indication of when we would impose additional and increasing supervisory oversight on an institution to address continuing deterioration in its financial condition and capital position from credit, interest rate, or other financial risks.

Question 14: We seek comment on revising our current capital directive regulations to include an early intervention framework. We also seek comment on potential financial thresholds, such as capital ratios or risk measures, that would trigger an FCA capital directive action.

M. Multi-Dimensional Regulatory Structure

As stated above, one of FCA's objectives is to implement a revised capital framework that improves the risk sensitivity of our capital rules while avoiding undue regulatory burden. There are currently five banks and 95 associations in the System with varying degrees of asset size, complexity of operations, and sophistication in their risk management practices. Some System institutions have the risk management capabilities to apply more complex, risk-sensitive regulatory capital requirements than other System institutions. It may be appropriate for the FCA to adopt more than one set of capital rules to account for these differences. However, this approach could result in different capital requirements for the same type of transaction and increase examination and oversight costs.

As described above, the other Federal financial regulatory agencies are in the process of proposing two sets of capital rules for the financial institutions they regulate. The implementation of the advanced capital framework would be limited, for the most part, to the largest, internationally active banks that meet certain infrastructure requirements. Other banks would implement a simpler capital framework patterned after the standardized approach of Basel II.

While our expectation is to implement a revised capital framework similar to the standardized approach of Basel II, we also recognize that some aspects of the advanced approaches may be appropriate for the larger, more complex System institutions. However, we are still reviewing the advanced approaches of Basel II and its potential application to the System. Therefore, we are not seeking comments on specific aspects of the advanced approaches at this time. Rather, we are considering the overall regulatory capital framework for the System in light of the changes occurring in the financial services industry and recent best practices for economic capital modeling.

Question 15: We seek comment on the most appropriate risk-based capital framework for the System and the reasons we should implement one framework over another. Should we consider creating a uniform regulatory capital structure for the System or a multi-dimensional regulatory structure and allow each System institution the option of choosing which capital framework it will apply? How might this new risk-based capital framework increase the costs or regulatory burden to the System? Would the increased costs be justified by improved risk sensitivity, risk management, and more efficient capital allocation?

N. Reporting Requirements and Transition Period[60]

The other Federal financial regulatory agencies have announced that they will be replacing Basel IA with a proposed rule that would provide all non-core banks the option of adopting the standardized approach under Basel II. Their stated intent is to finalize a standardized approach for non-core banks before the core banks begin their first transition period year under the advanced capital framework. Our objective is to minimize, to the extent possible, the time interval between the issuance of their final rule and ours. We also need a transition period to make appropriate modifications to the Call Reporting System to track the new risk-based capital requirements.

Question 16: We seek comment on an appropriate timetable for implementing our new risk-based capital rules. Specifically, what is an appropriate time interval between the issuance of the other Federal financial regulatory agencies' final rule on the standardized approach of Basel II and ours? How long should the transition period be to allow System institutions to adjust to the new risk-based capital rules?

Question 17: Additionally, we seek comment on any other methods that may be used to increase the risk sensitivity of our risk-based capital rules.

Dated: October 25, 2007.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E7–21422 Filed 10–30–07; 8:45 am]

BILLING CODE 6705–01–P

[60] This section was not in the previous ANPRM.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AF67

Small Business Size Standards; Fuel Oil Dealers Industries

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to change the small business size standard for the Heating Oil Dealers industry (North American Industry Classification System (NAICS) code 454311)) from $11.5 million in average annual receipts to 50 employees, and the size standard for the Liquefied Petroleum Gas (Bottled Gas) Dealers industry (NAICS code 454312) from $6.5 million in average annual receipts to 50 employees. Large and fluctuating increases in the prices of heating oil and propane over the past several years indicate that a more stable measure of firm size based on number of employees rather than receipts is needed for these two industries.

DATES: SBA must receive comments to this proposed rule on or before November 30, 2007.

ADDRESSES: You may submit comments, identified by RIN 3245–AF67, by one of the following methods: (1) Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments; or (2) Mail/Hand Delivery/Courier: Gary M. Jackson, Assistant Director for Size Standards, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416.

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

FOR FURTHER INFORMATION CONTACT: Diane Heal, Office of Size Standards, (202) 205–6618 or *sizestandards@sba.gov*.

SUPPLEMENTARY INFORMATION: Several small businesses, trade associations, and Members of Congress have requested that SBA review the $11.5 million size

standard for the Heating Oil Dealers industry and the $6.5 million size standard for the Liquefied Petroleum Gas (Bottled Gas) Dealers (LPG dealers) industry. The requesters contend that SBA should either increase the receipt-based size standards for these industries to account for the impact of large increases in crude oil costs on heating oil and propane prices over the past several years or establish a size standard based on the number of employees of a business concern. They point out that under the existing receipts size standard, a heating oil or LPG dealer currently defined as small may abruptly exceed the size standard due to large and unpredictable increases in crude oil costs, even though it continues to deliver the same quantity of fuel products. The reason is because the cost of such fuel products is included when calculating the firm's receipts for size purposes.

In addition to eligibility for SBA programs, small business status for heating oil and LPG dealers also determines the amount of registration fees business concerns and other organizational entities must pay to the U.S. Department of Transportation (DOT) for transporting hazardous materials (HAZMAT). Small businesses pay a lower HAZMAT fee than other organizations. For the 2006–2007 and 2007–2008 registration periods, small businesses pay $275 per year while all other registrants pay $1,000. Many organizations register for a 3-year period. The requestors are concerned that a large number of small heating oil and LPG dealers that registered in 2004 and 2005 now have average annual receipts exceeding the $11.5 million and $6.5 million size standard for these two industries due solely to significantly higher prices of heating oil and propane since that time and, therefore, will be subject to a substantially higher HAZMAT registration fee.

SBA's research of price trends for heating oil and propane verify that significant increases, as well as large fluctuations, in prices have occurred since 2002. The following table (Table 1) shows the residential prices of heating oil and propane as reported by the U.S. Energy Information Agency:

TABLE 1.—RESIDENTIAL PRICE OF HEATING OIL AND PROPANE—2002–2007

[Cents per gallon excluding taxes]

Year	Heating oil				Propane			
	Average	High	Low	Difference (high-low) (percent)	Average	High	Low	Difference (high-low) (percent)
2002	123.6	140.8	116.0	21.4	115.2	125.5	112.2	11.9
2003	156.6	185.4	134.4	37.9	139.9	172.2	126.8	35.8
2004	180.7	206.0	149.8	34.5	160.7	172.9	142.8	21.1
2005	228.3	269.2	194.6	38.3	184.8	200.6	171.4	17.0
2006	241.6	246.3	237.0	3.9	197.6	201.3	193.3	4.1
2007 (Jan.–Mar.)	242.1	249.6	233.3	7.0	201.0	204.6	198.6	3.0

Source: U.S. Energy Information Administration; *http://tonto.eia.doe.gov/dnav/pet/pet_pnp_wiup_dcu_nus_w.htm*

The data in the above table show that heating oil and propane average weekly prices have increased by 95.9 percent and 74.5 percent, respectively, between 2002 and 2007. Furthermore, prices have fluctuated by more than 35 percent in some years. On December 5, 2002, SBA had adjusted its receipts-based size standards by 8.7 percent to reflect the general rate of inflation in the economy since late 2001 (70 FR 72577). However, inflation in the heating oil and LPG industries has been greater than that level, substantiating the reasons for reviewing the existing size standards.

Although price data exists to support an adjustment to the existing size standards by a level significantly higher than the general rate of inflation, SBA believes a preferable approach for these industries is to establish an employee-based size standard. The small business status of many business concerns can fluctuate from year to year because of the instability and uncertainty of the cost of crude oil, which affects the retail prices of heating oil and liquid propane gas, and a business concerns receipts. SBA believes that an industry's size standard measure should reflect the magnitude of operations of a business concern. Because of the volatility of heating oil and propane prices, a size standard based upon number of employees better reflects the real level of operations of heating oil and LPG dealers than a receipts-based size standard.

SBA proposes to convert the existing heating oil and LPG dealers' receipts-based size standards to an equivalent employee-based size standard. The primary tool used to calculate an equivalent employee size standard associated with a receipts-based size standard is the receipts-to-employee ratio for an industry. Data to calculate these ratios were obtained by the SBA from the U.S. Bureau of the Census in a special tabulation of the 2002 Economic Census (The 2002 Economic Census is available at *http://www.census.gov/econ/census02/*). For purposes of this calculation, SBA will apply a receipts-to-employee ratio of small businesses at or near the current receipt-based size standard. The following table (Table 2) shows the receipts-to-employee ratios for the heating oil and LPG dealer industries and an employee equivalent size standard using these data.

TABLE 2.—RECEIPTS-TO-EMPLOYEE RATIO

Industry	Size standard	Receipts-employee-ratio	Employee equivalent size Standard (3) ÷ (4)
(1)	(2)	(3)	(4)
Heating Oil	$11,500,000	$292,750	39.3
LPG	6,500,000	188,319	35.5

SBA recognizes that this estimate, while precise, does not take into account two factors that may result in a small business currently eligible under the existing average annual receipts size standard losing eligibility under the above calculated employee equivalent size standard. First, receipts-to-employees ratios vary by business concern. For small businesses that have a lower receipts-to-employee ratio than average, a given level of receipts will support a higher number of employees than estimated, and visa versa. For example, the average receipts-to-employee ratio of all small businesses as opposed to the ratio for small businesses near the size standard in the heating oil industry is $225,973 and in the LPG dealers industry is $155,646. Using these ratios instead of those in column 3 of table 2, the employee equivalent size standards become 54.4 and 41.8 employees, respectively.

Second, under a 3-year average calculation of annual receipts, the size of an eligible small business in 1 or 2 of the 3-year averaging period may exceed the specific size standard. For example, a business concern with receipts of $3.0 million, $6.7 million and $8.0 million qualifies as small since its 3-year average equals $5.9 million. However, under an employee-based size standard, small business status is determined by the average number of employees over the past 12 months. Consequently, if SBA adopts an employee-based size standard by directly converting the level of a receipt-based size standard to number of employees, a business concern that is eligible under a 3-year average annual receipts may no longer qualify as small based on its average employment for the past 12 months. Assuming, for example, an eligible small business's current size is one-third higher than the current size standard, using the receipts-to-employee ratios in the above table the employee equivalent levels become 52.4 for heating oil dealers ($11,500,000 times 1.334 = $15,341,000 divided by $292,750) and 46 for LPG dealers ($6,500,000 times 1.334 = $8,671,000 divided by $188,319).

In converting the heating oil and LPG dealers' size standards to number of employees, SBA seeks to maintain current small business eligibility as it establishes an employee-based size standard. Unfortunately, SBA does not have data at the firm level for receipts-to-employee ratios or on the historical distribution of receipts of individual business concerns by which to estimate a typical current level of receipts for small businesses whose 3-year average is at or below the size standard. In lieu of such data, SBA believes that adopting 50 employees for both industries, as indicated by the above examples, will adequately address those considerations in converting the existing average annual receipts size standards to an appropriate employee-based size standard.

In proposing the 50-employee size standard, SBA would establish additional employee size standard level. SBA has established a general 500-employee size standard for the manufacturing sector and 100-employee size standard for the wholesale sector. After analyzing the heating oil and LPG industries, the 500- and 100-employee size standards would significantly increase the size standard for these two relevant industries. Rather than selecting one of the existing established employee levels, SBA believes it is more important to maintain the size status of businesses in these two industries and change only the size measure from revenue to number of employee. As stated earlier, the purpose of this rulemaking is not to increase the size standard, but to change the measure so it is not susceptible to the volatile prices of heating oil and propane. In March 2004, we proposed to convert all receipts-based size standards to number of employees (69 FR 13130, March 19, 2004). For the heating oil and LPG dealers industries, SBA proposed 50 employees and received no adverse comments. However, SBA withdrew the entire rule due to concerns unrelated to the heating oil and LPG dealers industries. SBA encourages comments on whether the proposed 50-employee standard is sufficient to maintain current small business eligibility.

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

The Office of Management and Budget (OMB) has determined that this proposed rule is not a significant regulatory action for purposes of Executive Order 12866. In addition, this rule is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

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 that Order.

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 the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule would not impose new reporting or recordkeeping requirements. Although the measure of size changes from receipts to number of employees, business concerns must maintain records on employees (such as payroll records) in the course of business. Providing information to SBA on the number of employees would occur only as a result of a request for a size determination related to an application for small business assistance.

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, this rule, if finalized, may have a significant impact on a substantial number of small entities in the heating oil and LPG dealers industries. This rule may affect the eligibility of heating and LPG dealers seeking SBA 7(a) Loans, SBA Economic Impact Disaster Loans, DOT HAZMAT Registration Program fees, and assistance from other Federal small business programs.

Immediately below, SBA sets forth an initial regulatory flexibility analysis of this proposed rule addressing the following questions: (1) What is the

need for and objective of the rule, (2) what is SBA's description and estimate of the number of small entities to which the rule will apply, (3) what is the projected reporting, record keeping, and other compliance requirements of the rule, (4) what are the relevant Federal rules which may duplicate, overlap or conflict with the rule, and (5) what alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

1. *What is the need for and objective of the rule?* Significant increases and fluctuations in crude oil costs render a receipts-based size standard for the heating oil and LGP dealers industries an unsuitable measure of a dealer's level of business activity. Converting the existing receipts-based size standard to an employee-based size standard provides a more accurate measure of the operations of a heating oil dealer and LPG dealer and ensures a more stable small business designation to dealers of these fuel products.

2. *What is SBA's description and estimate of the number of small entities to which the rule will apply?* Based on data from the SBA's special tabulation of the U.S. Bureau of the Census's 2002 Economic Census, there were 3,729 small heating oil dealers and 2,005 small LPG dealers under the existing size standards. Taking into account historical trends of residential heating oil and propane prices between 2002 and 2007, 349 heating oil dealers and 269 LPG dealers may exceed the existing size standard due solely to higher receipts generated by higher prices. Establishing the proposed employee-based size standard for these two industries will restore the small business eligibility of those dealers.

3. *What are 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?* Establishing an employee-based size standard for heating oil and LPG dealers does not impose any additional reporting, record keeping, or compliance requirements on small entities. Although the measure of size changes from receipts to number of employees, business concerns must maintain records on employees in the course of business. In response to a request for a size determination related to an application for small business assistance, small businesses must provide information on receipts or number of employees. This proposed rule does not create a new requirement to provide size information, only what type of information that is requested in reviewing a business concern's size.

4. *What are the relevant Federal rules which may duplicate, overlap or conflict with the rule?* This proposed rule overlaps with other Federal rules that use SBA's size standards to define a small business. Under Sec. 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must use SBA's size standards to define a small business, unless specifically authorized by statute. 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). In cases where an SBA 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 (13 CFR 121.902(b)(4)).

As discussed in the preamble, the most significant impact of this proposed rule would be on heating oil and LPG dealers that register with the DOT's HAZMAT Registration Program. DOT utilizes SBA's size standard to determine which registrants are eligible for a lower fee charged to small businesses. During the 2006–07 registration period, 2,194 heating oil dealers and 1,482 LPG dealers submitted HAZMAT applications. Of these, 2,111 heating oil and 1,406 LPG dealers qualified as small.

5. *What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?* SBA considered two alternatives to the proposed 50-employee size standard. First, SBA considered revising the existing size standards to account for the above average inflation increases of heating oil and propone price since 2002. As discussed in the preamble, SBA is concerned that with the wide fluctuations of these fuel prices the small business status of many heating oil and LPG dealers may change from year-to-year depending on the prices. An employee size standard is unaffected by inflation and provides stability in the small business status of heating oil and LPG dealers.

Second, SBA considered excluding the cost of fuel products in the calculation of receipts size. This approach adds more complexity and uncertainty to the calculation of business size. This approach would also put an undue administrative burden on the small businesses in these industries by requiring them to separate out 3 years of receipts for the costs of fuel products in order to calculate their size status. This is not a common business practice for business concerns in this and similar service industries. SBA believes that receipts size standards should continue to be on a gross receipts concept. Otherwise, SBA and business concerns will encounter more difficulty in determining and validating small status.

List of Subjects in 13 CFR Part 121

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

For the reasons set forth in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

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

2. In § 121.201, in the table ''Small Business Size Standards by NAICS Industry,'' under the heading ''Sector 44–45—Retail Trade,'' ''Subsector 454—Nonstore Retailers,'' revise the entries for 454311 and 454312 to read as follows:

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

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *	*	*
	Sector 44–45—Retail Trade		
*	* * * * *	*	*
	Subsector 454—Nonstore Retailing		
*	* * * * *	*	*
454311	Heating Oil Dealers		50
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers		50
*	* * * * *	*	*

Dated: October 24, 2007.

Steven C. Preston,

Administrator.

[FR Doc. E7–21401 Filed 10–30–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0115; Directorate Identifier 2007–CE–080–AD]

RIN 2120–AA64

Airworthiness Directives; REIMS AVIATION S.A. Model F406 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

On several occasions, leaks of the landing gear emergency blowdown bottle have been reported. Investigations revealed that the leakage was located on the nut manometer because of a design deficiency in the bottle head.

If left uncorrected, the internal bottle pressure could not be maintained to an adequate level and could result in a malfunction, failing to extend landing gears during emergency situations.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 30, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0115; Directorate Identifier 2007–CE–080–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2007–0190, dated July 12, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

On several occasions, leaks of the landing gear emergency blowdown bottle have been reported. Investigations revealed that the leakage was located on the nut manometer because of a design deficiency in the bottle head.

If left uncorrected, the internal bottle pressure could not be maintained to an adequate level and could result in a malfunction, failing to extend landing gears during emergency situations.

The MCAI requires you to replace the old landing gear emergency blowdown