

9. Amend § 1703.126 by revising paragraph (a)(4) to read as follows:

§ 1703.126 Criteria for scoring grant applications.

(a) * * *

(4) The ability of the applicant to leverage financial resources—Up to 35 points. This criterion will be used to evaluate the ability of the applicant to provide a matching contribution for the project using other non-Federal financial assistance. Documentation submitted in support of the application should reflect any additional financial support for the project from non-Federal sources above the applicant's minimum matching contribution of 15 percent as required by § 1703.122. The applicant must include evidence, from authorized representatives of the sources, of a commitment that the funds are available and will be used for the project. The applicant will receive points as follows:

(i) Matching contribution for approved purposes greater than 15 percent, but less than or equal to 30 percent of the grant requested—0 points.

(ii) Matching contribution for approved purposes greater than 30 percent, but less than or equal to 50 percent of the grant requested—15 points.

(iii) Matching contribution for approved purposes greater than 50 percent, but less than or equal to 75 percent of the grant requested—25 points.

(iv) Matching contribution for approved purposes greater than 75 percent, but less than or equal to 100 percent of the grant requested—30 points.

(v) Matching contribution for a grant for approved purposes greater than 100 percent of the grant requested—35 points.

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Dated: December 28, 2001.

Roberta D. Purcell,

Acting Administrator, Rural Utilities Service.
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BILLING CODE 3410-15-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245-AE56

**Small Business Size Standards;
Inflation Adjustment to Size Standards**

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: The Small Business Administration (SBA) is adjusting its

monetary-based size standards, (e.g., receipts, net income, net worth, and assets) for the effect of inflation. This action is intended to maintain the value of size standards in inflation-adjusted terms. From 1994 to the third quarter of 2001 the general level of prices in the United States increased approximately 15.8% as measured by the chain-type price index for gross domestic product. This change will restore eligibility to firms that may have lost small business status solely due to the effect of inflation.

SBA is adding a provision in its regulations that will require, at least once every five years, an assessment of the inflationary impact on monetary-based size standards. This periodic review will generally ensure that monetary-based standards are current with inflationary factors, as appropriate, and that firms will not lose small business status due solely to the effect of inflation.

DATES: *Effective Date:* This regulation becomes effective on February 22, 2002.

Applicability Dates: For the purposes of Federal procurements, this rule applies to solicitations, except for noncompetitive Section 8(a) contracts, issued on or after February 22, 2002. For the purpose of noncompetitive Section 8(a) contracting actions, the new size standards are applicable to offers of requirements that are accepted by SBA on or after February 22, 2002. For purposes of eligibility for economic injury disaster loan assistance to small business concerns located in disaster areas declared as a result of the terrorist attacks on the World Trade Center, New York, New York and the Pentagon, the applicability date is September 11, 2001.

Comment Period: Comments must be received on or before February 22, 2002. Upon request, SBA will make all public comments available to any person or entity.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, U.S. Small Business Administration, 409 Third St., SW., Mail Code 6530, Washington, DC 20416; or, via e-mail to SIZESTANDARDS@sba.gov.

FOR FURTHER INFORMATION CONTACT: Diane Heal, Office of Size Standards, (202) 205-6618.

SUPPLEMENTARY INFORMATION:

Inflationary Review

SBA is adding a provision to its size standards regulations requiring that at least once every five years it will assess the impact of inflation on its monetary-based size standards. These are size

standards based on receipts, net income, or other monetary measures. Although the provision does not mandate that SBA adjust size standards for inflation, it does provide assurances to the public that SBA is monitoring inflation and is making a decision whether or not to adjust size standards within a reasonable period of time since its last inflation adjustment. If SBA decides not to make an inflation adjustment after a review, it will continue to monitor inflation on an annual basis until such time an adjustment is made. Afterwards, SBA will review inflation on a periodic basis, but at least once within five years.

As described in § 121.102(a), SBA examines a number of economic characteristics in developing size standards. Inflation is one of many considerations in this process. SBA does not believe it is appropriate to automatically adjust size standards for inflation since other factors influence the setting of size standards. For example, changes in industry characteristics or in SBA's policies may render an inflation adjustment unnecessary or inappropriate. Under this provision, if a significant amount of inflation occurs in the economy within a five-year period, SBA will consider an inflation adjustment on a more frequent basis. SBA invites the public to comment on this policy and to suggest alternative procedures.

Inflationary Adjustment

SBA is adjusting the monetary-based size standards for the effect of inflation in order to restore eligibility to firms that may have lost small business status due solely to the effect of inflation. While these adjustments are not done on a fixed schedule, prior adjustments occurred in 1994 (59 FR 16513, dated April 7, 1994), 1984 (49 FR 5024, dated February 9, 1984), and 1975 (40 FR 32824, as corrected by 40 FR 36310, dated August 5, 1975). The current adjustment is being made at this time because inflation has increased by 15.8% since 1994, which is sufficient to warrant an increase, and because SBA believes that adjustments should be made more frequently than once every ten years, as was the case with the last inflationary adjustment.

Small business size standards are based on the six-digit industry codes of the North American Industry Classification System (NAICS). In addition, SBA has several programs that have their own size standards (e.g., Surety Bond Guaranteed Assistance, Sale of Government Property, etc.). The size standards that SBA is changing are those that are receipts based and those based upon other monetary measures.

Employee-based, production-based, and those established by legislation are unaffected by inflation, and thus, not part of this rulemaking. Those standards that have been changed since the last inflation adjustment in 1994 will be increased accordingly. However, some receipt-based standards that were recently increased will not be adjusted as the inflation effect has already been factored into the new size standard. Full details of this adjustment are contained in the table, at the end of the preamble, which lists the affected industries according to NAICS.

How Does SBA Adjust Size Standards for Inflation?

The methodology for adjusting the size standards for inflation was as follows:

1. Selection of an appropriate inflation indicator. We used the chain-type price index for gross domestic product (GDP) as published by the U.S. Department of Commerce, Bureau of Economic Analysis (BEA), which is a

broad measure of inflation for the economy as a whole, and is available on a quarterly basis. In the past, SBA used the implicit price deflator for GDP. Since that time the BEA has produced an improved price index, the chain-type price index for GDP, that more accurately reflects inflation. This type of index relies on annual price weights rather than on the fixed price weight that the implicit price deflator relied upon. For more information, see J. Steven Landefeld and Robert P. Parker's article "BEA's Chain Indexes, Time Series, and Measures of Long-Term Economic Growth" in the May 1997 issue of *Survey of Current Business*. This article may also be found at <http://www.bea.doc.gov/bea/an/0597od/maintext.htm>, or it may be obtained by calling the Government Printing Office at (202) 512-1800.

2. Selection of a base period. We selected the fourth quarter of 1993 as the base period since this was the ending period of the last inflation adjustment in 1994. The chain-type

price index for GDP stood at 94.79 at that time.

3. Selection of an end period. We selected the third quarter of 2001 as the ending period for this inflation adjustment since it is the latest available quarterly data published by BEA. The chain-type price index for GDP Deflator stood at 109.8 at that time.

4. Calculation of inflation. Based on these price indices, inflation increased 15.8% between the base and ending periods $[(109.8/94.79) - 1.00] \times 100 = 15.8\%$.

5. Application of the inflation adjustment to the monetary-based size standards. We multiplied the current size standard by 1.158 and rounded to the closest \$0.5M.

6. Which size standards and size eligibility criteria are not being changed?

Certain size standards and size eligibility criteria are not being changed in this rule. SBA's reasons are set forth in the chart below.

Industry	Reason not being changed
Agriculture, the Very Small Business Set-Aside program, and Small Business Investment Company Program's Smaller Enterprise size standard.	Set by statute.
Travel and Real Estate Agents, Cattle Feedlots, and Architects and Engineers (A&E) with size standards of \$1.0M, \$1.5M, and \$4.0M, respectively.	A 15.8% and 2.9% (A&E) adjustment would be too small to warrant an increase. The A&E size standards were increased in June of 1999.
Eligibility criteria for small business receiving assistance from Small Business Investments Companies (SBIC) Program.	In 1994, the average net worth and net income criteria were increased threefold. Current size standards are inclusive for purposes of the SBIC Program and no further increase is deemed necessary at this time.

What Special Situations Exist Regarding the New Inflationary Adjustment?

The size standard for banks is expressed in terms of assets and is being set at \$150 million. This adjustment represents more than a 15.8% increase. The current size standard of \$100 million in assets was established in 1984 and was not adjusted in the 1994 inflation adjustment. The 1994 adjustment increased only the receipt based size standards. Monetary standards, other than receipts based, and program size standards were not adjusted at that time. This rule adjusts all monetary standards.

The Health Care Group's size standards were increased in December 2000; the Freight Forwarders size standards were increased in September 2000; and the Help Supply Services size standards were increased in July 2000. These changes, however, were not due to inflation but were based on the structure of these industries using data from 1992. Unlike other industries

described in the table above, these industries were adjusted for inflation in 1994. A further increase is being adopted for inflation at this time in order to make these size standards current.

The Construction and Refuse Collection size standards were increased in June 2000 to account for inflation through the end of 1999. Since that time, an additional 4.3% inflation has occurred [the chain-type price index for GDP was 105.28 at the fourth quarter of 1999 $[(109.8/105.28) - 1.00] \times 100 = 1.043$, or 4.3%]. To adjust all size standards to the same common period with respect to inflation, the Construction and Refuse Collection size standards are being adjusted by 4.3%. The Dredging size standard of \$17 million, however, is not being adjusted since that size standard was based on an analysis of specific industry cost data and other industry considerations.

The size standard for sales of government property, currently at \$2 million, is increasing to \$6.0 million.

This especially large increase is being made due to an earlier oversight, in that this size standard was not raised from \$2 million for inflation in 1984 or 1994. Therefore it is being increased to \$6.0 million to bring it up to the present-day equivalent of \$2 million and the most common size standard for the non-manufacturing industries.

What Other SBA Programs or Activities, Not Defined by the NAICS System, Will Have Their Size Standards Adjusted for Inflation?

The size standards associated with the NAICS Codes are primarily used in connection with SBA's financial assistance programs and federal procurement programs. SBA and other federal agencies oversee small business programs that are not covered by the NAICS Codes or use NAICS size standards as an alternative to the program size standard. Therefore, SBA will also make inflation adjustments to those programs that have any monetary-

based size standards, except for the SBIC program as discussed above.

Program	CFR site	Inflation adjusted size standard		
		Current standard		New standard
504 Program	13 CFR 121.301(b)	\$6.0M \$2.0M	Net Worth Net Income	\$7.0M \$2.5M
Surety Bond Guarantee Assistance	13 CFR 121.301(d)	\$5.0M	Average Annual Receipts	\$6.0M
Sales of Government Property (Except, Timber Sales Program, the Special Salvage Timber Sales Program, the sale of Government petroleum coal, and uranium.)	13 CFR 121.502	\$2.0M	Average Annual Receipts	\$6.0M
Stockpile Purchases	13 CFR 121.512	\$42.0M	Average Annual Receipt	\$48.5M

Justification for Publication as an Interim Final Rule

In general, SBA publishes a rule for public comment before issuing a final rule, in accordance with the Administrative Procedure Act and SBA regulations. 5 U.S.C. 553 and 13 CFR 101.108. The Administrative Procedure Act provides an exception to this standard rulemaking process, however, where an agency finds good cause to adopt a rule without prior public participation. 5 U.S.C. 553(b)(3)(B). The good cause requirement is satisfied when prior public participation is impracticable, unnecessary, or contrary to the public interest. Under such circumstances, an agency may publish an interim final rule without soliciting public comment.

In enacting the good cause exception to standard rulemaking procedures, Congress recognized that emergency situations may arise where an agency must issue a rule without public participation. On September 16, 2001, the President declared a national emergency as a result of the events of September 11, 2001. The events of that day have impacted U.S. businesses both in the declared disaster areas and across the nation. Most of the affected businesses qualify as small under existing SBA size standards and are eligible for SBA and other Federal assistance. However, some of the affected businesses had previously lost their small size status solely as a result of the inflation that has occurred since SBA last revised the size standards in 1994. A proposed inflationary adjustment to the size regulations to restore eligibility to those businesses was already under development at SBA when the tragic events of September 11, 2001, occurred. SBA now believes that any delay in the adoption of those

inflationary adjustments could cause serious harm to those businesses.

Accordingly, SBA finds that good cause exists to publish this rule as an interim final rule in light of the urgent need to make disaster loans and other SBA assistance available to businesses that should be considered small, but that do not qualify under SBA's existing size standards. Advance solicitation of comments for this rulemaking would be impracticable and contrary to the public interest, as it would delay the delivery of critical assistance to these businesses by a minimum of three to six months. Any such delay would be extremely prejudicial to the affected businesses. It is likely that some would be forced to cease operations before a rule could be promulgated under standard notice and comment rulemaking procedures.

Furthermore, SBA has a statutory obligation to act in the public interest in determining eligibility for Federal assistance under the Small Business Act. 15 USC 633(d). Pursuant to that authority, SBA has determined that it is in the public interest to give immediate effect to SBA's current determination of small size status and that it would be impracticable to delay such implementation. SBA also notes the failure to adopt this rule immediately would work to the detriment of many small businesses.

Although this rule is being published as an interim final rule, comments are hereby solicited from interested members of the public. These comments must be received on or before February 22, 2002. SBA may then consider these comments in making any necessary revisions to these regulations.

Pursuant to Public Law 107-117 (Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States

Act), SBA has the authority to apply the size standards in this rule for purposes of eligibility for economic injury disaster loans to small businesses located in the disaster areas declared as a result of the terrorist attacks of September 11, 2001. Accordingly, for that purpose only, SBA is applying these size standards as if they were in effect on September 11, 2001.

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 as a "significant regulatory action" under section 3(f) under Executive Order 12866.

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

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibility among the various levels of government. Therefore, under Executive Order 13132, SBA determines that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This rule does not impose any new information collection requirements from SBA which require the approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520.

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 an initial regulatory flexibility analysis (IRFA) of this rule addressing

the reasons and objectives of the rule; SBA's description and estimate of the number of small entities to which the rule will apply; the projected reporting, record keeping, and other compliance requirements of the rule; the relevant Federal rules which may duplicate, overlap or conflict with the rule; and alternatives considered by SBA.

(1) What Is Reason for This Action?

As discussed in the supplemental information, the purpose of this rule is to restore the small business eligibility of businesses who have grown above the

size standard due to inflation rather than to an expansion of business activity. A review of the latest available inflation indices show inflation that has increased a sufficient amount to warrant an increase to the current receipt-based size standards.

(2) What Are the Objectives and Legal Basis for the Rule?

The revision to the receipt-based size standards for inflation more appropriately defines the size of businesses in these industries that SBA believes should be eligible for Federal

small business assistance programs. Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) gives SBA the authority to establish and change size standards.

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

SBA estimates that there will be approximately 8,600 newly designated small business, distributed as follows by NAICS Sectors and Subsectors:

ESTIMATE OF FIRMS GAINING SMALL BUSINESS STATUS

	Number of firms	Associated annual sales
• Retail Sectors 44–45	2,800	\$17 billion.
• Services Sectors 51, 52, 54, 55, 61, 62, 71, 72, 81, and Subsectors 531, 532, 561	4,000	\$22 billion.
• Finance, Insurance and Real Estate Sectors 52–53	600	\$3 billion.
• Transportation & Utilities Sectors 22 & 48	450	\$3 billion.
• Construction and Refuse Sector 23 & Subsector 562	760	\$10 billion.
Total	8,610	\$55 billion.

Source: 1997 Economic Census, U.S. Census Bureau, Special Tabulation for SBA. Sales estimates restated to 2000 dollars.

The percentage increase in the number of small businesses that will result from this rule, compared to the existing base of small businesses, is estimated to be about two-tenths of one percent. The special tabulation of the 1997 Economic Census for SBA reports 5,082,970 total firms in the U.S. economy as defined by this census. We estimate that 98.4% of all businesses in the U.S. are currently defined as small under the existing size standards. Under the rule, this will increase to 98.6%. The percentage increase of annual sales in the U.S. economy attributed to these new small businesses is likely to be approximately seven-tenths of one percent. This will be applied to a base of 28.6%. Thus under this proposal the percent of sales attributed to firms defined as small businesses in the U.S. is likely to increase to 29.3%.

Description of Potential Benefits of the Rule: The most significant benefit to businesses obtaining small business status as a result of this rule is their eligibility for Federal small business assistance programs. These include SBA's financial assistance programs and Federal procurement preference programs for small businesses, 8(a) firms, small disadvantaged businesses, and small businesses located in Historically Underutilized Business Zones (HUBZone).

SBA estimates that approximately \$46.2 million of additional Federal contracts will be awarded to firms becoming newly designated small businesses. As stated above, the percentage increase of annual sales attributed to these new small businesses is likely to be approximately seven-tenths of one percent. SBA applied this factor to the Fiscal Year 1999 total small business prime contractor initial awards which totaled \$6.6 billion [$\$6.6B \times .007 (.7 \text{ of } 1\%) = \$46.2M$].

We view the additional amount of contract activity as the potential amount of transfer from non-small to newly designated small firms. This does not represent the creation of new contracting activity by the Federal government, merely a possible reallocation or transfer to different sized firms.

Under the SBA's 7(a) Guaranteed Loan Program and Certified Development Company (504) Program, SBA estimates that approximately \$17 million in new Federal loan guarantees could be made to these newly defined small businesses. This represents 0.19% of the \$9 billion in loans that were guaranteed by the SBA under these two financial programs to firms in industries with monetary-based size standards.

Considering that the average size of firms gaining small business status will

be \$6 million, demand for assistance will likely be less than the overall participation rate for SBA loans among firms of all sizes. In any given year less than 1% of all small businesses receive SBA financing. Since larger firms are less likely to seek SBA financial assistance, we believe that no more than one-half of 1% of the 8,610 newly designated small businesses would seek SBA assistance. SBA estimates that approximately 45 out of the 8,610 firms would seek SBA financing. SBA financial assistance recipients of this size on average obtain assistance worth \$375,000, so the impact in terms of new loans generated is estimated to be \$17 million per year.

(4) Will This Rule Impose Any Additional Reporting or Record Keeping Requirements on Small Businesses?

This rule does not impose any new information collection requirements from SBA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. A new size standard does not impose any additional reporting, record keeping or compliance requirements on small entities. Increasing size standards expands access to SBA programs that assist small businesses, but does not impose a regulatory burden as they

neither regulate nor control business behavior.

(5) What Are the Relevant Federal Rules Which May Duplicate, Overlap or Conflict With This Rule?

This rule overlaps other Federal rules that use SBA's size standards to define a small business. Under § 632(a)(2)(C) of the Small Business Act, unless specifically authorized by statute, Federal agencies must use SBA's size standards to define a small business. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988-57991, dated November 24, 1995). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. In cases where an SBA's size standard is not appropriate, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards with the approval of the SBA Administrator (13 CFR 121.902). For purposes of a regulatory flexibility analysis, agencies must consult with SBA's Office of Advocacy when developing different size standards for their programs.

(6) What Alternatives Did SBA Consider?

SBA considered two alternatives to this rule. First, to wait until inflation has increased a greater amount before proposing an adjustment to receipt-based size standards. Previous inflation adjustments ranged between 48 percent to 100 percent. SBA believes that more frequent adjustments are necessary since smaller amounts of inflation can change the small business eligibility of a large number of businesses.

Second, SBA considered a policy of automatically adjusting size standards for inflation on a fixed schedule. SBA believes inflation must be closely monitored to assess the impact of inflation on size standards. Automatic adjustments may lead to inappropriate changes to size standards and prevent the Agency from taking into consideration other factors that bear on the review of size standards, such as changes in industry structure or Administration policies. Furthermore, an automatic adjustment could require SBA to make insignificant changes (*i.e.*, 1 percent) or to wait a longer period of time than necessary to adjust size standards if inflation rapidly increases.

List of Subjects in 13 CFR Part 121

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

SIZE STANDARDS BY NAICS INDUSTRY

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for 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. Amend § 121.102 as follows:
 - a. Redesignate the current paragraph (c) as (d).
 - b. Add new paragraph (c) to read as follows:

§ 121.102 How does SBA establish size standards?

(c) As part of its review of size standards, SBA's Office of Size Standards will examine the impact of inflation on monetary-based size standards (*e.g.*, receipts, net income, assets) at least once every five years and submit a report to the Administrator or designee. If SBA finds that inflation has significantly eroded the value of the monetary-based size standards, it will issue a proposed rule to increase size standards.

3. In § 121.201, revise the referenced NAICS Codes and size standards in the table "Size Standards by NAICS Industry" under Sectors 11, 21 through 23, 44-45, 48-49, 51 through 56, 61, 62, 71, 72, and 81 to read as follows:

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

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
* * * * *		
Sector 11— Agriculture, Forestry, Fishing, and Hunting		
Subsector 112—Animal Production		
112310	Chicken Egg Production	\$10.5
* * * * *		
Subsector 113—Forestry and Logging		
113110	Timber Tract Operations	\$6.0
113210	Forest Nurseries and Gathering of Forest Products	\$6.0
* * * * *		
Subsector 114—Fishing, Hunting and Trapping		
114111	Finfish Fishing	\$3.5

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
114112	Shellfish Fishing	\$3.5
114119	Other Marine Fishing	\$3.5
114210	Hunting and Trapping	\$3.5
*	*	*
Subsector 115—Support Activities for Agriculture and Forestry		
115111	Cotton Ginning	\$6.0
115112	Soil Preparation, Planting, and Cultivating	\$6.0
115113	Crop Harvesting, Primarily by Machine	\$6.0
115114	Postharvest Crop Activities (except Cotton Ginning)	\$6.0
115115	Farm Labor Contractors and Crew Leaders	\$6.0
115116	Farm Management Services	\$6.0
115210	Support Activities for Animal Production	\$6.0
115310	Support Activities for Forestry	\$6.0
Sector 21—Mining		
*	*	*
Subsector 213—Support Activities for Mining		
*	*	*
213112	Support Activities for Oil and Gas Operations	\$6.0
213113	Support Activities for Coal Mining	\$6.0
213114	Support Activities for Metal Mining	\$6.0
213115	Support Activities for Nonmetallic Minerals (except Fuels)	\$6.0
Sector 22—Utilities		
Subsector 221—Utilities		
*	*	*
221310	Water Supply and Irrigation Systems	\$6.0
221320	Sewage Treatment Facilities	\$6.0
221330	Steam and Air-Conditioning Supply	\$10.5
Sector 23—Construction		
Subsector 233—Building, Developing and General Contracting		
233110	Land Subdivision and Land Development	\$6.0
233210	Single Family Housing Construction	\$28.5
233220	Multifamily Housing Construction	\$28.5
233310	Manufacturing and Industrial Building Construction	\$28.5
233320	Commercial and Institutional Building Construction	\$28.5
Subsector 234—Heavy Construction		
234110	Highway and Street Construction	\$28.5
234120	Bridge and Tunnel Construction	\$28.5
234910	Water, Sewer, and Pipeline Construction	\$28.5
234920	Power and Communication Transmission Line Construction	\$28.5
234930	Industrial Nonbuilding Structure Construction	\$28.5
234990	All other Heavy Construction	\$28.5
Except	Dredging and Surface Cleanup Activities	\$17.0
Subsector 235—Special Trade Contractors		
235110	Plumbing, Heating and Air-Conditioning Contractors	\$12.0
235210	Painting and Wall Covering Contractors	\$12.0
235310	Electrical Contractors	\$12.0
235410	Masonry and Stone Contractors	\$12.0
235420	Drywall, Plastering, Acoustical and Insulation Contractors	\$12.0
235430	Tile, Marble, Terrazzo and Mosaic Contractors	\$12.0
235510	Carpentry Contractors	\$12.0
235520	Floor Laying and Other Floor Contractors	\$12.0
235610	Roofing, Siding and Sheet Metal Contractors	\$12.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
235710	Concrete Contractors	\$12.0
235810	Water Well Drilling Contractors	\$12.0
235910	Structural Steel Erection Contractors	\$12.0
235920	Excavation Contractors	\$12.0
235940	Wrecking and Demolition Contractors	
235950	Building Equipment Other Machinery Installation Contractors	\$12.0
235990	All Other Special Trade Contractors	\$12.0
Except	Base Housing Maintenance	¹³ \$12.0

* * * * *

Sector 44–45—Retail Trade

(Not Applicable to Government Procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

Subsector 441—Motor Vehicle and Parts Dealers

441110	New Car Dealers	\$24.5
441120	Used Car Dealers	\$19.5
441210	Recreational Vehicle Dealers	\$6.0
441221	Motorcycle Dealers	\$6.0
441222	Boat Dealers	\$6.0
441229	All Other Motor Vehicle Dealers	\$6.0
Except	Aircraft Dealers, Retail	\$8.5
441310	Automotive Parts and Accessories Stores	\$6.0
441320	Tire Dealers	\$6.0

Subsector 441—Furniture and Home Furnishing Stores

442110	Furniture Stores	\$6.0
442210	Floor Covering Stores	\$6.0
442291	Window Treatment Stores	\$6.0
442299	All Other Home Furnishings Stores	\$6.0

Subsector 442—Electronics and Appliances Stores

443111	Household Appliance Stores	\$7.5
443112	Radio, Television and Other Electronics Stores	\$7.5
443120	Computer and Software Stores	\$7.5
443130	Camera and Photographic Supplies Stores	\$6.0

Subsector 444—Building Material and Garden Equipment and Supplies Dealers

444110	Home Centers	\$6.0
444120	Paint and Wallpaper Stores	\$6.0
444130	Hardware Stores	\$6.0
444190	Other Building Material Dealers	\$6.0
444210	Outdoor Power Equipment Stores	\$6.0
444220	Nursery and Garden Centers	\$6.0

Subsector 445—Food and Beverage Stores

445110	Supermarkets and Other Grocery (except Convenience) Stores	\$23.0
445120	Convenience Stores	\$23.0
445210	Meat Markets	\$6.0
445220	Fish and Seafood Markets	\$6.0
445230	Fruit and Vegetable Markets	\$6.0
445291	Baked Goods Stores	\$6.0
445292	Confectionery and Nut Stores	\$6.0
445299	All Other Specialty Food Stores	\$6.0
445310	Beer, Wine and Liquor Stores	\$6.0

Subsector 446—Health and Personal Care Stores

446110	Pharmacies and Drug Stores	\$6.0
446120	Cosmetics, Beauty Supplies and Perfume Stores	\$6.0
446130	Optical Goods Stores	\$6.0
446191	Food (Health) Supplement Stores	\$6.0
446199	All Other Health and Personal Care Stores	\$6.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
Subsector 447—Gasoline Stations		
447110	Gasoline Stations with Convenience Stores	\$23.0
447190	Other Gasoline Stations	\$7.5
Subsector 448—Clothing and Clothing Accessories Stores		
448110	Men's Clothing Stores	\$7.5
448120	Women's Clothing Stores	\$7.5
448130	Children's and Infants' Clothing Stores	\$6.0
448140	Family Clothing Stores	\$7.5
448150	Clothing Accessories Stores	\$6.0
448190	Other Clothing Stores	\$6.0
448210	Shoe Stores	\$7.5
448310	Jewelry Stores	\$6.0
448320	Luggage and Leather Goods Stores	\$6.0
Subsector 451—Sporting Goods, Hobby, Book, and Music Stores		
451110	Sporting Goods Stores	\$6.0
451120	Hobby, Toy and Game Stores	\$6.0
451130	Sewing, Needlework and Piece Goods Stores	\$6.0
451140	Musical Instrument and Supplies Stores	\$6.0
451211	Book Stores	\$6.0
451212	News Dealers and Newsstands	\$6.0
451220	Prerecorded Tape, Compact Disc and Record Stores	\$6.0
Subsector 452—General Merchandise Stores		
452110	Department Stores	\$23.0
452910	Warehouse Clubs and Superstores	\$23.0
452990	All Other General Merchandise Stores	\$9.5
Subsector 453—Miscellaneous Store Retailers		
453110	Florists	\$6.0
453210	Office Supplies and Stationery Stores	\$6.0
453220	Gift, Novelty and Souvenir Stores	\$6.0
453310	Used Merchandise Stores	\$6.0
453910	Pet and Pet Supplies Stores	\$6.0
453920	Art Dealers	\$6.0
453930	Manufactured (Mobile) Home Dealers	\$11.0
453991	Tobacco Stores	\$6.0
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$6.0
454110	Electronic Shopping and Mail-Order Houses	\$21.0
454210	Vending Machine Operators	\$6.0
454311	Heating Oil Dealers	\$10.5
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	\$6.0
454319	Other Fuel Dealers	\$6.0
454390	Other Direct Selling Establishments	\$6.0
*	*	*
Sectors 48–49—Transportation and Warehousing		
*	*	*
Subsector 481—Air Transportation		
*	*	*
Except	Offshore Marine Air Transportation Services	\$23.5
*	*	*
Except	Offshore Marine Air Transportation Services	\$23.5
481219	Other Nonscheduled Air Transportation	\$6.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
*	*	*
Subsector 484—Truck Transportation		
484110	General Freight Trucking, Local	\$21.5
484121	General Freight Trucking, Long-Distance, Truckload	\$21.5
484122	General Freight Trucking, Long-Distance, Less Than Truckload	\$21.5
484210	Used Household and Office Goods Moving	\$21.5
484220	Specialized Freight (except Used Goods) Trucking, Local	\$21.5
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance	\$21.5
Subsector 485—Transit and Ground Passenger Transportation		
485111	Mixed Mode Transit Systems	\$6.0
485112	Commuter Rail Systems	\$6.0
485113	Bus and Other Motor Vehicle Transit Systems	\$6.0
485119	Other Urban Transit Systems	\$6.0
485210	Interurban and Rural Bus Transportation	\$6.0
485310	Taxi Service	\$6.0
485320	Limousine Service	\$6.0
485410	School and Employee Bus Transportation	\$6.0
485510	Charter Bus Industry	\$6.0
485991	Special Needs Transportation	\$6.0
485999	All Other Transit and Ground Passenger Transportation	\$6.0
Subsector 486—Pipeline Transportation		
*	*	*
486210	Pipeline Transportation of Natural Gas	\$6.0
*	*	*
486990	All Other Pipeline Transportation	\$29.0
Subsector 487—Scenic and Sightseeing Transportation		
487110	Scenic and Sightseeing Transportation, Land	\$6.0
487210	Scenic and Sightseeing Transportation, Water	\$6.0
487990	Scenic and Sightseeing Transportation, Other	\$6.0
Subsector 488—Support Activities for Transportation		
488111	Air Traffic Control	\$6.0
488119	Other Airport Operations	\$6.0
488190	Other Support Activities for Air Transportation	\$6.0
488210	Support Activities for Rail Transportation	\$6.0
488310	Port and Harbor Operations	\$21.5
488320	Marine Cargo Handling	\$21.5
488330	Navigational Services to Shipping	\$6.0
488390	Other Support Activities for Water Transportation	\$6.0
488410	Motor Vehicle Towing	\$6.0
488490	Other Support Activities for Road Transportation	\$6.0
488510	Freight Transportation Arrangement	\$6.0
Except	Non-Vessel Owning Common Carriers and Household Goods Forwarders	\$21.5
488991	Packing and Crating	\$21.5
488999	All Other Support Activities for Transportation	\$6.0
Subsector 491—Postal Service		
491110	Postal Service	\$6.0
Subsector 492—Couriers and Messengers		
*	*	*
492210	Local Messengers and Local Delivery	\$21.5
Subsector 493—Warehousing and Storage		
493110	General Warehousing and Storage	\$21.5

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
493120	Refrigerated Warehousing and Storage	\$21.5
493130	Farm Product Warehousing and Storage	\$21.5
493190	Other Warehousing and Storage	\$21.5
Sector 51—Information		
Subsector 511—Publishing Industries		
511210	Software Publishers	\$21.0
Subsector 512—Motion Picture and Sound Recording Industries		
512110	Motion Picture and Video Production	\$25.0
512120	Motion Picture and Video Distribution	\$25.0
512131	Motion Picture Theaters (except Drive-Ins)	\$6.0
512132	Drive-In Motion Picture Theaters	\$6.0
512191	Teleproduction and Other Post-Production Services	\$25.0
512199	Other Motion Picture and Video Industries	\$6.0
512210	Record Production	\$6.0
512240	Sound Recording Studios	\$6.0
512290	Other Sound Recording Industries	\$6.0
Subsector 513—Broadcasting and Telecommunications		
513111	Radio Networks	\$6.0
513112	Radio Stations	\$6.0
513120	Television Broadcasting	\$12.0
513210	Cable Networks	\$12.5
513220	Cable and Other Program Distribution	\$12.5
513340	Satellite Telecommunications	\$12.5
513390	Other Telecommunications	\$12.5
Subsector 514—Information Services and Data Processing Services		
514110	News Syndicates	\$6.0
514120	Libraries and Archives	\$6.0
514191	On-Line Information Services	\$21.0
514199	All Other Information Services	\$6.0
514210	Data Processing Services	\$21.0
Sector 52—Finance and Insurance		
Subsector 522—Credit Intermediation and Related Activities		
522110	Commercial Banking	\$150 mil in Assets ⁸
522120	Saving Institutions	\$150 mil in Assets ⁸
522130	Credit Unions	\$150 mil in Assets ⁸
522190	Other Depository Credit Intermediation	\$150 mil in Assets ⁸
522210	Credit Card Issuing	\$150 mil in Assets ⁸
522220	Sales Financing	\$6.0
522291	Consumer Lending	\$6.0
522292	Real Estate Credit	\$6.0
522293	International Trade Financing	\$150 mil in Assets ⁸
522294	Secondary Market Financing	\$6.0
522298	All Other Non-Depository Credit Intermediation	\$6.0
522310	Mortgage and Nonmortgage Loan Brokers	\$6.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
522320	Financial Transactions Processing, Reserve, and Clearing House Activities	\$6.0
522390	Other Activities Related to Credit Intermediation	\$6.0
Subsector 523—Financial Investments and Related Activities		
523110	Investment Banking and Securities Dealing	\$6.0
523120	Securities Brokerage	\$6.0
523130	Commodity Contracts Dealing	\$6.0
523140	Commodity Contracts Brokerage	\$6.0
523210	Securities and Commodity Exchanges	\$6.0
523910	Miscellaneous Intermediation	\$6.0
523920	Portfolio Management	\$6.0
523930	Investment Advice	\$6.0
523991	Trust, Fiduciary and Custody Activities	\$6.0
523999	Miscellaneous Financial Investment Activities	\$6.0
Subsector 524—Insurance Carriers and Related Activities		
524113	Direct Life Insurance Carriers	\$6.0
524114	Direct Health and Medical Insurance Carriers	\$6.0
*	*	*
524127	Direct Title Insurance Carriers	\$6.0
524128	Other Direct Insurance (except Life, Health and Medical) Carriers	\$6.0
524130	Reinsurance Carriers	\$6.0
524210	Insurance Agencies and Brokerages	\$6.0
524291	Claims Adjusting	\$6.0
524292	Third Party Administration of Insurance and Pension Funds	\$6.0
524298	All Other Insurance Related Activities	\$6.0
Subsector 525—Funds, Trusts and Other Financial Vehicles		
525110	Pension Funds	\$6.0
525120	Health and Welfare Funds	\$6.0
525190	Other Insurance Funds	\$6.0
525910	Open-End Investment Funds	\$6.0
525920	Trusts, Estates, and Agency Accounts	\$6.0
525930	Real Estate Investment Trusts	\$6.0
525990	Other Financial Vehicles	\$6.0
Sector 53—Real Estate and Rental and Leasing		
Subsector 531—Real Estate		
531120	Lessors of Nonresidential Buildings (except Miniwarehouses)	\$6.0
531130	Lessors of Miniwarehouses and Self Storage Units	\$21.5
531190	Lessors of Other Real Estate Property	\$6.0
Except	Leasing of Building Space to Federal Government by Owners	⁹ \$17.5
*	*	*
Subsector 532—Rental and Leasing Services		
532111	Passenger Car Rental	\$21.5
532112	Passenger Car Leasing	\$21.5
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	\$21.5
532210	Consumer Electronics and Appliances Rental	\$6.0
532220	Formal Wear and Costume Rental	\$6.0
532230	Video Tape and Disc Rental	\$6.0
532291	Home Health Equipment Rental	\$6.0
532292	Recreational Goods Rental	\$6.0
532299	All Other Consumer Goods Rental	\$6.0
532310	General Rental Centers	\$6.0
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	\$6.0
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	\$6.0
532420	Office Machinery and Equipment Rental and Leasing	\$21.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	\$6.0
Subsector 533—Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)		
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	\$6.0
Sector 54—Professional, Scientific and Technical Services		
Subsector 541—Professional, Scientific and Technical Services		
541110	Offices of Lawyers	\$6.0
541191	Title Abstract and Settlement Offices	\$6.0
541199	All Other Legal Services	\$6.0
541211	Offices of Certified Public Accountants	\$7.0
541213	Tax Preparation Services	\$6.0
541214	Payroll Services	\$7.0
541219	Other Accounting Services	\$7.0
	* * * * *	
541320	Landscape Architectural Services	\$6.0
541330	Engineering Services	\$4.0
Except	Military and Aerospace Equipment and Military Weapons	\$23.0
Except	Contracts and Subcontracts for Engineering Services Awarded under The National Energy Act of 1992	\$23.0
Except	Marine and Aerospace Equipment and Military Weapons	\$15.5
541340	Drafting Services	\$6.0
Except	Map Drafting	\$4.0
541350	Building Inspection Services	\$6.0
541360	Geophysical Surveying and Mapping Services	\$4.0
541370	Surveying and Mapping (except Geophysical) Services	\$4.0
541380	Testing Laboratories	\$6.0
541410	Interior Design Services	\$6.0
541420	Industrial Design Services	\$6.0
541430	Graphic Design Services	\$6.0
541490	Other Specialized Design Services	\$6.0
541511	Custom Computer Programming Services	\$21.0
541512	Computer Systems Design Services	\$21.0
541513	Computer Facilities Management Services	\$21.0
541519	Other Computer Related Services	\$21.0
541611	Administrative Management and General Management Consulting Services	\$6.0
541612	Human Resources and Executive Search Consulting Services	\$6.0
541613	Marketing Consulting Services	\$6.0
541614	Process, Physical distribution and Logistics Consulting Services	\$6.0
541618	Other Management Consulting Services	\$6.0
541620	Environmental Consulting Services	\$6.0
541690	Other Scientific and Technical Consulting Services	\$6.0
	* * * * *	
541720	Research and Development in the Social Sciences and Humanities	\$6.0
541810	Advertising Agencies	¹⁰ \$6.0
541820	Public Relations Agencies	\$6.0
541830	Media Buying Agencies	\$6.0
541840	Media Representatives	\$6.0
541850	Display Advertising	\$6.0
541860	Direct Mail Advertising	\$6.0
541870	Advertising Material Distribution Services	\$6.0
541890	Other Services Related to Advertising	\$6.0
541910	Marketing Research and Public Opinion Polling	\$6.0
541921	Photography Studios, Portrait	\$6.0
541922	Commercial Photography	\$6.0
541930	Translation and Interpretation Services	\$6.0
541940	Veterinary Services	\$6.0
541990	All Other Professional, Scientific and Technical Services	\$6.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
Sector 55—Management of Companies and Enterprises		
Subsector 551—Management of Companies and Enterprises		
551111	Offices of Bank Holding Companies	\$6.0
551112	Offices of Other Holding Companies	\$6.0
Sector 56—Administrative and Support, Waste Management and Remediation Services		
Subsector 561—Administrative and Support Services		
561110	Office Administrative Services	\$6.0
561210	Facilities Support Services	¹² \$6.0
561439	Base Maintenance	¹³ \$23.0
561310	Employment Placement Agencies	\$6.0
561320	Temporary Help Services	\$11.5
561330	Employee Leasing Services	\$11.5
561410	Document Preparation Services	\$6.0
561421	Telephone Answering Services	\$6.0
561422	Telemarketing Bureaus	\$6.0
561431	Private Mail Centers	\$6.0
561439	Other Business Service Centers (including Copy Shops)	\$6.0
561440	Collection Agencies	\$6.0
561450	Credit Bureaus	\$6.0
561491	Repossession Services	\$6.0
561492	Court Reporting and Stenotype Services	\$6.0
561499	All Other Business Support Services	\$6.0
561510	Travel Agencies	¹⁰ \$1.0
561520	Tour Operators	\$6.0
561591	Convention and Visitors Bureaus	\$6.0
561599	All Other Travel Arrangement and Reservation Services	\$6.0
561611	Investigation Services	\$10.5
561612	Security Guards and Patrol Services	\$10.5
561613	Armored Car Services	\$10.5
561621	Security Systems Services (except Locksmiths)	\$10.5
561622	Locksmiths	\$6.0
561710	Exterminating and Pest Control Services	\$6.0
561720	Janitorial Services	\$14.0
561730	Landscaping Services	\$6.0
561740	Carpet and Upholstery Cleaning Services	\$4.0
561790	Other Services to Buildings and Dwellings	\$6.0
561910	Packaging and Labeling Services	\$6.0
561920	Convention and Trade Show Organizers	¹⁰ \$6.0
561990	All Other Support Services	\$6.0
Subsector 562—Waste Management and Remediation Services		
562111	Solid Waste Collection	\$10.5
562112	Hazardous Waste Collection	\$10.5
562119	Other Waste Collection	\$10.5
562211	Hazardous Waste Treatment and Disposal	\$10.5
562212	Solid Waste Landfill	\$10.5
562213	Solid Waste Combustors and Incinerators	\$10.5
562219	Other Nonhazardous Waste Treatment and Disposal	\$10.5
562910	Remediation Services	\$12.0
* * * * *		
562920	Materials Recovery Facilities	\$10.5
562991	Septic Tank and Related Services	\$6.0
562998	All Other Miscellaneous Waste Management Services	\$6.0
Sector 61—Educational Services		
Subsector 611—Educational Services		
611110	Elementary and Secondary Schools	\$6.0
611210	Junior Colleges	\$6.0
611310	Colleges, Universities and Professional Schools	\$6.0
611410	Business and Secretarial Schools	\$6.0
611420	Computer Training	\$6.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
611430	Professional and Management Development Training	\$6.0
611511	Cosmetology and Barber Schools	\$6.0
611512	Flight Training	\$21.5
611513	Apprenticeship Training	\$6.0
611519	Other Technical and Trade Schools	\$6.0
611610	Fine Arts Schools	\$6.0
611620	Sports and Recreation Instruction	\$6.0
611630	Language School	\$6.0
611691	Exam Preparation and Tutoring	\$6.0
611692	Automobile Driving School	\$6.0
611699	All Other Miscellaneous Schools and Instruction	\$6.0
611710	Educational Support Services	\$6.0
Sector 62—Health Care and Social Assistance		
Subsector 621—Ambulatory Health Care Services		
621111	Offices of Physicians (except Mental Health Specialists)	\$8.5
621112	Offices of Physicians, Mental Health Specialists	\$8.5
621210	Offices of Dentists	\$6.0
621310	Offices of Chiropractors	\$6.0
621320	Offices of Optometrists	\$6.0
621330	Offices of Mental Health Practitioners (except Physicians)	\$6.0
621340	Offices of Physical, Occupational and Speech Therapists and Audiologists	\$6.0
621391	Offices of Podiatrists	\$6.0
621399	Offices of All Other Miscellaneous Health Practitioners	\$6.0
621410	Family Planning Centers	\$8.5
621420	Outpatient Mental Health and Substance Abuse Centers	\$8.5
621491	HMO Medical Centers	\$8.5
621492	Kidney Dialysis Centers	\$29.0
621493	Freestanding Ambulatory Surgical and Emergency Centers	\$8.5
621498	All Other Outpatient Care Centers	\$8.5
621511	Medical Laboratories	\$11.5
621512	Diagnostic Imaging Centers	\$11.5
621610	Home Health Care Services	\$11.5
621910	Ambulance Services	\$6.0
621991	Blood and Organ Banks	\$8.5
621999	All Other Miscellaneous Ambulatory Health Care Services	\$8.5
Subsector 622—Hospitals		
622110	General Medical and Surgical Hospitals	\$29.0
622210	Psychiatric and Substance Abuse Hospitals	\$29.0
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	\$29.0
Subsector 623—Nursing and Residential Care Facilities		
623110	Nursing Care Facilities	\$11.5
623210	Residential Mental Retardation Facilities	\$8.5
623220	Residential Mental Health and Substance Abuse Facilities	\$6.0
623311	Continuing Care Retirement Communities	\$11.5
623312	Homes for the Elderly	\$6.0
623990	Other Residential Care Facilities	\$6.0
Subsector 624—Social Assistance		
624110	Child and Youth Services	\$6.0
624120	Services for the Elderly and Persons with Disabilities	\$6.0
624190	Other Individual and Family Services	\$6.0
624210	Community Food Services	\$6.0
624221	Temporary Shelters	\$6.0
624229	Other Community Housing Services	\$6.0
624230	Emergency and Other Relief Services	\$6.0
624310	Vocational Rehabilitation Services	\$6.0
624410	Child Day Care Services	\$6.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
Sector 71—Arts, Entertainment and Recreation		
Subsector 711—Performing Arts, Spectator Sports and Related Industries		
711110	Theater Companies and Dinner Theaters	\$6.0
711120	Dance Companies	\$6.0
711130	Musical Groups and Artists	\$6.0
711190	Other Performing Arts Companies	\$6.0
711211	Sports Teams and Clubs	\$6.0
711212	Race Tracks	\$6.0
711219	Other Spectator Sports	\$6.0
711310	Promoters of Performing Arts, Sports and Similar Events with Facilities	\$6.0
711320	Promoters of Performing Arts, Sports and Similar Events without Facilities	\$6.0
711410	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	\$6.0
711510	Independent Artists, Writers, and Performers	\$6.0
Subsector 712—Museums, Historical Sites and Similar Institutions		
712110	Museums	\$6.0
712120	Historical Sites	\$6.0
712130	Zoos and Botanical Gardens	\$6.0
712190	Nature Parks and Other Similar Institutions	\$6.0
Subsector 713—Amusement, Gambling and Recreation Industries		
713110	Amusement and Theme Parks	\$6.0
713120	Amusement Arcades	\$6.0
713210	Casinos (except Casino Hotels)	\$6.0
713290	Other Gambling Industries	\$6.0
713910	Golf Courses and Country Clubs	\$6.0
713920	Skiing Facilities	\$6.0
713930	Marinas	\$6.0
713940	Fitness and Recreational Sports Centers	\$6.0
713950	Bowling Centers	\$6.0
713990	All Other Amusement and Recreation Industries	\$6.0
Sector 72—Accommodation and Food Services		
Subsector 721—Accommodation		
721110	Hotels (except Casino Hotels) and Motels	\$6.0
721120	Casino Hotels	\$6.0
721191	Bed and Breakfast Inns	\$6.0
721199	All Other Traveler Accommodation	\$6.0
721211	RV (Recreational Vehicle) Parks and Campgrounds	\$6.0
721214	Recreational and Vacation Camps (except Campgrounds)	\$6.0
721310	Rooming and Boarding Houses	\$6.0
Subsector 722—Food Services and Drinking Places		
722110	Full-Service Restaurants	\$6.0
722211	Limited-Service Restaurants	\$6.0
722212	Cafeterias	\$6.0
722213	Snack and Nonalcoholic Beverage Bars	\$6.0
722310	Food Service Contractors	\$17.5
722320	Caterers	\$6.0
722330	Mobile Food Services	\$6.0
722410	Drinking Places (Alcoholic Beverages)	\$6.0
Sector 81—Other Services		
Subsector 811—Repair and Maintenance		
811111	General Automotive Repair	\$6.0
811112	Automotive Exhaust System Repair	\$6.0
811113	Automotive Transmission Repair	\$6.0
811118	Other Automotive Mechanical and Electrical Repair and Maintenance	\$6.0
811121	Automotive Body, Paint and Interior Repair and Maintenance	\$6.0
811122	Automotive Glass Replacement Shops	\$6.0

SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS code	NAICS industry description	Size standards in number of employees or millions of dollars
811191	Automotive Oil Change and Lubrication Shops	\$6.0
811192	Car Washes	\$6.0
811198	All Other Automotive Repair and Maintenance	\$6.0
811211	Consumer Electronics Repair and Maintenance	\$6.0
811212	Computer and Office Machine Repair and Maintenance	\$21.0
811213	Communication Equipment Repair and Maintenance	\$6.0
811219	Other Electronic and Precision Equipment Repair and Maintenance	\$6.0
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	\$6.0
811411	Home and Garden Equipment Repair and Maintenance	\$6.0
811412	Appliance Repair and Maintenance	\$6.0
811420	Reupholstery and Furniture Repair	\$6.0
811430	Footwear and Leather Goods Repair.	\$6.0
811490	Other Personal and Household Goods Repair and Maintenance	\$6.0
Subsector 812—Personal and Laundry Services		
812111	Barber Shops	\$6.0
812112	Beauty Salons	\$6.0
812113	Nail Salons	\$6.0
812191	Diet and Weight Reducing Centers	\$6.0
812199	Other Personal Care Services	\$6.0
812210	Funeral Homes and Funeral Services	\$6.0
812220	Cemeteries and Crematories	\$6.0
812310	Coin-Operated Laundries and Drycleaners	\$6.0
812320	Drycleaning and Laundry Services (except Coin-Operated)	\$4.0
812331	Linen Supply	\$12.0
812332	Industrial Launderers	\$12.0
812910	Pet Care (except Veterinary) Services	\$6.0
812921	Photo Finishing Laboratories (except One-Hour)	\$6.0
812922	One-Hour Photo Finishing	\$6.0
812930	Parking Lots and Garages	\$6.0
812990	All Other Personal Services	\$6.0
Subsector 813—Religious, Grantmaking, Civic, Professional and Similar Organizations		
813110	Religious Organizations	\$6.0
813211	Grantmaking Foundations	\$6.0
813212	Voluntary Health Organizations	\$6.0
813219	Other Grantmaking and Giving Services	\$6.0
813311	Human Rights Organizations	\$6.0
813312	Environment, Conservation and Wildlife Organizations	\$6.0
813319	Other Social Advocacy Organizations	\$6.0
813410	Civic and Social Organizations	\$6.0
813910	Business Associations	\$6.0
813920	Professional Organizations	\$6.0
813930	Labor Unions and Similar Labor Organizations	\$6.0
813940	Political Organizations	\$6.0
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organizations)	\$6.0

Footnotes

⁹ NAICS code 531190—Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of \$17.5 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

¹⁵ Subsector 483—Water Transportation—Offshore Marine Services: The applicable size standard shall be \$23.5 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production, or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

§ 121.301 [Amended]

4. Amend § 121.301 as follows:
 a. In paragraph (b)(2), remove “\$6 million” and add in its place “\$7 million,” and “\$2 million” and add in its place “\$2.5 million,” respectively.

b. In paragraph (d)(1), remove “\$5.0 million” and add in its place “\$6.0 million.”

§ 121.502 [Amended]

5. In § 121.502(a)(2), remove “\$2 million” and add in its place “\$6.0 million.”

§ 121.512 [Amended]

6. In § 121.512(b), remove “\$42 million” and add in its place “\$48.5 million.”

Dated: January 3, 2002.

Hector V. Barreto,
Administrator.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-45291; File No. S7-02-02]

Amendments to Rule 31-1, Securities Transactions Exempt From Transaction Fees

AGENCY: Securities and Exchange
Commission.

ACTION: Final rule.

SUMMARY: The Commission today is amending the rule that provides an exemption from section 31(c) of the Securities Exchange Act of 1934 ("Act") for over-the-counter ("OTC") transactions in OTC securities that are subject to unlisted trading privileges on a national securities exchange. One subparagraph of the rule has become obsolete and unnecessary due to the enactment of H.R. 1088, the Investor and Capital Markets Fee Relief Act ("Fee Relief Act").

EFFECTIVE DATE: January 16, 2002.

FOR FURTHER INFORMATION CONTACT: Katherine England, Assistant Director, 202-942-0155, or Joseph Morra, Special Counsel, 202-942-0781, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549-1001.

SUPPLEMENTARY INFORMATION:

I. Discussion

Subparagraph (b) of Rule 31-1¹ under the Act is being rescinded. At the time this subparagraph was adopted, an exemption from section 31(c) of the Act was necessary to ensure that OTC transactions in OTC securities that were subject to unlisted trading privileges on a national securities exchange ("OTC-UTP Transactions") were not subject to dual charges under both sections 31(c) and (d) of the Act. With passage of the Fee Relief Act, former sections 31(c) and (d) of the Act were combined into a new Section 31(c).² Therefore, there is no longer a need for the exemption created by subparagraph (b) of Rule 31-1. The Commission also is making technical conforming changes to Rule 31-1 to renumber the subparagraphs and to

reflect the exception in the Fee Relief Act for options on securities indexes (other than narrow-based security indexes).

Section 553(b) of the Administrative Procedure Act³ generally requires an agency to publish notice of a proposed rule making in the **Federal Register**. This requirement does not apply, however, if the agency "for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."⁴ The Commission finds good cause to forego notice and comment procedures for the rule amendments being adopted today.

The President signed the Fee Relief Act on January 16, 2002. If the Commission does not rescind paragraph (b) of Rule 31-1 effective as of January 16, 2002, the intent of Congress in passing the Fee Relief Act could be frustrated. In addition, persons subject to section 31 of the Act may be confused as to whether OTC-UTP Transactions remain subject to fees under section 31.⁵

Specifically, as noted above, paragraph (b) of existing Rule 31-1 exempts OTC-UTP Transactions from the fee provisions of section 31(c) of the Act.⁶ The purpose of the rule was to clarify that such transactions were not subject to dual charges under both former sections 31(c) and (d). OTC-UTP Transactions, however, remained subject to the fee provisions of former section 31(d) of the Act. The Fee Relief Act combined former sections 31(c) and (d) of the Act into a new section 31(c) (which encompasses all transactions formerly covered by former sections 31(c) and (d)). If paragraph (b) of

existing Rule 31-1 were to remain in effect, affected persons might conclude that OTC-UTP Transactions are now exempt from section 31 fees altogether. Neither Congress, in enacting the Fee Relief Act, nor the Commission, in promulgating Rule 31-1, intended to exempt such transactions from the fee provisions of section 31. Rescinding paragraph (b) of Rule 31-1 effective immediately would preserve the intent of Congress in enacting the Fee Relief Act and avoid any confusion by persons affected by the legislation.

The Administrative Procedure Act also generally requires that an agency publish an adopted rule in the **Federal Register** 30 days before it becomes effective.⁷ However, an agency may forego the 30-day requirement if it finds good cause for doing so.⁸ For the same reasons as it is waiving the notice and comment period, the Commission finds good cause to waive the 30-day pre-effective requirement.

II. Effects on Competition and Regulatory Flexibility Act Considerations

Section 23(a)(2) of the Exchange Act⁹ requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules, if any, and to balance any impact with the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. As noted above, in amending Rule 31-1 the Commission is merely conforming the rule to recently enacted legislation. Moreover, adoption of the amendment to Rule 31-1 will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Regulatory Flexibility Act¹⁰ is not applicable to the revisions to Rule 31-1. The Regulatory Flexibility Act's flexibility analysis requirements are limited to rulemaking for which the Commission would be required by the Administrative Procedure Act to publish general notice of proposed rulemaking.¹¹

The Paperwork Reduction Act does not apply because the proposed amendments do not impose record keeping or information collection requirements, or other collections of information that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et. seq.*

³ 5 U.S.C. 553(b).

⁴ *Id.*

⁵ The Fee Relief Act provides that changes to section 31 of the Act (except for the immediate fee reduction in section 2 of the Fee Relief Act) are effective October 1, 2001. While we are rescinding paragraph (b) of Rule 31-1 effective as of January 16, 2002, the date the President signed the Fee Relief Act into law, the Commission does not believe that it would be consistent with the intent of the Fee Relief Act to rely on paragraph (b) of Rule 31-1 (and thereby seek to avoid paying Section 31 fees on OTC-UTP Transactions) for the period from the effective date of the Fee Relief Act (October 1, 2001) to the effective date of our rescission of paragraph (b) of Rule 31-1. As a result, Section 31 fees will continue to apply to OTC-UTP transactions from the effective date of the Fee Relief Act.

⁶ See Securities Exchange Act Release No. 38073 (December 23, 1996), 61 FR 68590, 68591 n.10 (December 30, 1996) ("Without the exemption, the application of section 31 fees to all transactions in particular OTC securities would have depended entirely on exchange decisions to trade OTC/UTP securities, or on issuer decisions to retain an exchange listing despite the stock being designated a Nasdaq/NMS security.")

⁷ See 5 U.S.C. 553(d).

⁸ *Id.*

⁹ 15 U.S.C. 78w(a)(2).

¹⁰ 5 U.S.C. 601-612.

¹¹ 5 U.S.C. 603(a). As noted above, the Commission is not required to solicit public comment due to the nature of the Commission's revisions to Rule 31-1.

¹ 17 CFR 240.31-1(b).

² New section (c) applies to off-exchange trades of exchange registered and last-sale reported securities.