



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

JAN 14 2005

The Honorable John F. Kerry
Ranking Member
United States Senate
Committee on Small Business & Entrepreneurship
Washington, DC 20510

Dear Senator Kerry:

Administrator Barreto asked me to respond to your letter of January 3, 2004, requesting a summary of comments that the U.S. Small Business Administration (SBA) received to its March 19, 2004, proposed rule to restructure small business size standards, together with a tabulation of the number received.

SBA received 4,145 timely comments to the March 19, 2004, proposed rule. Of these, 2,591 generally supported one or more aspects of the proposal, 1,493 opposed it, and 61 provided comments without taking a specific position. The following table summarizes the comments in greater detail and shows the position and number of comments by affiliated group and for the non-affiliated comments.

Supportive	2,347 - Emails from the Microcomputer Suppliers Industry Association website, but SBA is unable to verify whether the named individuals are unique comments or if the same person submitted multiple comments under different names. Comments addressed only the proposal to reduce the nonmanufacturer size standard to 100 employees. 244 - Unaffiliated commenters.
Opposed	588 - Unaffiliated commenters. 403 - Members of the National Procurement Council. 272 - Employees of a company who are concerned about losing their employment (they did not identify their industry or company). 211 - Members of the HUBZone Council. 19 - Employees of an IT Services company.
Other	32 - Unaffiliated comments. 29 - Staffing franchisees requesting SBA to modify to the affiliation rule.

There were several major issues raised by the commenters. The most important problem raised by the commenters involved the potential loss of small business eligibility by changing the measure of business size from receipts to number of employees. The information technology and professional services industries commented that they would particularly suffer adverse

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affects from the proposed standards. Most stated that, if SBA were to adopt employee-based standards for their industries, they should be considerably higher than what SBA had proposed. However, SBA received over 2,300 comments supporting the proposed reduction to the nonmanufacturer size standard from 500 employees to 100 employees.

Commenters also raised concerns regarding how SBA counts a business' number of employees. Under current SBA Small Business Size Regulations, and as SBA proposed to continue, SBA counts every employee on the payroll regardless of the number of hours each worked. Many also expressed unease over the burden of verifying average employment levels as compared to providing tax returns for average receipts, as they do now with receipts based standards. They also expressed concerns about creating incentives for small businesses to reduce employment by outsourcing and other direct labor saving decisions they would have to make.

Many argued that annual receipts remains the better measure of size in their industries. Many, but not all, also viewed using a "receipts caps" for some industries as complicating size standards more than they are now.

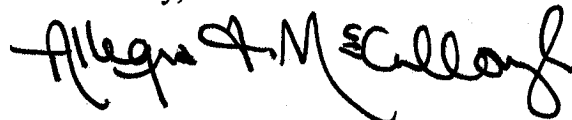
Many other issues surfaced in their comments, such as:

- Whether or not simplification is necessary;
- If so, whether SBA's proposed rule would in fact simplify size standards;
- Calculation of employees, as SBA proposed it (i.e., suggested using full-time equivalents; use a full calendar year average, rather than the most recently 12 calendar months; use a 3-year average as SBA uses for annual receipts);
- SBA's methodology in determining employee equivalent size standards;
- Why SBA proposed a rule that would cause more than 34,000 small businesses to lose their eligibility.

Enclosed for your information are comments we received to the proposed rule. For those duplicative comments from affiliated groups, only a single copy is provided.

Thank you for your continued support of SBA programs. Should you need further information, please contact Michael Berkholtz of our Office of Congressional and Legislative Affairs at (202) 619-0297.

Sincerely,



Allegra F. McCullough
Associate Deputy Administrator
for Government Contracting
and Business Development

Enclosures