Jackson, Division Chief for Size Standards, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416.

SBA will post all comments on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.Regulations.gov, please submit the information to Carl J. Jordan, Office of Size Standards, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416, or send an e-mail to sizestandards@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination of whether it will publish the information or not.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Office of Size Standards, at (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: SBA adopted the NAICS industry definitions as a basis for its table of small business size standards effective October 1, 2000, as a replacement to the discontinued Standard Industrial Classification (SIC) System (65 FR 30836, May 15, 2000). Since that time, OMB has issued two updates modifying the NAICS. SBA incorporated OMB's first updated modifications, termed NAICS 2002 (66 FR 3825, January 16, 2001), in its table

of size standards effective October 1, 2002 (67 FR 52597, August 13, 2002). OMB published its most recent updates, termed NAICS 2007, on May 16, 2006 (71 FR 28532). SBA is adopting those updated modifications in its table of small business size standards, as explained below.

For complete information on the relationship between NAICS 2002 and NAICS 2007, please see the U.S. Bureau of the Census (Census Bureau) Web site at <http://www.census.gov/epcd/www/naicsdoc.htm#fedreg>. That Census Bureau Web site provides complete information on its establishment and implementation of NAICS 2007, including its notice of final action in the March 16, 2006 **Federal Register**. The Census Bureau also provides the following correspondence tables: (1) 2007 NAICS-US matched to 2002 NAICS-US; and (2) 2002 NAICS-US matched to 2007 NAICS-US.

How SBA Arrived at the Size Standards for NAICS 2007 Industries

On October 22, 1999, SBA published in the **Federal Register** (64 FR 57188) a proposed rule to establish a new table of small business size standards based on the NAICS. SBA developed guidelines to transition from the SIC System to NAICS. The guidelines were intended to minimize the impact of a new industry classification system on SBA's small business size standards. Table 1, below, lists those guidelines. SBA received no negative comments to the guidelines specified in the proposed rule. Because the guidelines produced the desired results and received public acceptance, SBA published a final rule on May 5, 2000 (65 FR 3825) (corrected on September 5, 2000, 65 FR 53533) establishing a new table of size standards based on NAICS without change from its proposed rule. For purposes of adopting NAICS 2007, SBA is applying the same guidelines in this direct final rule.

TABLE 1

If the NAICS 2007 industry is composed of:	The Size standard for the NAICS industry will be:
1. One NAICS 2002 industry or part of one NAICS 2002 industry	The same size standard as for the NAICS 2002 industry or part.
2. More than one NAICS 2002 industry; parts of more than one NAICS 2002 industry; or one or more NAICS 2002 industry and part(s) of one or more NAICS 2002 industry, and they all have the same size standard.	The same size standard as for those NAICS 2002 industries or parts of NAICS 2002 industries.

TABLE 1—Continued

If the NAICS 2007 industry is composed of:	The Size standard for the NAICS industry will be:
3. More than one NAICS 2002 industry; parts of more than one NAICS 2002 industry; or one or more NAICS 2002 industry and part(s) of one or more NAICS 2002 industry, <i>and</i> they do not all have the same size standard.	The same size standard as for the NAICS 2002 industry or NAICS 2002 industry part(s) that most closely matches the economic activity described by the NAICS 2007 industry.
4. One or more parts of an NAICS 2002 industry for which SBA has established specific size standards (i.e., further segmented).	The same size standard as for that specific NAICS 2002 industry part.
5. One or more NAICS 2002 industries and/or parts of NAICS 2002 industries that were categorized broadly under the NAICS system as Services, Retail Trade, Wholesale Trade or Manufacturing, but are now categorized differently under NAICS.	SBA will (a) apply a size standard measure (e.g., number of employees, annual receipts) typical of the NAICS Sector; and (b) apply the corresponding “anchor” size standard. The “anchor” size standards are \$6.5 million (effective December 6, 2005) for Services and Retail Trade, 500 employees for Manufacturing and 100 employees for Wholesale Trade (except for Federal procurement programs, where the standard is 500 employees under the non-manufacturer rule).

Additions to and Deletions From NAICS 2002 for NAICS 2007

It is important to note the following:

1. NAICS 2007 changes affect 59 NAICS 2002 industries.
2. One NAICS 2002 Subsector and 12 NAICS 2002 industries were eliminated

and their activities reclassified in other more appropriate or new NAICS 2007 industries as listed in Table 2:

TABLE 2

NAICS 2002 code	NAICS 2002 industry description
NAICS 339111	Laboratory Apparatus and Furniture Manufacturing.
Subsector 516	Internet Publishing and Broadcasting.
NAICS 516110	Internet Publishing and Broadcasting.
NAICS 517211	Paging.
NAICS 517212	Cellular and Other Wireless Telecommunications.
NAICS 517310	Telecommunications Resellers.
NAICS 517510	Cable and Other Program Distribution.
NAICS 517910	Other Telecommunications.
NAICS 518111	Internet Service Providers.
NAICS 518112	Web Search Portals.
NAICS 525930	Real Estate Investment Trusts.
NAICS 541710	Research and Development in the Physical, Engineering, and Life Sciences.
NAICS 561310	Employment Placement Agencies.

3. The following eight industries listed in Table 3 are new in NAICS 2007:

TABLE 3

NAICS 2007 code	NAICS 2007 industry description
NAICS 517210	Wireless Telecommunications Carriers (except Satellite).
NAICS 517911	Telecommunications Resellers.
NAICS 517919	All Other Telecommunications.
NAICS 519130	Internet Publishing and Broadcasting and Web Search Portals.
NAICS 541711	Research and Development in Biotechnology.
NAICS 541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).
NAICS 561311	Employment Placement Agencies.
NAICS 561312	Executive Search Services.

Changes in Size Standards Resulting From SBA's Adoption of NAICS 2007

Most of the industries in NAICS 2002 remain unchanged under NAICS 2007. This direct final rule adopting NAICS 2007 will change size standards for only three industries and four activities from parts of industries. Other changes in NAICS 2007 consist of revised industry descriptions or the reclassification of

industry activities in other industries having the same size standard.

Table 4 lists all of OMB's modifications to the NAICS 2002 industries. The first three columns show the modified NAICS 2002 industry's six-digit code, its current size standard, and its industry description. The last three columns show the NAICS 2007 industry (new, existing and revised) that incorporates the modified NAICS 2002

industry, its industry description, and new size standard. By comparing the modified NAICS 2002 industry and size standard with the related NAICS 2007 industry and size standard, a user can identify the size standard SBA is adopting for the applicable NAICS 2007 industries. Following Table 4, SBA explains the basis for the limited number of cases that do result in a change to the size standard.

TABLE 4

[This Table Includes Only Those NAICS Codes Where Size Standards are Affected. They Are Arranged According to the Order of Their NAICS 2007 Industry Codes]

2002 NAICS code	Current size standards	2002 NAICS U.S. description	2007 NAICS code	2007 NAICS U.S. description	New size standards
111211	\$0.75 million	Potato Farming	111211	Potato Farming	\$0.75 million.
111219*	\$0.75 million	Other Vegetable (except Potato) and Melon Farming— <i>sweet potato and yam farming</i> .			
111219*	\$0.75 million	Other Vegetable (except Potato) and Melon Farming— <i>except sweet potato and yam farming</i> .	111219	Other Vegetable (except Potato) and Melon Farming.	\$0.75 million.
111998*	\$0.75 million	All Other Miscellaneous Crop Farming— <i>except algae, seaweed, and other plant aquaculture</i> .	111998	All Other Miscellaneous Crop Farming.	\$0.75 million.
112519	\$0.75 million	Other Animal Aquaculture	112519	Other Aquaculture	\$0.75 million.
111998*	\$0.75 million	All Other Miscellaneous Crop Farming— <i>algae, seaweed, and other plant aquaculture</i> .			
314999	500 employees	All Other Miscellaneous Textile Product Mills	314999	All Other Miscellaneous Textile Product Mills.	500 employees.
315211*	500 employees	Men's and Boys' Cut and Sew Apparel Contractors— <i>embroidery contractors</i> .			
315212*	500 employees	Women's, Girls' and Infants' Cut and Sew Apparel Contractors— <i>embroidery contractors</i> .			
315211*	500 employees	Men's and Boys' Cut and Sew Apparel Contractors— <i>except embroidery contractors</i> .	315211	Men's and Boys' Cut and Sew Apparel Contractors.	500 employees.
315212*	500 employees	Women's, Girls' and Infants' Cut and Sew Apparel Contractors— <i>except embroidery contractors</i> .	315212	Women's, Girls' and Infants' Cut and Sew Apparel Contractors.	500 employees.
326199*	500 employees	All Other Plastics Product Manufacturing— <i>except inflatable plastics boats</i> .	326199	All Other Plastics Product Manufacturing.	500 employees.
326291*	500 employees	Rubber Product Manufacturing for Mechanical Use— <i>except rubber tubing for mechanical use</i> .	326291	Rubber Product Manufacturing for Mechanical Use.	500 employees.
326299*	500 employees	All Other Rubber Product Manufacturing— <i>except inflatable rubber boats</i> .	326299	All Other Rubber Product Manufacturing.	500 employees.
326291*	500 employees	Rubber Product Manufacturing for Mechanical Use— <i>rubber tubing for mechanical use</i> .			
333298	500 employees	All Other Industrial Machinery Manufacturing	333298	All Other Industrial Machinery Manufacturing.	500 employees.
339111*	500 employees	Laboratory Apparatus and Furniture Manufacturing— <i>laboratory distilling equipment</i> .			
333415	750 employees	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.	333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.	750 employees.
339111*	500 employees	Laboratory Apparatus and Furniture Manufacturing— <i>laboratory freezers</i> .			
333994	500 employees	Industrial Process Furnace and Oven Manufacturing.	333994	Industrial Process Furnace and Oven Manufacturing.	500 employees.
339111*	500 employees	Laboratory Apparatus and Furniture Manufacturing— <i>laboratory furnaces and ovens</i> .			
333997	500 employees	Scale and Balance (except Laboratory) Manufacturing.	333997	Scale and Balance Manufacturing.	500 employees.
339111*	500 employees	Laboratory Apparatus and Furniture Manufacturing— <i>laboratory scales and balances</i> .			
333999	500 employees	All Other Miscellaneous General Purpose Machinery Manufacturing.	333999	All Other Miscellaneous General Purpose Machinery Manufacturing.	500 employees.
339111*	500 employees	Laboratory Apparatus and Furniture Manufacturing— <i>laboratory centrifuges</i> .			
334220*	750 employees	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing— <i>except communications signal testing and evaluation equipment</i> .	334220	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.	750 employees.
334515	500 employees	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals.	334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals.	500 employees.

TABLE 4—Continued

[This Table Includes Only Those NAICS Codes Where Size Standards are Affected. They Are Arranged According to the Order of Their NAICS 2007 Industry Codes]

2002 NAICS code	Current size standards	2002 NAICS U.S. description	2007 NAICS code	2007 NAICS U.S. description	New size standards
334220*	750 employees	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing— <i>communications signal testing and evaluation equipment.</i>			
336612	500 employees	Boat Building	336612	Boat Building	500 employees.
326199*	500 employees	All Other Plastics Product Manufacturing— <i>inflat-able plastics boats.</i>			
326299*	500 employees	All Other Rubber Product Manufacturing— <i>inflat-able rubber boats.</i>			
337127	500 employees	Institutional Furniture Manufacturing	337127	Institutional Furniture Manufacturing.	500 employees.
339111*	500 employees	Laboratory Apparatus and Furniture Manufacturing— <i>laboratory furniture (e.g., stools, tables, benches).</i>			
339113	500 employees	Surgical Appliance and Supplies Manufacturing	339113	Surgical Appliance and Supplies Manufacturing.	500 employees.
339111*	500 employees	Laboratory Apparatus and Furniture Manufacturing— <i>except laboratory furniture, scales, balances, furnaces, ovens, centrifuges, distilling equipment, and freezers.</i>			
517110	1500 employees	Wired Telecommunications Carriers	517110	Wired Telecommunications Carriers.	1,500 employees.
517510	\$13.5 million	Cable and Other Program Distribution..			
518111*	\$23.0 million	Internet Service Providers— <i>broadband Internet service providers (e.g., cable, DSL).</i>			
517211	1500 employees	Paging	517210	Wireless Telecommunications Carriers (except Satellite).	1,500 employees.
517212	1500 employees	Cellular and Other Wireless Telecommunications..			
517310	1500 employees	Telecommunications Resellers	517911	Telecommunications Resellers.	1,500 employees.
517910	\$13.5 million	Other Telecommunications	517919	All Other Telecommunications.	\$23.0 million.
518111*	\$23.0 million	Internet Service Providers— <i>ISPs providing services via client-supplied telecommunications connections..</i>			
516110	500 employees	Internet Publishing and Broadcasting	519130	Internet Publishing and Broadcasting and Web Search Portals.	500 employees.
518112	\$6.5 million	Web Search Portals.			
519190	\$6.5 million	All Other Information Services	519190	All Other Information Services.	\$6.5 million.
525990	\$6.5 million	Other Financial Vehicles	525990	Other Financial Vehicles	\$6.5 million.
525930*	\$6.5 million	Real Estate Investment Trusts— <i>hybrid or mortgage REITs primarily in underwriting or investing in mortgages..</i>			
531110	\$6.5 million	Lessors of Residential Buildings and Dwellings	531110	Lessors of Residential Buildings and Dwellings.	\$6.5 million.
525930*	\$6.5 million	Real Estate Investment Trusts— <i>hybrid or equity REITs primarily leasing residential Buildings and Dwellings.</i>			
531120	\$6.5 million	Lessors of Nonresidential Buildings (except Miniwarehouses).	531120	Lessors of Nonresidential Buildings (except Miniwarehouses).	\$6.5 million.
525930*	\$6.5 million	Real Estate Investment Trusts— <i>hybrid or equity REITs primarily leasing nonresidential buildings.</i>			
531130	\$23.5 million	Lessors of Miniwarehouses and Self-Storage Units	531130	Lessors of Miniwarehouses and Self-Storage Units.	\$23.5 million.
525930*	\$6.5 million	Real Estate Investment Trusts— <i>hybrid or equity REITs primarily leasing miniwarehouses and self-storage units.</i>			
531190	\$6.5 million	Lessors of Other Real Estate Property	531190	Lessors of Other Real Estate Property.	\$6.5 million.

TABLE 4—Continued

[This Table Includes Only Those NAICS Codes Where Size Standards are Affected. They Are Arranged According to the Order of Their NAICS 2007 Industry Codes]

2002 NAICS code	Current size standards	2002 NAICS U.S. description	2007 NAICS code	2007 NAICS U.S. description	New size standards
525930*	\$6.5 million	Real Estate Investment Trusts— <i>hybrid or equity REITs primarily leasing other real estate property.</i>			
541612*	\$6.5 million	Human Resources and Executive Search Consulting Services— <i>except executive search consulting services.</i>	541612	Human Resources Consulting Services.	\$6.5 million.
541710*	500 employees	Research and Development in the Physical, Engineering, and Life Sciences— <i>biotechnology research and development.</i>	541711	Research and Development in Biotechnology.	500 employees.
541710*	500 employees	Research and Development in the Physical, Engineering, and Life Sciences— <i>except biotechnology research and development.</i>	541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).	500 employees.
561310	\$6.5 million	Employment Placement Agencies	561311	Employment Placement Agencies.	\$6.5 million.
541612*	\$6.5 million	Human Resources and Executive Search Consulting Services— <i>executive search consulting services.</i>	561312	Executive Search Services.	\$6.5 million.

* Indicates that this activity within the identified NAICS 2002 code is now an activity within the related NAICS 2007 industry.

As shown in Table 4, the NAICS 2007 modifications lead to a revision in the current size standard for a limited number of industries or activities. The basis for the revisions to seven size standards are discussed below:

1. NAICS 339111, “Laboratory Apparatus and Furniture Manufacturing,” (part) *laboratory freezers*. NAICS 2007 eliminated NAICS 339111. The various activities of NAICS 339111 are reclassified in other NAICS 2007 codes having the same 500 employee size standard, except for laboratory freezer manufacturing. Laboratory freezer manufacturing is reclassified in NAICS 333415, “Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,” having a size standard of 750 employees. SBA is adopting the 750 employee size standard for NAICS 333415 because laboratory freezer manufacturing represents a small part of that industry (Rule #3).

2. NAICS 334220, “Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,” (part) *communications signal testing and evaluation equipment*. The current size standard for NAICS 334220 is 750 employees. The activity of “communications signal testing and evaluation equipment manufacturing” in NAICS 2007 is reclassified in NAICS 334515, “Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals,” having a size standard of 500 employees. SBA is

adopting the 500 employee size standard for NAICS 334515 because “communications signal testing and evaluation equipment manufacturing” represents a small part of that industry (Rule #3).

3. NAICS 518111, “Internet Service Providers,” (part) *broadband Internet service providers (e.g., cable, DSL)*. The current size standard for NAICS 518111 is \$23.0 million in average annual receipts. The activity, “broadband Internet services providers (e.g., cable, DSL),” in NAICS 2007 is reclassified in NAICS 517110, “Wired Telecommunications Carriers,” having a 1,500 employee size standard. SBA is adopting the 1,500 employee size standard for NAICS 517110 because broadband Internet services providers represent a small part of that industry (Rule #3).

4. NAICS 517510, “Cable and Other Program Distribution.” NAICS 2007 eliminated NAICS 517510. The current size standard for NAICS 517510 is \$13.5 million in average annual receipts. In NAICS 2007, all activities of NAICS 517510 are reclassified in 517110, “Wired Telecommunications Carriers,” having a 1,500 employee size standard. SBA is adopting the 1,500 employee size standard for NAICS 517110 because the Cable and Other Program Distribution industry is much smaller than the Wired Telecommunications Carriers industry (Rule #3).

5. NAICS 517910, “Other Telecommunications.” NAICS 2007 eliminated NAICS 517910. NAICS 2007 establishes a new industry titled “All

Other Telecommunications,” NAICS 517919, comprising all activities of NAICS 517910 having a size standard of \$13.5 million and most activities from NAICS 518111, “Internet Service Providers (ISP),” having a size standard of \$23 million. As discussed in # 3 above, the activity of “broadband Internet services providers” in NAICS 518111 is reclassified in NAICS 517110. SBA is adopting the \$23 million size standard for that industry because ISP establishments providing services via client-supplied telecommunications connections represent the larger component of the new NAICS 517919 (Rule #3).

6. NAICS 518112, “Web Search Portals.” NAICS 2007 eliminated NAICS 518112 and NAICS 516110, “Internet Publishing and Broadcasting,” having size standards of \$6.5 million and 500 employees, respectively. NAICS 2007 combines these two industries to form a new six-digit industry—NAICS 519130, “Internet Publishing and Broadcasting and Web Search Portals.” SBA is adopting the 500 employee size standard for NAICS 519130 because the Internet Publishing and Broadcasting industry is much larger than the Web Search Portals industry (Rule #3).

7. NAICS 525930, “Real Estate Investment Trusts,” (part) *hybrid or equity REITs primarily leasing miniwarehouses and self-storage units*. NAICS 2007 eliminated NAICS 525930. The various activities of NAICS 525930 are reclassified in NAICS 2007 codes having the same \$6.5 million size standard, except for the activity of

hybrid or equity REITs primarily leasing miniwarehouses and self-storage units. That activity is reclassified in NAICS 531130, "Lessors of Miniwarehouses and Self-Storage Units," having a \$23.5 million size standard. SBA is adopting the \$23.5 million size standard for NAICS 531130 because hybrid or equity REITs primarily leasing miniwarehouses and self-storage units represent a small part of that industry (Rule #3).

Justification for October 1, 2007 Effective Date

If adopted in final form, SBA's table of small business size standards matched to NAICS 2007 will be effective on and will apply to all solicitations issued on or after October 1, 2007, because:

1. Federal Government recordkeeping and statistics would be more consistent and more comparable with other data for analyzing small business activity. October 1, 2007 is the start of the first Federal Government fiscal year after the NAICS 2007 January 1, 2007 effective date.

2. SBA and other users of size standards could collect data on their small business programs using the more recent NAICS format and can compare those data with future Federal statistics that will be based on NAICS 2007 industry classifications. The availability of such comparable data would ensure the credibility of analyses comparing program and industry data.

3. Federal agencies that use NAICS and SBA's small business size standards for their programs, as most of them do, will need time to implement the new size standards and to develop training tools necessary to do so. SBA believes that publishing this direct final rule now provides sufficient time for agencies to determine its impact on their programs and to convert and update their databases and tracking systems for implementation by the beginning of FY 2008.

4. To evaluate and establish small business size standards, SBA uses data that the U.S. Bureau of the Census (Census Bureau) compiles for the Agency from its quinquennial Economic Census of U. S. industry and businesses. SBA acquires this special compilation from the Census Bureau every five years, after each Economic Census. To evaluate and establish meaningful small business size standards, SBA requires the same data and on the same basis as the Census Bureau collects them. Because the next compilation that SBA will obtain from the Census Bureau will be based on NAICS 2007, SBA needs to use NAICS 2007 as the basis for its table of small business size standards.

Alternatives To Adopting NAICS 2007 That SBA Considered

SBA considered retaining the NAICS 2002 codes as the basis for small business size standards. However, SBA believes that doing so will lead to inconsistency among Federal agencies that adopt NAICS 2007 for their programs. More importantly, if SBA does not adopt NAICS 2007 it will not be able to analyze and evaluate small business size standards adequately because available Census Bureau data based on NAICS 2007 industries will not be comparable with NAICS 2002 industry data. Without useful data, SBA cannot properly analyze size standards and their effects on businesses.

SBA considered segmenting the modified NAICS 2002 size standard for cases where the size standard changes instead of applying the guidelines used in previous NAICS revisions. SBA believes this alternative is impractical because it would complicate size standards for minor reasons. Furthermore, the application of the guidelines for NAICS 2007 results in the loss of eligibility for currently-defined small businesses in only one minor industry activity. That occurs for "communications signal testing and evaluation equipment manufacturing," a part of NAICS 334220, "Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing." The size standard for that activity decreases from 750 employees to 500 employees. A search of the Dynamic Small Business Search (DSBS) reveals that there are 38 small businesses out of 2,200 small businesses registered in NAICS 334220 having more than 500 employees. However, it is unlikely that many of these businesses, if any, will be affected given the limited activity of "communications signal testing and evaluation equipment manufacturing." All other activities in NAICS 334220 will continue to have a size standard of 750 employees.

Consideration of Comments

This is a direct final rule, but SBA will consider comments. SBA believes that this rule is routine and non-controversial, and SBA anticipates no significant adverse comments to this action. If SBA receives significant any adverse comments, it will withdraw this direct final rule. SBA is publishing concurrently in this issue of the **Federal Register** a proposed rule to modify its Small Business Size Regulations as contemplated in this direct final rule. If SBA does receive significant adverse comments, it will consider the comment(s) before making a final

decision. If SBA decides to adopt NAICS 2007 as proposed, or with limited modifications, it will publish a final rule that addresses the comments and explains the basis for its final decision.

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

OMB has determined that this direct final rule is not a "significant" regulatory action for purposes of Executive Order (E.O.) 12866. This direct final rule incorporates the latest revisions of the NAICS, which SBA uses to identify industries in the United States economy for purposes of establishing small business size standards. As discussed in the preamble, the size standard of a limited number of activities would change because of the NAICS revisions. Almost all businesses currently defined as small under the NAICS 2002 industries would continue to be small under the NAICS 2007 industries, if adopted for size standards. The rule also affects Federal Government programs that provide a benefit for small businesses. SBA welcomes comments describing the impact on small businesses of the size standard changes resulting from this rule.

For purposes of E.O. 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order.

For purposes of E.O. 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule does not impose any new reporting or recordkeeping requirements.

When an agency promulgates a rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) requires the agency to prepare an initial regulatory flexibility analysis (IRFA) describing the potential economic impact of the rule on small entities and alternatives that may minimize that impact. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an IRFA, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. SBA has determined that this direct final rule as drafted, including the alternatives discussed in the supplementary information above,

would not have a significant impact on a substantial number of small entities.

OMB's NAICS 2007 modifications will result in size standards changes to a minimal number of activities within certain NAICS industries detailed above in the supplementary information, with little, if any, affect on small businesses. Those activities are now part of other, more appropriate or new NAICS codes and their industry descriptions. There will be no changes to the size standards for most NAICS industries and their economic activities. For those that would change, they would create a larger number of enterprises that can qualify for Federal government programs reserved for small businesses.

As stated above, a search of the Dynamic Small Business Search (DSBS) reveals that there are 38 small businesses out of 2,200 small businesses registered in NAICS 334220 having more than 500 employees. However, it is unlikely that many of these businesses, if any, will be affected given the limited activity of "communications signal testing and evaluation equipment manufacturing." All other activities in NAICS 334220 will continue to have a size standard of 750 employees. Therefore, SBA believes that the impact on small businesses will be minimal because these activities represent relatively minor components of the NAICS 2002 industries.

When SBA published a direct final rule to replace the table of small business size standards based on NAICS 1997 with a new one based on NAICS 2002, it certified that for purposes of the Regulatory Flexibility Act, the rule would affect a significant number of small businesses, but that the impact on each business would not be substantial. (67 FR 52597 to 52606, 62292, 67253

and 67102) SBA received no comments to the contrary. No changes have occurred since then. Adopting NAICS 2007 to replace NAICS 2002 as the basis for its table of size standards would have, SBA believes, an even smaller impact.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons set forth in the preamble, SBA amends 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 637(a), 644, and 662(5); and Pub. L. 105–135, Sec. 401, *et seq.*, 111 Stat. 2592.

§ 121.201 [Amended]

■ 2. Amend § 121.201, in the table "Small Business Size Standards by NAICS Industry," as follows:

- a. Revise the industry description of NAICS code 112519 "Other Animal Aquaculture" to read "Other Aquaculture."
- b. Revise the heading "Sector 21—Mining" to read "Sector 21—Mining, Quarrying, and Oil and Gas Extraction."
- c. Revise the industry description of NAICS code 238210, "Electrical Contractors," to read "Electrical Contractors and other Wiring Installation Contractors."
- d. Revise the industry description of NAICS code 316999, "All Other Leather

Good Manufacturing," to read "All Other Leather Good and Allied Product Manufacturing."

■ e. Revise the industry description of NAICS code 322221, "Coated and Laminated Packaging Paper and Plastics Film Manufacturing," to read "Coated and Laminated Packaging Paper Manufacturing."

■ f. Revise the industry description of NAICS code 326111, "Unsupported Plastics Bag Manufacturing," to read "Plastics Bag and Pouch Manufacturing."

■ g. Revise the industry description of NAICS code 333997, "Scale and Balance (except Laboratory) Manufacturing," to read "Scale and Balance Manufacturing."

■ h. Remove the entry NAICS code 339111, "Laboratory Apparatus and Furniture Manufacturing."

■ i. Revise the industry description of NAICS code 441221, "Motorcycle Dealers," to read "Motorcycle, ATV, and Personal Watercraft Dealers."

■ j. Revise the heading "Sectors 48–49—Transportation" to read "Sectors 48–49—Transportation and Warehousing."

■ k. Revise the industry description of NAICS code 492110, "Couriers," to read "Couriers and Express Delivery Services."

■ l. Remove the heading "Subsector 516—Internet Publishing and Broadcasting" and the entry for NAICS code 516110, "Internet Publishing and Broadcasting."

■ m. Remove the entries for NAICS codes 517211, "Paging;" 517212, "Cellular and Wireless Telecommunications;" and 517310, "Telecommunications Resellers" and add in their place the following:

517210	Wireless Telecommunications Carriers (except Satellite)		1,500
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■ n. Remove the entries for NAICS codes 517510, "Cable and Other Program Distribution," and 517910,

"Other Telecommunications," and add in their place the following:

517911	Telecommunications Resellers		1,500
517919	All Other Telecommunications	\$23.5	

■ o. Revise the heading "Subsector 518—Internet Service Providers, Web Search Portals, and Data Processing Services" to read "Subsector 518—Data

Processing, Hosting, and Related Services."

■ p. Remove the entries for NAICS codes 518111, "Internet Service

Providers," and 518112, "Web Search Portals."

■ q. Add immediately after entry for NAICS code 519120, "Libraries and Archives" the following:

519130	Internet Publishing and Broadcasting and Web Search Portals		500
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■ r. Revise the heading “Subsector 523—Financial Investments and Related Activities” to read “Subsector 523—Securities, Commodity Contracts, and Other Financial Investments and Related Activities.”

■ s. Revise the industry description of NAICS code 541612, “Human Resources and Executive Search Consulting Services,” to read “Human Resources Consulting Services.”

■ t. Remove the entry NAICS code 541710, “Research and Development in the Physical, Engineering, and Life Sciences,” and add in its place the following:

541711	Research and Development in Biotechnology. ¹¹		11500
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology). ¹¹		11500
Except,	Aircraft		1,500
Except,	Aircraft Parts, and Auxiliary Equipment, and Aircraft Engine Parts		1,000
Except,	Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts.		1,000

■ u. Remove the entry for NAICS code 561310, “Employment Placement

Agencies,” and add in its place the following:

561311	Employment Placement Agencies	\$6.5	
561312	Executive Search Services	\$6.5	

■ v. Revise the industry description of NAICS code 561422, “Telemarketing Bureaus,” to read “Telemarketing Bureaus and Other Contact Centers.”

■ w. Revise the industry description of NAICS code 722212, “Cafeterias,” to read “Cafeterias, Grill Buffets, and Buffets.”

■ x. Revise the heading “Sector 81—Other Services” to read “Sector 81—Other Services (except Public Administration).”

■ y. Amend footnote 11 by removing “NAICS code 541710” and adding in its place “NAICS codes 541711 and 541712.”

Dated: August 23, 2007.

Steven C. Preston,
Administrator.

[FR Doc. E7-17151 Filed 8-28-07; 8:45 am]

BILLING CODE 8025-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2005-0157; FRL-8143-9]

Propylene Oxide; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of propylene oxide and for the reaction product, propylene chlorohydrin, in or on fig; grape, raisin; and plum, prune, dried, when used as a post-harvest fumigant. This rule additionally removes all directions for use currently listed in 40 CFR 180.491. Aberco, Incorporated requested these tolerances under the

Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 29, 2007. Objections and requests for hearings must be received on or before October 29, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2005-0157. To access the electronic docket, go to <http://www.regulations.gov>, select “Advanced Search,” then “Docket Search.” Insert the docket ID number where indicated and select the “Submit” button. Follow the instructions on the www.regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in www.regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Tony Kish, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9443; e-mail address: kish.tony@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to