

Done in Washington, DC, this 20th day of January 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00-1803 Filed 1-25-00; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Chapter I

[Docket No. 00-04]

#### Debt Cancellation Contracts

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is seeking comment on whether it is necessary or appropriate to issue regulations governing bank sales of debt cancellation contracts. Currently, no comprehensive Federal regulations specifically govern this activity. The purpose of this request for comments is to help us determine whether to issue a proposed rule covering bank sales of these products.

**DATES:** Comments must be received by March 27, 2000.

**ADDRESSES:** Please direct your comments to: Docket No. [00-04], Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. You can inspect and photocopy all comments received at that address. In addition, you may send comments by facsimile transmission to FAX number (202) 874-5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

#### FOR FURTHER INFORMATION CONTACT:

Heidi M. Thomas, Senior Attorney, Legislative and Regulatory Activities, at (202) 874-5090.

#### SUPPLEMENTARY INFORMATION:

##### Background

Debt cancellation contracts (DCCs) are bank products that are contracts with a borrower providing for the cancellation of the borrower's obligation to repay an outstanding loan upon the occurrence of a certain event, such as the borrower's death or disability.

The authority of national banks to offer DCCs is well established. In 1963, the OCC concluded that offering DCCs was incidental to the express authority

of a national bank to make loans, and was therefore a permissible activity pursuant to 12 U.S.C. 24(Seventh). We codified this interpretation in 1971, thus confirming a national bank's authority to sell DCCs. 12 CFR 7.7495 (1972). The Eighth Circuit Court of Appeals upheld the OCC's interpretation in *First National Bank of Eastern Arkansas v. Taylor*, 907 F.2d 775, cert. denied, 498 U.S. 972 (1990), holding that our construction of the statute was reasonable and that a national bank's ability to sell debt cancellation contracts was within the scope of the bank's powers authorized by 12 U.S.C. 24(Seventh).

In 1996, we amended the rule governing DCCs, which was renumbered as 12 CFR 7.1013, to provide that a national bank may offer DCCs that will cancel a debt obligation upon either the death or disability of the borrower.

Current § 7.1013 states that:

A national bank may enter into a contract to provide for loss arising from cancellation of an outstanding loan upon the death or disability of a borrower. The imposition of an additional charge and the establishment of necessary reserves in order to enable the bank to enter into such debt cancellation contracts are a lawful exercise of the powers of a national bank.

We further noted that, on a case-by-case basis, we may permit DCCs where the cancellation of the borrower's obligation is triggered by events other than death or disability. 61 FR 4849, 4852 (April 1, 1996).

We have not issued any regulations relating to DCCs since 1996, and there is currently no comprehensive Federal consumer protection scheme that covers national bank offerings of DCCs. The purpose of this advance notice of proposed rulemaking is to request comments on whether we should issue regulations governing DCCs, and if so, what specific provisions we should include in these regulations.

#### Comment Solicitation

We invite you to comment on all aspects of the issues presented in this advance notice of proposed rulemaking. Specifically:

1. Should we issue regulations governing DCCs that, for example, establish standards for the disclosure of terms, notices, contract termination, contract charges, and dispute resolution?

2. Should we include debt suspension agreements in any regulations covering DCCs?

3. Should we address other areas or issues by regulation? Commenters are invited to provide specific suggestions for provisions that would protect

consumers, prohibit abusive practices, and ensure the safety and soundness of national banks.

In addition, commenters are invited to address the impact that a regulation governing DCCs would have on community banks. We recognize that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, we specifically request comment on the impact that a regulation governing DCCs would have on community banks' current resources and available personnel with the requisite expertise, and whether the goals of this regulation could be achieved, for community banks, through an alternative approach.

Dated: January 13, 2000.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

[FR Doc. 00-1748 Filed 1-25-00; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

#### 13 CFR Part 121

#### Small Business Size Regulations; Size Standards for Compliance With Programs of Other Agencies

**AGENCY:** Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Small Business Administration (SBA) proposes to amend its size regulations. The proposed amendment requires an agency to consult in writing with SBA before proposing small business size standards for use in its programs, if those size standards are other than those established by SBA. It removes the requirement that the agency have the SBA Administrator's approval for the contemplated size standards prior to the proposed rule. Rather, the agency must seek the SBA Administrator's approval only before it adopts size standards in a final rule. As does the existing regulatory text, the proposed amendment sets forth the minimum information agencies must furnish the SBA Administrator to support its request for approval of its contemplated size standards.

**DATES:** SBA must receive comments on or before March 27, 2000. SBA will make all public comments available to any person or entity upon request.

**ADDRESSES:** Address all comments concerning this proposed rule to Gary M. Jackson, Assistant Administrator for Size Standards, Office of Size Standards, 409 3rd Street, SW, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Carl Jordan, Office of Size Standards, at (202) 205-6618.

**SUPPLEMENTARY INFORMATION:** The Small Business Act (section 3(a)&(b), 15 U.S.C. 632) (Act) provides for the establishment of small business size standards. The Act authorizes the Administrator of SBA to “specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act” (emphasis added). The Act thereby gives the SBA Administrator exclusive authority to establish small business size standards for all Federal agencies, in the absence of other specific statutory authority. Unless a statute specifically provides size standards for an agency’s program or gives an agency authority to do so, the agency must use the applicable size standards established by the Administrator of SBA. However, the Act allows an agency to “prescribe a size standard for categorizing a business concern as a small business concern” (section 3[a][2][C]) of the Act) provided the contemplated size standard meets certain criteria and the agency first obtains approval of the SBA Administrator.

Currently, Small Business Size Regulations in 13 CFR 121.902 establish procedures for agencies, other than SBA, to follow before they prescribe size standards for their own use. These regulations require an agency contemplating the use of size standards different from those established by SBA to obtain the SBA Administrator’s approval to do so before it proposes them for comment as part of its rulemaking process. If an agency believes that size standards different from those established by SBA are appropriate for its purposes, it must propose the specific size standards, explain why it believes they are appropriate for their intended purposes and why SBA’s are not, and seek public comment on them. The proposed size standards must be specific and must meet the criteria set forth in the Act and SBA regulations.

This proposed rule is limited to modifying the procedure that agencies must follow when requesting the SBA Administrator’s approval to use special size standards. If the rule is adopted, it will only require the agency to consult in writing with SBA’s Office of Size Standards before proposing to use an alternative size standard. The agency will only be required to request the SBA Administrator’s approval of the size

standard before it publishes its final rule as part of its rulemaking process.

The written consultation must include what size standard the agency is proposing, to what program it will apply, how the agency arrived at this particular size standard for this program, and why SBA’s existing size standards do not satisfy their program requirements. Such written consultation shall take place at least fourteen (14) calendar days before issuing the proposed rule. SBA believes that less than fourteen (14) calendar days is not sufficient time for SBA to review the proposed size standards and respond to the agency’s consultation. The consultation will allow SBA to review the proposed size standards and advise the agency as soon as practicable of issues, such as those in conflict with the Act or SBA’s Small Business Size Regulations. Such issues could become a bar to the SBA Administrator’s approval, unless they are addressed. SBA’s Office of Size Standards will acknowledge receipt of an agency’s written consultation.

SBA intends that “consultation,” as it is described above, will fulfill the requirements of this proposed rule, and expects that there shall be no further required discussions, except at the option of the requesting agency. SBA is committed to ensuring that such consultation with the Office of Size Standards will not delay or otherwise interfere with the agency’s rulemaking process.

This procedure will be a simpler one than now exists, because, if adopted, it will only require the SBA Administrator’s approval before the agency issues its final rule adopting the contemplated size standards, rather than before it proposes them. It also will require the agency to furnish SBA a copy of the proposed rule at the time the agency publishes it for public comment. It is important to note that this is a procedural modification, and that SBA is not changing any substantive requirements.

SBA proposes to amend these procedures in its regulations for the following reasons:

#### **1. It Will Streamline the Rule Making Process**

Obtaining SBA approval for contemplated size standards prior to a proposed rule can encumber the process by which an agency implements legislation or otherwise fulfills its statutory mandates. The number of agencies seeking the SBA Administrator’s approval has not been large. However, the number and complexity of requests from a small

number of agencies, together with the limited time within which they must complete their actions, leads SBA to conclude that this modification is necessary. SBA has experienced a number of requests for approval of alternative small business size standards from agencies that are required to comply with Congressional mandates within limited time frames. Under SBA’s existing regulations, which this rule amends, agencies frequently cannot seek and obtain the SBA Administrator’s approval within time frames statutorily allowed.

#### **2. The Prescribed Size Standards Adopted in an Agency’s Final Rule May Not Be the Same as Those the SBA Administrator Had Approved for the Proposed Rule, Unless SBA Amends This Regulation**

An agency may receive a large number of comments on its proposed size standards, and the comments may or may not support the proposal, to varying degrees. Comments to proposed rules weigh heavily on agency decisions concerning final rules. Therefore, it sometimes happens that an agency, after evaluating the comments it received, could issue a final rule with small business size standards that differ from those in the proposed rule. The agency’s final rule will reflect public comments to the proposed rule. Because the authority to approve small business size standards resides solely with the SBA Administrator, SBA believes that the current procedures can have results inconsistent with the Act and congressional intent. It can also happen, though infrequently, that after an agency has reviewed and considered the comments, it will not issue any final rule. Rather, it may then issue another proposed rule, taking into consideration the comments it received. If the newly contemplated size standards are not the same as the agency originally proposed, the agency must request the SBA Administrator’s approval a second time for this new proposal. This procedural change, if adopted, will let an agency determine, after considering public comments, what size standards it believes it should include in its final rule, or whether it will elect to use the SBA size standards. SBA, for its part, will review no more than one request, based on the agency’s decision relative to its final rule.

### 3. An Agency That Contemplates Using Small Business Size Standards, Other Than Those Established by SBA, Will Have SBA's Input Before It Issues Its Proposed Rule

SBA intends the written consultation to be considerably simpler than a request for the SBA's approval before a proposed rule, and will not delay the rulemaking proceedings of the agency. It will give SBA the background and supporting information for the agency's contemplated size standards. SBA can then, if necessary, comment on the contemplated size standards, and provide the agency with further advice and direction on formulating the size standards and its reasons for proposing them. This can reduce future delays and possible barriers in the administrative process, when the agency requests the SBA Administrator's approval to prescribe the size standards in its final rule.

### 4. SBA Will Have, as Part of Its Decision Making Process, the Requesting Agency's Proposed Rule, Its Explanation and Justification for the Standards, Copies of the Public Comments to the Size Standards in the Proposed Rule, as Well as a Draft Copy of the Agency's Intended Final Rule

In its final rule the agency will address the comments and justify adopting the size standards. Under existing regulations, which this rule proposes to change, after reviewing the comments received and reaching its final decision based on them, an agency only notifies SBA of its intent to publish a final rule, and furnishes this information to SBA. SBA believes comments can and do provide a requesting agency with more information to justify the size standards it elects to implement, whether they are the same as it proposed or not. Without this procedural change, SBA will continue to be asked to approve size standards on which interested parties have not commented. Commenters may raise important issues regarding the size standards that an agency needs to consider before making its decision on the size standards. Based on the comments, the requesting agency may opt for size standards that differ from what it had proposed. Since the Act precludes an agency from prescribing size standards that SBA has not approved, the agency would have to resubmit it for SBA approval. By simplifying these procedures, SBA will have at hand and be able to evaluate the same information the requesting agency uses.

This proposal will only change the procedures an agency must follow when it requests the SBA Administrator's approval to prescribe size standards, other than those promulgated by SBA, for its programs. It changes no substantive requirement or small business criteria in connection with requesting the Administrator's approval. The proposed change will, SBA believes, simplify the rulemaking process for other agencies and for itself, without compromising the statutory requirement that other agencies obtain the SBA Administrator's approval for size standards they contemplate prescribing for their use. Similarly, when an agency contemplates using alternative size standards for its Regulatory Flexibility Analysis, this proposed rule does not change the Regulatory Flexibility Act requirement that it consult with SBA's Office of Advocacy before it does so.

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

SBA has determined that this rule, if adopted, would not be a significant rule within the meaning of Executive Order 12866. It will not have an annual economic effect in excess of \$100 million, result in a major increase in costs for individuals or governments, or have a significant adverse effect on competition. SBA has made this determination for the following reasons:

1) The proposed change is procedural, not substantive, in nature; (2) the proposed change applies to Federal agencies only; and (3) the proposed change applies only when a Federal agency contemplates categorizing an entity as a small business concern for its programs using standards other than those established by SBA. SBA has also made this determination based on the nature, number and complexity of requests from Federal agencies that have made such requests. SBA does not believe that this amendment will increase the nature, number or frequency of these requests.

For purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications.

For purposes of Executive Order 12988, SBA has determined that this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 3 of that Order.

For purposes of the Regulatory Flexibility Act, SBA certifies that this proposed rule, if promulgated as a final

rule, would not have a significant economic effect on a substantial number of small entities since the procedure applies to the work of federal agencies and imposes no burden on small businesses. For purposes of the Paperwork Reduction Act, SBA certifies that this proposed rule, if promulgated in final form, would not impose any new reporting or recordkeeping requirements.

### List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs-business, Loan programs-business, Small business.

Accordingly, SBA proposes to amend part 121 of 13 CFR as follows:

### PART 121—SMALL BUSINESS SIZE REGULATIONS

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

**Authority:** Pub. L. 105–135 sec. 601 *et seq.*, 111 Stat. 2592; 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

2. Section 121.902 is revised to read as follows:

#### § 121.902 What size standards are applicable to programs of other agencies?

The size standards for compliance with programs of other agencies are those for SBA programs which are most comparable to the programs of such other agencies, unless the agency and SBA agree otherwise.

3. Section 121.903 is revised to read as follows:

#### § 121.903 May an agency use size standards for its programs that are different than those established by SBA?

(a) Federal agencies or departments promulgating regulations relating to small businesses usually use SBA size criteria. In limited circumstances, if they decide SBA size standards are not suitable for their programs, then agency heads may establish more appropriate small business definitions for the exclusive use in such programs, but only when:

(1) The size standards will determine the size of a small manufacturing concern by its average number of employees based on the preceding twelve calendar months, determined according to § 121.106; the size of a small services concern by its average annual gross receipts over a period of at least three years, determined according to § 121.104; the size of other small concerns on data over a period of at least three years; or, other factors approved by SBA;

(2) The agency has consulted in writing with SBA's Assistant Administrator for Size Standards at least fourteen (14) calendar days before publishing the proposed rule which is part of the rulemaking process. The written consultation will include: what size standard the agency contemplates using; to what agency program it will apply; how the agency arrived at this particular size standard for this program; and, why SBA's existing size standards do not satisfy the program requirements.

(3) The agency proposes the size standards for public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553;

(4) The agency provides a copy of the proposed rule, when it publishes it for public comment as part of the rulemaking process, to SBA's Assistant Administrator for Size Standards;

(5) SBA's Administrator approves the size standards before the agency adopts a final rule or otherwise prescribes them for its use;

(6) The agency's request to SBA for the Administrator's approval be accompanied by at least the following: copies of all comments on the proposed size standards received in response to the proposed rule; reasons for adopting size standards other than SBA's; a copy of the intended final rule, including the preamble, or a separate written justification for the intended size standards followed by a copy of the intended final rule and preamble prior to its publication; other information SBA may request in connection with the request; and certification that it complies with the Small Business Act (§ 3[a] & [b]) and with 13 CFR part 121; and

(b) When approving any size standards established pursuant to this section, SBA's Administrator will ensure that the size standards vary from industry to industry to the extent necessary to reflect the differing characteristics of the various industries, and consider other relevant factors.

(c) Where the agency head is developing size standards for the sole purpose of performing a Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act, the department or agency may, after consultation with the SBA Office of Advocacy, establish size standards different from SBA's which are more appropriate for such analysis.

4. Section 121.904 is added to read as follows:

**§ 121.904 When does SBA determine the size status of a business concern?**

For compliance with programs of other agencies, SBA will base its size determination on the size of the concern as of the date set forth in the request of the other agency.

Dated: January 14, 2000.

**Aida Alvarez,**  
Administrator.

[FR Doc. 00-1438 Filed 1-25-00; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 99-NM-67-AD]

RIN 2120-AA64

**Airworthiness Directives Boeing Model 747SP, SR, -100, -200, and -300 Series Airplanes Equipped with Pratt & Whitney Model JT9D-3, -7, -7Q, and -7R4G2 Series Engines**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain Boeing Model 747SP, SR, -100, -200, and -300 series airplanes, that currently requires repetitive operational tests of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, and correction of any discrepancy found. This action would require installation of a terminating modification, and would add repetitive functional tests of that installation to detect discrepancies, and repair, if necessary. This proposal is prompted by the results of a safety review of the thrust reverser systems on Model 747 series airplanes. The actions specified by the proposed AD are intended to ensure the integrity of the fail safe features of the thrust reverser system by preventing possible failure modes in the thrust reverser control system that can result in inadvertent deployment of a thrust reverser during flight.

**DATES:** Comments must be received by March 13, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-

67-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:**

Larry Reising, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2683; fax (425) 227-1181.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NM-67-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA,

Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-67-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.