



Federal Register

**Monday,
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Part XVII

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Regulatory Flexibility Act (RFA) and Executive Order 12866 require each agency to publish semiannually a regulatory agenda (agenda) that includes an inventory of all current and projected rulemakings, including regulations the agency expects to develop during the next 12 months and regulations completed since the last publication of the agency’s agenda. SBA is publishing this agenda to provide the public with notice about SBA’s regulatory activities and to provide specific information about those activities. This information will promote the public’s participation in SBA’s regulatory activities.

FOR FURTHER INFORMATION CONTACT: For additional information about specific regulatory actions listed in the agenda, you should direct your comments and inquiries to the appropriate agency contact identified in each entry. For general information about the agenda, you should direct your comments or inquiries to Martin “Sparky” Conrey, Assistant General Counsel for Legislation and Appropriations, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 619-0638, martin.conrey@sba.gov.

SUPPLEMENTARY INFORMATION: This agenda announces the proposed

regulatory actions that SBA plans for the next 12 months and those that were completed since the fall 2007 edition of the Agenda. As permitted by law, SBA is combining the publication of its agenda as required by statute and Executive order and conforming them to the Unified Agenda of Federal Regulatory and Deregulatory Actions format developed by the Regulatory Information Service Center.

The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, completed, or withdrawn by SBA. Accordingly, rulemaking action in SBA’s agenda is grouped according to its stage of development. The stages of development are prerulemaking, proposed rules, final rules, and rulemaking actions completed since the fall 2007 Agenda. The agenda is intended to facilitate comments and views by interested members of the public. SBA encourages public participation in its rulemaking process through various mediums including www.regulations.gov. This Web site allows SBA to place rules on the Web site and receive public comments through that medium. SBA also provides a link from www.sba.gov to that Web site.

SBA’s regulations promote statutory mandates and Presidential directives linked to SBA’s goals to improve the economic environment for small business, increase small business success by bridging competitive opportunity gaps, restore homes and businesses affected by disaster, and to

operate and manage SBA’s programs and resources efficiently and effectively.

Publication of proposed rulemaking actions in the agenda does not impose any obligation on SBA to take any final action with regard to any specific item. Furthermore, SBA is not precluded from rulemaking activities that are not listed in this agenda. The dates listed in the timetables for specific actions are estimates and not commitments to act on or by the particular date.

Since the fall 2007 edition, the Internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), SBA’s printed agenda entries include only rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet.

Steven C. Preston,
Administrator.

Small Business Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
256	Small Business Development Centers (SBDC) Program Revisions	3245-AE05
257	8(a) Business Development/Small Disadvantaged Business Status Determinations	3245-AF53
258	Amendment to the Small Business Innovation Research (SBIR) Program—A Policy Directive To Increase SBIR Award Amounts To Adjust for Inflation	3245-AF61
259	Small Business Size Standards: Retail Trade Industries	3245-AF69
260	Small Business Size Standards: Other Services	3245-AF70
261	Small Business Size Standards: Accommodations and Food Service Industries	3245-AF71

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Small Business Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
262	Small Business Lending Company and Lender Oversight Regulations	3245-AE14
263	Small Business Size Standards; Support Activities for Air Transportation	3245-AF29
264	Women-Owned Small Business Federal Contract Assistance Procedures	3245-AF40
265	Small Business Size Standards; Inflation Adjustment	3245-AF41
266	Definition of "Employee" for Purposes of the HUBZone Program	3245-AF44
267	Small Business Size Standards; Calculation of the Number of Employees	3245-AF60
268	Small Business Size Standards for the Fuel Dealers Industries	3245-AF67

Small Business Administration (SBA)

Proposed Rule Stage

256. SMALL BUSINESS DEVELOPMENT CENTERS (SBDC) PROGRAM REVISIONS

Legal Authority: 15 USC 634(b)(6); 15 USC 648

Abstract: This rule would propose amendments to SBA's SBDC program regulations for the purpose of conforming the regulations to existing statutory requirements. This rule would amend: (1) Procedures for approving and funding of SBDCs; (2) approval procedures for travel outside the continental U.S. and U.S. territories; (3) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (4) requirements for new and renewal applications for SBDC awards, including the requirements for electronic submission through the approved electronic Government submission facility; and (5) provisions regarding the collection and use of individual SBDC client data.

Timetable:

Action	Date	FR Cite
NPRM	09/00/08	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Antonio Doss, Associate Administrator/OSBDC, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245-AE05

257. 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

Legal Authority: 15 USC 637 (b) (6), 636 (j), 637 (2), 637 (d)

Abstract: This proposed rule amends the regulations governing the 8(a) Business Development (8(a) BD) program to: (1) Revise the requirements for certain sole source contracts to joint ventures between 8(a) concerns owned and controlled by Indian tribes or Alaska Native Corporations (ANCs) and other concerns; (2) implement statutory changes permitting Native Hawaiian Organizations (NHOs) to enter into sole source contracts with the Department of Defense (DOD) where such contract are in excess of the competitive threshold amounts; (3) provide more flexibility to the Agency in determining whether to admit a company for program participation where a family member of an individual claiming disadvantaged status for an applicant to the 8(a) program owns a concern already participating in the 8(a) program of a former participant; (4) clarify how agencies can receive credit towards their 8(a) prime contracting goals when placing orders under multiple award contracts; and (5) add certain words that were inadvertently omitted from section 124.105(h)(2).

Timetable:

Action	Date	FR Cite
NPRM	12/00/08	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Joe Loddo, Director, Office of Business Development, Small

Business Administration, 409 3rd Street SW, Washington, DC 20416
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RIN: 3245-AF53

258. AMENDMENT TO THE SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM—A POLICY DIRECTIVE TO INCREASE SBIR AWARD AMOUNTS TO ADJUST FOR INFLATION

Legal Authority: 15 USC 638(i)

Abstract: SBA proposes to increase the award size thresholds for the SBIR program to adjust for inflation. The Agency is authorized by statute to adjust the award amounts once every 5 years to reflect economic adjustments and programmatic considerations. The current thresholds, set in 1992, are \$100,000 for Phase I awards and \$750,000 for Phase II awards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/08	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Edsel Brown, Division Chief for Technology, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245-AF61

SBA

Proposed Rule Stage

259. • SMALL BUSINESS SIZE STANDARDS: RETAIL TRADE INDUSTRIES

Legal Authority: 15 USC 632(a)

Abstract: A U.S. Small Business Administration priority project is the review of all SBA size standards over a 2-year period. This proposed rule is one of a series of proposals evaluating the size standards for industries within a specific North American Industry Classification System (NAICS) Industry Sector. This action proposes revisions to certain industries in the NAICS Retail Trade Industry Sector. These proposed revisions ensure that SBA's size standards are consistently evaluated using the latest available data.

Timetable:

Action	Date	FR Cite
NPRM	07/00/08	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Gary M. Jackson, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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 Fax: 202 205-6390
 Email: gary.jackson@sba.gov

RIN: 3245-AF69

260. • SMALL BUSINESS SIZE STANDARDS: OTHER SERVICES

Legal Authority: 15 USC 632(a)

Abstract: A U.S. Small Business Administration priority project is the review of all SBA size standards over a 2-year period. This proposed rule is one of a series of proposals evaluating the size standards for industries within a specific North American Industry Classification System (NAICS) Industry Sector. This action proposes revisions to certain industries in the NAICS Other Services Industry Sector. These proposed revisions ensure that SBA's size standards are consistently evaluated using the latest available data.

Timetable:

Action	Date	FR Cite
NPRM	07/00/08	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Gary M. Jackson, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245-AF70

261. • SMALL BUSINESS SIZE STANDARDS: ACCOMMODATIONS AND FOOD SERVICE INDUSTRIES

Legal Authority: 15 USC 632(a)

Abstract: A U.S. Small Business Administration priority project is a review of all SBA size standards over a 2-year period. This proposed rule is one of a series of proposals evaluating the size standards for industries within a specific North American Industry Classification System (NAICS) Industry Sector. This action proposes revisions to certain industries in the NAICS Accommodations and Food Services Industry Sector. These proposed revisions ensure that SBA's size standards are consistently evaluated using the latest available data.

Timetable:

Action	Date	FR Cite
NPRM	07/00/08	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Gary M. Jackson, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245-AF71

Small Business Administration (SBA)

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262. SMALL BUSINESS LENDING COMPANY AND LENDER OVERSIGHT REGULATIONS

Legal Authority: 15 USC 650

Abstract: This rule would implement the Small Business Administration's (SBA) statutory authority under the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (Reauthorization Act) to regulate Small Business Lending Companies (SBLCs) and non-federally regulated lenders (NFRLs). It also would conform SBA rules to various changes in the section 7(a) Business Loan Program and the Certified Development Company (CDC) Program enacted by the Reauthorization Act.

In particular, this rule would: (1) Define SBLCs and NFRLs; (2) clarify SBA's authority to regulate SBLCs and NFRLs; (3) authorize SBA to set minimum capital standards for SBLCs, to issue cease and desist orders, and revoke or suspend lending authority of SBLCs and NFRLs; (4) establish the Bureau of Premier Certified Lender Program Oversight in the Office of Credit Risk management; (5) transfer existing SBA enforcement authority over CDCs from the Office of Financial Assistance to the Office of Credit Risk Management; and (6) define SBA's enforcement authorities relative to all SBA lenders participating in the 7(a) and CDC programs and intermediaries in the Microloan program.

Timetable:

Action	Date	FR Cite
NPRM	10/31/07	72 FR 61752
NPRM Comment Period Extended	12/20/07	72 FR 72264
NPRM Comment Period End	02/29/08	
Final Action	01/00/09	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Bryan Hooper, Director, Office of Credit Risk Management, Small Business Administration, 409 3rd Street SW, Washington, DC 20416
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 Fax: 202 205-6831

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Email: bryan.hooper@sba.gov

RIN: 3245-AE14

263. SMALL BUSINESS SIZE STANDARDS; SUPPORT ACTIVITIES FOR AIR TRANSPORTATION

Legal Authority: 15 USC 632(a)

Abstract: This rule revises the \$6.5 million small business size standard applicable to airport operations and other support activities for air transportation. This rule was developed after an internal review conducted by SBA suggested that the size standard did not reflect the structural characteristics of firms in this industry.

Timetable:

Action	Date	FR Cite
NPRM	05/17/06	71 FR 28604
NPRM Comment Period End	06/16/06	
Final Action	10/00/08	

Regulatory Flexibility Analysis

Required: Yes

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RIN: 3245-AF29

264. WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT ASSISTANCE PROCEDURES

Legal Authority: 15 USC 637(m); 15 USC 637(d)

Abstract: This rule will establish regulations to implement procedures to increase procurement opportunities for Women-Owned Small Business Concerns in Federal procurement as authorized under section 8(m) of the Small Business Act, 15 U.S.C. section 637(m). On June 15, 2006, the SBA published in the Federal Register, 71 FR 34550, a proposed rule with request for comments to amend its regulations in accordance with section 8(m) of the Small Business Act. Based on SBA's evaluation of the public comments, discussions with the Department of Justice and the Office of Federal Procurement Policy, and further examination of section 8(m), it has been

determined that the June 15, 2006, proposed rule requires significant changes that warrant further public comment and consideration. In addition, rather than propose a separate rulemaking, SBA believes it would be expeditious to include in this rule implementation of the SBA-commissioned RAND study results, which identified the industries in which WOSBs are underrepresented and substantially underrepresented in Federal procurement. If SBA proposed an additional rule to implement the RAND Study results instead of combining the two rules into one comprehensive rule, any potential set-asides under the procedures could not be made until the RAND report rule had been finalized. Therefore, SBA's action of combining the RAND report rule with this re-proposed June 15, 2006, rule, not only obviates the need for a separate rulemaking, but significantly will not delay the implementation of the WOSB procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/15/06	71 FR 34550
NPRM Comment Period End	07/17/06	
Second NPRM	12/27/07	72 FR 73285
Second NPRM Comment Period End	02/25/08	
NPRM Comment Period Reopened	02/28/08	73 FR 10697
Comment Period End	03/31/08	
Final Action	10/00/08	

Regulatory Flexibility Analysis

Required: Yes

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RIN: 3245-AF40

265. SMALL BUSINESS SIZE STANDARDS; INFLATION ADJUSTMENT

Legal Authority: 15 USC 632(a)

Abstract: SBA is adjusting its monetary-based size standards (e.g., receipts, net income, net worth, and financial assets), for the effect of inflation that has occurred since the

last inflation adjustment in February 2002. Since the last inflation adjustment, the general level of prices has increased 8.7 percent. This action restores small business eligibility to businesses that have lost that status due to inflation. In addition, this rule changes the process for determining the size of small business concerns applying for SBA Business Loans and Economic Injury Disaster Loans (EIDL) from a test considering only the primary industry of the applicant to a two-part test to consider also the primary industry of the applicant with affiliates. This rule also changes the date on which SBA determines size status for purpose of EIDL applications for businesses located in disaster areas declared as a result of Hurricanes Katrina, Rita, and Wilma.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/06/05	70 FR 72577
Interim Final Rule Comment Period End	01/05/06	
Final Action	07/00/08	

Regulatory Flexibility Analysis

Required: Yes

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RIN: 3245-AF41

266. DEFINITION OF "EMPLOYEE" FOR PURPOSES OF THE HUBZONE PROGRAM

Legal Authority: 15 USC 657 (a)

Abstract: The purpose of this final rule is to amend the definition of "employee" under 13 CFR 126.103. The definition of "employee" in part 126 is relevant to SBA's determination of whether a concern is eligible for certification as a HUBZone small business concern. On May 13, 2004, SBA issued an Advance Notice of Proposed Rulemaking requesting comments on, among other things, specific issues related to the definition of "employee," including the status of part-time, leased, and temporary employees, and the use of the term

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“full-time equivalent” in the definition of “employee.” After careful consideration of the comments received, SBA has decided to amend the definition of “employee” to reflect current business operations, market conditions, and personnel practices within the small business community.

Timetable:

Action	Date	FR Cite
NPRM	01/26/07	72 FR 3750
NPRM Comment Period End	02/26/07	
Final Action	12/00/08	

Regulatory Flexibility Analysis

Required: Yes

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RIN: 3245-AF44

267. SMALL BUSINESS SIZE STANDARDS; CALCULATION OF THE NUMBER OF EMPLOYEES

Legal Authority: 15 USC 632

Abstract: The U.S. Small Business Administration proposes a technical change to the manner in which it calculates the number of employees to

determine a firm’s small business size status by revising the method for calculating an average number of employees. The current method uses a rolling average of the pay periods over the preceding 12 months.

Timetable:

Action	Date	FR Cite
NPRM	07/27/07	72 FR 41239
NPRM Comment Period End	09/25/07	
Final Action	12/00/08	

Regulatory Flexibility Analysis

Required: Yes

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RIN: 3245-AF60

268. SMALL BUSINESS SIZE STANDARDS FOR THE FUEL DEALERS INDUSTRIES

Legal Authority: 15 USC 632(a)

Abstract: This rule proposes to replace the receipts based size standard for two

fuel dealers industries with an employee-based size standard. The industries are Heating Oil Dealers, and (NAICS 454311), Liquefied Petroleum Gas (Bottled Gas) Dealers (454312). Petroleum prices have fluctuated greatly over the past several years and continued volatility is expected in the future. Because of the uncertain price fluctuations of petroleum, adopting an employee size standard will create a more stable size standard.

Timetable:

Action	Date	FR Cite
NPRM	10/31/07	72 FR 61574
NPRM Comment Period End	11/30/07	
Final Action	05/00/08	

Regulatory Flexibility Analysis

Required: Yes

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RIN: 3245-AF67

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