opportunities for certain small businesses wishing to grow while remaining closely held, rather than make SBIC financing more expensive for small businesses currently being served by the program.

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

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

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this final rule contains no new reporting or recordkeeping requirements.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs-business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, SBA is amending 13 CFR part 107 as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

Authority: 15 U.S.C. 681 *et seq.*, 683, 687(c), 687b, 687d, 687g and 687m.

2. In § 107.815, revise the first sentence of paragraph (a) to read as follows:

§ 107.815 Financings in the form of Debt Securities.

* * * * *

(a) *Definitions.* Debt Securities are instruments evidencing a loan with an option or any other right to acquire Equity Securities in a Small Business or its Affiliates, or a loan which by its terms is convertible into an equity position, or a loan with a right to receive royalties that are excluded from the Cost of Money pursuant to § 107.855(g)(12).* * *

* * * * *

3. In § 107.855, revise paragraph (g)(12), add paragraph (g)(13) and remove paragraph (i) to read as follows:

§ 107.855 Interest rate ceiling and limitations on fees charged to Small Businesses (''Cost of Money'').

* * * * *

(g) * * *

(12) Royalty payments based on improvement in the performance of the Small Business after the date of the Financing.

(13) Gains realized on the disposition of Equity Securities issued by the Small Business.

* * * * *

Dated: November 3, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–29522 Filed 11–16–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Health Care

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration is adopting new size standards for 19 Health Care industries and retaining the existing $5 million size standard for the remaining 11 Health Care industries. The North American Industry Classification System classifies Health Care industries under Subsector 621, Ambulatory Health Care Services; Subsector 622, Hospitals; and Subsector 623, Nursing and Residential Care Facilities. These revisions are made to more appropriately define the size of businesses in these industries that SBA believes should be eligible for Federal small business assistance programs.

DATES: This final rule is effective on December 18, 2000.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Assistant Administrator for Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: On May 4, 1999, the Small Business Administration (SBA) proposed revisions to 11 size standards for the Health Care industries (64 FR 23798). At that time, SBA size standards were established for industries defined by the Standard Industrial Classification (SIC) System. Effective October 1, 2000, SBA established its size standards based on industries defined by the new North American Industry Classification System (NAICS), and no longer uses the SIC System (65 FR 30836, dated May 15, 2000). Accordingly, the changes to the Health Care size standards adopted in this final rule pertain to the NAICS industries.

The NAICS makes several noteworthy changes to the Health Care industries listed in the SIC System. First, the NAICS changes the terminology of the health related industries to ''Health Care'' from ''Health Services'' under the SIC System. Second, the NAICS establishes a Sector (equivalent to a Division in the SIC System) titled ''Health Care and Social Assistance.'' Health Services was a Major Group under the Services Division with 19 industries. The Health Care industries are grouped into three Subsectors (equivalent to a Major Group in the SIC System). Third, the number of Health Care industries increases to 30 NAICS industries from 19 Health Services SIC industries.

SBA has decided to adopt the proposed revisions of May 4, 1999 to the Health Care size standards. Most SIC Health Services industries correspond to a NAICS industry. However, there are some Health Services industries, or activities within an industry, that are combined with other SIC industries to form a new Health Care NAICS industry. In these cases, SBA has followed the guidelines it used to establish NAICS size standards. These guidelines are described in the proposed rule of October 22, 1999 (64 FR 57188) and the final rule of May 15, 2000 (65 FR 30836). In most cases, the NAICS size standard is the same as or higher than the size standard SBA had proposed for the SIC industry. Two activities in one Health Services industry, however, were reclassified into industries outside of the Health Care with a size standard lower than proposed for their SIC industries. The following table lists the proposed size standards by SIC industry and adopted size standards corresponding to the NAICS industries.

SIC code	SIC industry	Proposed size standard (millions of dollars)	NAICS code	NAICS industry	Adopted size standard (millions of dollars)
8011	Offices and Clinics of Doctors of Medicine.	$7.5			
	Surgical and Emergency Centers	.....	621493	Freestanding Ambulatory Surgical and Emergency Centers.	$7.5

SIC code	SIC industry	Proposed size standard (millions of dollars)	NAICS code	NAICS industry	Adopted size standard (millions of dollars)
	HMO Medical Centers		621491	HMO Medical Centers	7.5
	Offices of Physicians, Mental Health Specialists.		621112	Offices of Physicians, Mental Health (part).	7.5
	Offices of Physicians Except Mental Health.		621111	Offices of Physicians (except Mental Health Specialists) (part).	7.5
8021	Offices and Clinics of Dentists	5.0	621210	Offices of Dentists	5.0
8031	Offices and Clinics of Dentists	5.0			
	Offices of Doctors of Osteopathy, Except Mental Health.		621111	Offices of Physicians (except Mental Health Specialists) (part).	7.5
	Offices of Doctors of Osteopathy, Mental Health.		621112	Offices of Physicians, Mental Health Specialists (part).	7.5
8041	Offices and Clinics of Chiropractors	5.0	621310	Offices of Chiropractors	5.0
8042	Offices and Clinics of Optometrists	5.0	621320	Offices of Optometrists	5.0
8043	Offices and Clinics of Podiatrists	5.0	621391	Offices of Podiatrists	5.0
8049	Offices and Clinics of Health Practitioners, NEC.	5.0			
	Mental Health Practitioners, Except Physicians.		621330	Offices of Mental Health Practitioners (except Physicians).	5.0
	Offices of Physical, Occupational, Recreational, and Speech Therapists and Audiologists.		621340	Offices of Physical, Occupational, and Speech Therapists Audiologists Offices of All Other.	5.0
	Other Offices of Health Practitioners		621399	Miscellaneous Health Practitioners	5.0
8051	Skilled Nursing Care Facilities	10.0			
	Continuing Care Retirement Communities.		623311	Continuing Care Retirement Communities (part).	10.0
	All Other Skilled Nursing Care Facilities.		623110	Nursing Care Facilities (part)	10.0
8052	Intermediate Care Facilities	7.5			
	Continuing Care Retirement Communities.		623311	Continuing Care Retirement Communities (part).	10.0
	Mental Retardation Facilities		623210	Residential Mental Retardation Facilities.	7.5
8059	Nursing and Personal Care Facilities, NEC.	5.0			
	Continuing Care Retirement Communities.		623311	Continuing Care Retirement Communities (part).	10.0
	Other Nursing and Personal Care Facilities.		623110	Nursing Care Facilities (part)	10.0
8062	General Medical and Surgical Hospitals.	25.0	622110	General Medical and Surgical Hospitals (part).	25.0
8063	Psychiatric Hospitals	25.0	622210	Psychiatric and Substance Abuse Hospitals (part).	25.0
8069	Specialty Hospitals Except Psychiatric.	25.0			
	Children's Hospitals		622110	General Medical and Surgical Hospitals (part).	25.0
	Substance Abuse Hospitals		622210	Psychiatric and Substance Abuse Hospitals (part).	25.0
	Other Specialty Hospitals		622310	Specialty (except Psychiatric and Substance Abuse) Hospitals.	25.0
8071	Medical Laboratories	10.0			
	Diagnostic Imaging Centers		621512	Diagnostic Imaging Centers	10.0
	Medical Laboratories, Except Diagnostic Imaging Centers.		621511	Medical Laboratories	10.0
8072	Dental Laboratories	5.0	339116	Dental Laboratories	[1]
8082	Home Health Care Services	10.0	621610	Home Health Care Services	10.0
8092	Kidney Dialysis Centers	25.0	621492	Kidney Dialysis Centers	25.0
8093	Specialty Outpatient Facilities, NEC	7.5			
	Family Planning Centers		621410	Family Planning Centers (part)	7.5
	Outpatient Mental Health Facilities		621420	Outpatient Mental Health and Substance Abuse Centers.	7.5
	Other Specialty Outpatient Facilities		621498	All Other Outpatient Care Centers	7.5
8099	Health and Allied Services, NEC	7.5			
	Blood and Organ Banks		621991	Blood and Organ Banks	7.5
	Medical Artists		541430	Graphic Design Services (part)	5.0
	Medical Photography		541922	Commercial Photography (part)	5.0
	Childbirth Preparation Classes		621410	Family Planning Centers (part)	7.5
	Other Health and Allied Services		621999	All Other Miscellaneous Ambulatory Health Care Services.	7.5

[1] 500 Employees.

As shown in the table, the adopted size standard for doctors of osteopathy is $7.5 million, although the proposed size standard for this industry was $5 million. Under the NAICS, SIC 8031 (Offices and Clinics of Doctors of Osteopathy) was combined into NAICS 621111 (Offices of Physicians) and NAICS 621112 (Office of Physicians, Mental Health Specialists). These two industries were substantially created from SIC 8011 (Offices and Clinics of Doctors of Medicine), where SBA proposed and is adopting $7.5 million. Consistent with SBA's guidelines in establishing NAICS size standards, the size standard for the SIC code that accounted for the greatest amount activity within the new NAICS is the size standard adopted for that NAICS code. The size of the offices and clinics of medical doctors industry is significantly larger than the offices and clinics of doctors of osteopathy industry.

A similar situation arose with SIC codes 8052 (Intermediate Care Facilities) and 8059 (Nursing and Personal Care Facilities, Not Elsewhere Classified). SBA proposed $7.5 million for SIC 8052 and $5 million for SIC 8059. However, most of SIC 8052 and all of SIC 8059 were combined with SIC 8051 (Skilled Nursing Care Facilities) to form two NAICS industries—NAICS 623311 (Continuing Care Retirement Communities) and 623110 (Nursing Care Facilities). SIC 8051 is much greater in size than both SIC 8052 and 8059 combined. Thus, the $10 million size standard proposed for SIC 8051 is adopted for both NAICS 623311 and 623110.

The size standard for Dental Laboratories changed to 500 employees effective October 1, 2000. This industry involves the manufacture of dentures, crowns and other dental appliances. Under the SIC system, the manufacture of dental appliances was classified as a manufacturing activity unless the dental appliances were produced on a custom or individual basis. The SIC system classified those latter activities within the Services Division under the Dental Laboratories industry (SIC 8072). NAICS now classifies all manufacturing of dental appliances as manufacturing, and placed the Dental Laboratories industry under the manufacturing sector—NAICS 339116. SBA's long standing policy has been to establish a size standard no lower than 500 employees for a manufacturing industry. This change was discussed and proposed in the October 22, 1999 proposed rule. SBA received no comments on this change and adopted the 500 employee size standard for NAICS 339116 in the May 15, 2000 final rule.

Two activities within SIC 8099, Health and Allied Services, Not Elsewhere Classified, were reclassified to industries in the Professional, Scientific, and Technical Services Sector with a size standard lower than proposed for SIC 8099. The activity of Medical Artists was combined with SIC 7336, Commercial Art and Graphic Design to form NAICS 541430, Graphic Design Services. The $5 million size standard for SIC 7336 was adopted for NAICS 541430 since it accounts for virtually all of the new NAICS industry.

The activity of Medical Photography was classified into NAICS 541922, Commercial Photography. That NAICS industry is the same as the SIC 7335 with the addition of Medical Photography. The $5 million size standard of SIC 7335 was adopted for NAICS 541922 since it accounts for virtually all the activities within the NAICS industry.

Background

SBA proposed changes to size standards based on its analysis of the latest available economic characteristics data on the Health Care industries from the U.S. Bureau of the Census (the Census Bureau) and Federal contract award data from the Federal Procurement Data Center. (At the time of the proposed rule, these data, and SBA's size standards, were based on the SIC system. To be consistent with the newly implemented NAICS size standards, the remainder of this rule will use the NAICS terminology to refer to industries affected by this rule. In a few cases, however, references are made to SIC industries to ensure the information discussed is accurate.) With regard to the economic characteristics data, SBA evaluated average firm size, distribution of industry receipts by size of firm, start-up costs, and industry competition of firms in the Health Care industries. SBA compared these characteristics to the average characteristics of all industries with a $5.0 million size standard (the most common size standard established for nonmanufacturing industries and referred to as the ''anchor'' size standard for the nonmanufacturing industries). Doing so enabled SBA to determine whether it should propose size standards for the Health Care industries that would be the same, higher, or lower than the $5 million anchor size standard.

In addition to the economic characteristics data, SBA reviewed the percent of total Federal contract dollars awarded to Health Care small businesses to determine if small businesses were obtaining a reasonable share of Federal contracts. For three industries covering Offices and Clinics of Medical Doctors, Specialty Outpatient Facilities, and Health and Allied Service—Not Elsewhere Classified (formally SIC codes 8011, 8093, and 8099, respectively), the proportion of Federal procurement was so much lower than that of firms at the anchor size that SBA proposed increasing those three size standards from the anchor size of $5 million to $7.5 million. For a further discussion of SBA's size standard methodology and analyses leading to the proposed size standards see the proposed rule of May 4, 1999 (64 FR 23798). What follows is a summary of the comments received and an explanation of the decision to adopt the proposed increases to the Health Care industries.

Discussion of Comments on the Proposed Rule

SBA received 17 timely comments on the proposed size standards. Two of these included comments by others in their organization. Of the 17 comments, two were from Federal agencies, one comment came from an industry association, and the remainder came from representatives of Health Care firms.

In summary, one commenter supported the proposed size standards without comment. One hospital association generally supported the proposed rule, but had several recommendations to modify it, which are discussed below. All of the others supported an increase in the size standards, but higher than the ones proposed by SBA.

The commenters raised eight major issues concerning the proposed size standards. Because of the comments, we reevaluated the data before adopting the proposed size standards. The issues are: (1) What are the true small business contracting opportunities in the Health Care industries; (2) do the proposed size standards provide for an appropriate increase to the existing size standards; (3) whether there should be a common size standard for all Health Care industries; (4) whether there should be an employee-based size standard; (5) whether we should establish a new industry code for Health Maintenance Organizations; (6) whether we should have the same size standard for doctors of medicine as for doctors of osteopathy; (7) whether Medicare and Medicaid distributions should be counted as Federal procurements; and (8) whether the receipts of affiliated health care services should be included in gross

income. Below we explain our response to each issue.

What Are the True Small Business Contracting Opportunities in the Health Care Industries?

The supporters of size standards higher than those proposed most often gave reasons relating to Federal contracting as the basis for a change. Commenters stated that firms at the proposed size standard are not large enough to compete successfully for the size and type of contracts offered in today's procurement environment. They stated that in recent years Federal contracts have grown progressively larger and more comprehensive. These contracts are generally multi-year and regional and often include services other than health care such as establishing, recruiting, and monitoring doctor or dentist practices. These commenters argued that size standards higher than those proposed are needed to recognize the size of small firms that can perform on these newer contracts.

Specifically, comments expressed a consistent and serious concern that the proposed size standard of $7.5 million for Offices and Clinics of Doctors of Medicine (SIC 8011), Intermediate Care Facilities (SIC 8052), Specialty and Outpatient Facilities (SIC 8093), and Health and Allied Services, NEC (SIC 8099) would preclude most firms from Federal procurement. They contended that the impact of keeping the size standards as low as proposed would be that few firms could qualify as small given the size of the health care contracts, and those that did, would quickly outgrow their small business status. Likewise, some Federal contracting officials expressed concern that the government would lose ''stellar performers'' who would no longer be considered small after receiving just two or three contracts.

In addition, several comments raised the issue that very few hospitals would qualify as small with the proposed $25 million size standard. They believed that if this size standard were adopted for hospitals, Federal agencies would be limited in their ability to support small business programs, such as the small business set-aside program.

Procuring agencies' comments opposing the ''low'' proposed size standards for hospitals also stated that they currently have problems meeting their commitment to include more small businesses because finding for-profit hospitals in some areas is difficult. If the for-profit hospitals (that is hospitals that qualify as businesses) are usually larger than the proposed $25 million size standard, agencies will not be able to set aside contracts for health care services.

SBA acknowledges that Federal agencies are issuing larger contracts than in the past. However, contract award data from the Federal Procurement Data System do not substantiate that large dollar contracts dominate Federal contracting to an extent that significantly limits small business opportunities. The vast majority of Federal contract awards are still within a size that small businesses should be capable of performing. Without verifiable data showing that large contracts adversely impact small business opportunities, these comments do not support establishing size standards to accommodate what appears to be a small proportion of overall contracting. Nonetheless, we are researching Federal procurement patterns and trends in greater detail to determine whether a separate size standard for Federal procurement of Health Care may be justified in the future.

Do the Proposed Size Standards Provide for an Appropriate Increase to the Existing Size Standards?

Most of the comments addressed the question of what size standard should be adopted for all of the Health Care industries. All of the comments agreed that the size standard should be increased, but most of the comments disagreed with the proposed size standards. Most of the comments supporting an increased size standard substantiated their comments with reasons related to Federal procurement. However, other reasons were also given for supporting higher size standards in the industry, such as the mergers and affiliations with Health Maintenance Organizations (HMOs) that were generally not a force in the health care industries just a decade ago.

Commenters also pointed out that an increased size standard is justified because the cost of entry into these industries has also increased over time, especially technology costs. These technology costs include costs for specialty diagnostic and treatment equipment such as computer-aided imaging. Commenters cited high start-up costs because of the specialty equipment and the high-paid staff needed to operate them as reasons for increasing size standards in the industries. They pointed out that not all doctors' offices are similar, some are ''high-risk'' specialties such as radiology, obstetrics and gynecology, and anesthesiology. These types of offices have high start-up and operating costs in addition to the physician and nursing compensation. Therefore, if all of the specialties have the same size standard, some offices within the same industry will be at a bigger disadvantage to remain within the ''small'' status.

SBA is not convinced, at this time, that an additional increase over the size standards proposed is justified. Many of the factors discussed above are reflected in the Census Bureau data that SBA uses to evaluate industry size standards. Later this year SBA will receive the 1997 Economic Census on the Health Care industries. If any significant differences are observed between the 1992 and 1997 data, SBA will consider a larger size standard where appropriate.

Whether There Should Be a Common Size Standard for All Health Care Industries?

A majority of the commenting firms and both Government agencies argued for a common size standard all Health Care industries. The most often mentioned size standard was $25 million. The basis for these comments was the merger, affiliation and HMO activity that has integrated the various industries more so than in the past. For example, hospitals have home health care businesses, HMOs link formerly independent private offices together into larger networks, and independents (that decide not to join an HMO) may merge or affiliate to continue to be viable in this new environment. These firms integrate the skills of each profession to offer quality services to their clients.

SBA agrees with the desirability of establishing the same size standard for industries in the same Subsector provided that industry-specific factors are reasonably consistent within that Subsector. However, neither the industry characteristic data nor the Federal procurement data supports one size standard for all Health Care industries. For example, we could find no justification in the economic characteristics data to continue the same size standard of $5 million for general medical and surgical hospitals and physician's offices. Accordingly, SBA does not believe that there should be a common size standard for all Health Care industries. Because the data support different levels, whichever one was selected would only fit some of the industries. Furthermore, based on the data, no case could be made to support that a $25 million size standard would be appropriate for all Health Care.

Whether There Should Be an Employee-Based Size Standard?

Two comments recommended that SBA adopt an employee-based size standard for all Health Care industries rather than a receipts-based size standard. The comments provided no supporting evidence showing why number of employees is a better measure of size than receipts. The Small Business Act requires us to use receipts as the basis for size standards in the service industries (Small Business Act (§ 3(a)(2)(C))). In addition, SBA's policy has been to use employee-based size standards for manufacturing, mining and wholesale, and receipts-based size standards for most non-manufacturing industries. Therefore, SBA will continue to use receipts as the basis for size standards in the Health Care industries.

Whether We Should Establish a New Industry Code for HMOs?

Some of the comments expressed the need for a new industry to cover the HMO industry. On October 1, 2000, SBA implemented size standards based on NAICS industries. The NAICS lists three codes for HMOs—(1) facilities actually providing health care listed as an ''HMO Medical Center'' (NAICS 621491), (2) health practitioners contracting to provide their services to subscribers of prepaid health plans within ''Offices of Physicians'' (NAICS 62111), and (3) organizations that underwrite and administer health and medical insurance policies, but which do not directly provide health care services as ''Direct Health and Medical Insurance Carriers'' (NAICS 524114).

Because HMOs have not previously been designated as a separate industry, the Census Bureau has not collected the same data for HMOs as it has collected for SIC industries. Now that the NAICS has identified specific industries for HMOs, the 1997 Economic Census will have data on HMOs. We expect to have that data later this year and will review the HMO size standards at that time.

Whether We Whould Have the Same Size Standard for Doctors of Medicine as for Doctors of Osteopathy?

In response to SBA's review of the Health Care size standards and to our proposal to increase the size standards for doctors of medicine, we received comments recommending that doctors of medicine and doctors of osteopathy have the same size standards. The commenters stated that both health care providers basically meet the same educational requirements and perform the same services. The proposed rule included doctors of osteopathy in the group of health care services remaining at the $5 million while the size standard for doctors of medicine was proposed to be $7.5 million.

Based on the comments, we agree that the same standard should be adopted for doctors of osteopathy and doctors of medicine recognizing that the two professions should be considered as one for most purposes. Furthermore, NAICS recognizes that these two types of practitioners should be considered the same and combined doctors of osteopathy and doctors of medicine into a new industry titled ''Offices of Physicians'' (NAICS code 62111). As previously discussed, $7.5 million is being adopted for this industry and results in the same size standard being applicable to doctors of medicine and doctors of osteopathy.

Whether Medicare and Medicaid Distributions Should Be Counted as Federal Procurements?

Although we specifically requested comments on this issue in the proposed rule, we received only one comment. A hospital association representing nearly 5,000 hospitals took a strong stand against this approach. It contended that the payments are to and for health care beneficiaries, not the health care provider. As such, these payments are not discretionary but mandatory payments for services obtained by beneficiaries. In addition, it stated that health care services are purchased by beneficiaries based on consumer preference in a competitive environment. SBA agrees and does not believe the distribution of Medicare and Medicaid funds should influence the establishment of size standards.

Whether the Receipts of Affiliated Health Care Services Should Be Included in Gross Income?

The Health Care industries are continuing to evolve. Since the advent of managed care changed the Health Care landscape, other networks and alliances have emerged to respond to this new environment. Many hospitals own or control home health services, physician clinics, medical laboratories or dialysis centers. SBA's regulations require that the income of all affiliates be included when calculating average annual receipts. We received one comment on this subject. A hospital association recommended that income from such hospital affiliates not be taken in consideration when calculating either the average annual receipts of the hospital or the home health services, physician clinics, medical laboratories or dialysis centers so that hospital affiliates could qualify as small businesses.

Affiliation is a key concept in determining which businesses are small. One of the criteria for being a small business under the Small Business Act (§ 3(a)) is that it be independently owned and operated. Businesses owned or controlled by other concerns have access (actual or potential) to resources not available to other similar businesses. The Census Bureau data we use to evaluate size standards captures affiliation through ownership among businesses. Other new relationships in terms of networks and alliances may have to be looked at on a case-by-case basis. We believe our current affiliation regulations are adequate to distinguish relationships that lead to control, and, thus, when we should consider businesses affiliated (see 13 CFR 121.103).

Why We Are Adopting These Size Standards?

Comments to the proposed rule generally argued for higher size standards because of trends in Federal procurement. They also argued that the proposed size standards were not high enough to effectively help small businesses obtain additional Federal contracting opportunities. They recommended that we adopt a much higher size standard, such as $25 million, but did not identify supporting data.

In view of these comments, SBA had three viable options; (1) adopt the proposed standards, (2) revise the size standards upward based on comments without supporting data, or (3) suspend action on the size standards and wait for more current data.

SBA decided to go with option one—adopt the size standards as proposed. SBA does not believe that the reasons given by the comments for a $25 million size standard, in the absence of supporting data, are sufficient to support that level. SBA cannot follow larger and larger Federal contracts with increasing size standards when industry characteristics do not otherwise support the action. Also, size standards are used for purposes other than Federal procurement, such as regulatory flexibility analyses and SBA financial assistance programs. Thus, we need to ensure that size standards are viable for a variety of uses.

Because most of the comments expressed concerns in the Federal procurement area, we recognize that we need to consider establishing a size standard just for the purpose of Federal procurement of Health Care. Our preliminary work on this approach

shows that more research is needed to determine if size standards larger than adopted by this final rule are supportable and how to best describe Federal procurements for Health Care. If we believe a different standard(s) is justified, a new proposed rule will be issued. Meanwhile, firms in these industries will benefit from the increase made in this final rule. SBA chose not to suspend action on the proposed size standards until we have more current data because the proposed higher size standards will make more opportunities available for small businesses than retaining the current size standards and all of the commenters supported higher size standards for the Health Care industries.

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

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866.

This is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities. Immediately below, SBA sets forth a final regulatory flexibility analysis (FRFA) of this final rule addressing the following questions: (1) What is the need for and objective of the rule, (2) what are the significant issues raised by the commenters in response to the initial regulatory flexibility analysis (IRFA), (3) what is SBA's assessment of those IFRA issues, (4) what changes if any are made from the proposed rule as a result of the comments on IFRA, (5) what is SBA's description and estimate of the number of small entities to which the rule will apply, (6) what is the projected reporting, record keeping, and other compliance requirements of the rule, and an estimate of the classes of small entities which will be subject to the requirements, (7) what type of type of professional skills are necessary to prepare the required reports or records, (8) what are the steps SBA has taken to minimize the economic impact on small entities, (9) what are the legal policies or factual reasons for selecting the alternative adopted in the final rule, and (10) what alternatives did SBA reject.

(1) What Is the Need for and Objective of the Rule?

These revisions are made to more appropriately define the size of businesses in these industries that SBA believes should be eligible for Federal small business assistance programs.

(2) What Are the Significant Issues Raised by the Commenters in Response to the IRFA?

The comments raised eight major issues concerning the proposed size standards, but none of the comments addressed the IRFA in the proposed rule.

(3) What Is SBA's Assessment of Those IFRA Issues?

No issues were raised in response to the IFRA, so SBA had no issues to assess.

(4) What Changes if any Are Made From the Proposed Rule as a Result of the Comments on IFRA?

None, since no comments were received on the proposed rule concerning the IRFA.

(5) What Is SBA's Description and Estimate of the Number of Small Entities to Which the Rule Will Apply?

SBA estimates that 4,700 additional firms will be considered small as a result of this final rule. These firms will be eligible to seek available SBA assistance provided that they meet other program requirements. Of the additional firms gaining eligibility, more than half would be Offices and Clinics of Doctors of Medicine, and Skilled Nursing Care Facilities. Firms becoming eligible for SBA assistance as a result of this rule cumulatively generate more than $50 billion in annual sales; total sales in all twelve industries receiving a size standards increase are $544 billion.

(6) What Is the Projected Reporting, Record Keeping, and Other Compliance Requirements of the Rule and an Estimate of the classes of small entities Which Will Be Subject to the Requirements?

The new size standards are not expected to impose any additional reporting, record keeping or compliance requirements on small entities because a change in size standards does not affect their business operations. Increasing size standards provides more access to SBA programs that assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(7) What Type of Professional Skills Are Necessary to Prepare the Required Reports or Records?

No reports or records are required as a result of changing the size standards.

(8) What Are the Steps SBA Has Taken to Minimize the Economic Impact on Small Entities?

Most of the economic impact on small entities will be positive. The most significant benefits to businesses that would obtain small business status as a result of adoption of this final rule are: (1) Eligibility for the Federal Government's procurement preference programs for small businesses 8(a) firms, small disadvantaged businesses and small businesses located in Historically Underutilized Business Zones) and (2) the eligibility for SBA's financial assistance programs such as 7(a) and 504 business loans. SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth $325 million per year under the small business set-aside program, the 8(a) program or unrestricted contracts. This represents 7.4 percent of the $4.4 billion the Federal government awarded in these nineteen Health Care industries during fiscal year 1999. Under SBA's 7(a) Guaranteed Loan Program and Certified Development Company (504) Program, SBA estimated that less than $4 million in new loans could be made to these newly defined small businesses. During fiscal year 1999, $600 million in loans were guaranteed by SBA under these two financial programs for firms in the Health Care industries. Because of the size of the loan guarantees, most loans are made to small businesses well below the size standard. (For example, more than 95% of the 1999 loans were made to firms with less than $3.5 million in receipts.) Thus, increasing the size standard would likely result in only a small increase in small business guaranteed loans to businesses in these Health Care industries.

The competitive effects of size standard revisions differ from those normally associated with other regulations which typically burden smaller firms to a greater degree than larger firms in areas such as prices, costs, profits, growth, innovation and mergers. The change to size standards is not anticipated to have any appreciable affect on any of these factors. Firms affected by this rule-making would be eligible to seek available SBA assistance provided that they meet other program requirements. However, small businesses, 8(a) firms, or small disadvantaged businesses much smaller than the size standard for their industries may be less successful in competing for some Federal procurement opportunities due to the presence of larger newly defined small businesses. On the other hand, with

more and larger small businesses competing for small business set-aside and 8(a) procurements, contracting agencies are likely to increase the overall number of contracting opportunities available under these programs.

(9) What Were the Legal Policies or Factual Reasons for Selecting the Alternative Adopted in the Final Rule?

As stated in 15 U.S.C. 632(a)(3) and 13 CFR 121.102, SBA is to consider the differences in industries when establishing size standards. SBA is not convinced, at this time, that an additional increase over the size standards proposed is justified. Many of the factors discussed in the comments are reflected in the Census Bureau data that SBA uses to evaluate industry size standards, so they are already included in our analysis published in the proposed rule. Later this year SBA will receive the 1997 Economic Census on the Health Care industries. If any significant differences are observed between the 1992 and 1997 data, SBA will consider new size standards where appropriate. Nonetheless, we are researching Federal procurement patterns and trends in greater detail and will evaluate the 1997 Economic Survey data to determine whether an increased size standard for Federal procurement of Health Care is justified.

(10) What Alternatives Did SBA Reject?

SBA acknowledges that Federal agencies are issuing larger contracts than in the past. However, contract award data from the Federal Procurement Data System do not substantiate that large dollar contracts dominate Federal contracting to an extent that significantly limits small business opportunities. The vast majority of Federal contract awards are still within a size that small businesses should be capable of performing. Without verifiable data showing that large contracts adversely impact small business opportunities, these comments do not support establishing size standards to accommodate what appears to be a small proportion of overall contracting.

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

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of the order.

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

List of Subjects in 13 CFR Part 121

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

For reason stated in the preamble, SBA is amending 13 CFR Part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c), and 662(5); and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

2. In § 121.201, amend the table ''SIZE STANDRDS BY NAICS INDUSTRY,'' under the heading SECTOR 62—Health Care and Social Assistance, revise the entries Subsector 621—Ambulatory Health Care Services, Subsector 622—Hospitals, and Subsector 623—Nursing and Residential Care Facilities, to read as follows:

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

* * * * *

SIZE STANDARD BY NAICS INDUSTRY

NAICS codes	Description (N.E.C.=Not elsewhere classified)	Size standards in number of employees or millions of dollars
*	*	*
Sector 62—Health Care and Social Assistance		
*	*	*
Subsector 621—Ambulatory Health Care Services		
621111	Offices of Physicians (except Mental Health Specialists)	$7.5
621112	Offices of Physicians, Mental Health Specialists	$7.5
621210	Offices of Dentists	$5.0
621310	Offices of Chiropractors	$5.0
621320	Offices of Optometrists	$5.0
621330	Offices of Mental Health Practitioners (except Physicians)	$5.0
621340	Offices of Physical, Occupational and Speech Therapists and Audiologists	$5.0
621391	Offices of Podiatrists	$5.0
621399	Offices of All Other Miscellaneous Health Practitioners	$5.0
621410	Family Planning Centers	$7.5
621420	Outpatient Mental Health and Substance Abuse Centers	$7.5
621491	HMO Medical Centers	$7.5
621492	Kidney Dialysis Centers	$25.0
621493	Freestanding Ambulatory Surgical and Emergency Centers	$7.5
621498	All Other Outpatient Care Centers	$7.5
621511	Medical Laboratories	$10.0
621512	Diagnostic Imaging Centers	$10.0
621610	Home Health Care Services	$10.0

SIZE STANDARD BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C.=Not elsewhere classified)	Size standards in number of employees or millions of dollars
621910	Ambulance Services	$5.0
621991	Blood and Organ Banks	$7.5
621999	All Other Miscellaneous Ambulatory Health Care Services	$7.5
	Subsector 622—Hospitals	
622110	General Medical and Surgical Hospitals	$25.0
622210	Psychiatric and Substance Abuse Hospitals	$25.0
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	$5.0
	Subsector 623—Nursing and Residential Care Facilities	
623110	Nursing Care Facilities	$10.0
623210	Residential Mental Retardation Facilities	$7.5
623220	Residential Mental Health and Substance Abuse Facilities	$5.0
623311	Continuing Care Retirement Communities	$10.0
623312	Homes for the Elderly	$5.0
623990	Other Residential Care Facilities	$5.0

* * * * * * *

Dated: November 9, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–29523 Filed 11–16–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–364–AD; Amendment 39–11985; AD 2000–23–13]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes. This action requires a one-time inspection, and corrective action if necessary, to ensure the proper installation of the tie rod through the dust shield and both jackscrew assemblies on the horizontal stabilizer trim actuator. This action is necessary to prevent jamming or disconnection of the horizontal stabilizer trim actuator, which could result in reduced pitch control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 4, 2000.

Comments for inclusion in the Rules Docket must be received on or before December 18, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–364–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.

Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–364–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Galaxy Aerospace Corporation, One Galaxy Way, Fort Worth Alliance Airport, Fort Worth, Texas 76177. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, recently notified the FAA that an unsafe condition may exist on all Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes. The CAAI advises that the horizontal stabilizer trim actuator can jam or disconnect due to incorrect installation, maintenance, or inspection. The CAAI reports one case of incorrect installation of the trim actuator tie rod and dust shield, which may have caused an accident. Jamming or disconnection of the actuator, if not corrected, could result in reduced pitch control of the airplane.

Explanation of Relevant Service Information

Israel Aircraft Industries, Ltd., has issued the following alert service bulletins: