

should bear all costs associated with waste disposal. One commenter suggested NRC's descriptions of case studies should include a description of the financial costs associated with the contamination and should indicate the party paying the remediation costs. Two commenters stated that NRC licensees should bear the costs of data collection, data reporting, and worker training needed to implement any new NRC studies or regulations needed to protect POTWs from contamination. Two commenters expressed the view that licensees should pay to have monitoring equipment installed at POTWs.

*Response:* NRC acknowledges the commenter's suggestion that NRC's descriptions of case studies should include information about the economic aspects of the contamination and notes that some information about remediation costs is provided in Section 1.2 of the ISCORs recommendations on management of radioactive materials in sewage sludge and ash (EPA 832-R-03-002B). Comments regarding the costs associated with implementation of new sewer release restrictions are moot because the ANPR is being withdrawn.

*Comment:* Six commenters expressed opinions about NRC enforcement actions. A representative of DOE stated that it was unclear whether one or more of the incidents described in the ANPR involved violations of the regulations, and suggested enhanced inspections, and not additional rulemaking, would be the most appropriate way to eliminate contamination of POTWs. Three commenters suggested NRC or POTWs should verify licensee's reported discharges into sanitary sewers and one commenter suggested compliance with NRC regulations should be demonstrated at the licensee's outfall into the sanitary sewer system so that POTWs would not be impacted and would not need to implement special controls. Two representatives of POTWs noted that POTWs routinely sample the effluent of major industrial users as part of their industrial pretreatment programs. Another commenter suggested NRC should assist POTWs with monitoring of licensee's effluents and enforcement of the discharge limits.

*Response:* NRC notes that suggestions about inspection and enforcement activities are beyond the scope of this rulemaking.

*Comment:* Six commenters made specific suggestions about monitoring. Two commenters suggested licensees' outfalls and potable water intakes should be monitored, and three commenters suggested monitoring also should occur at POTWs. One of the commenters that advocated monitoring

at POTWs expressed the view that monitoring would limit uncertainty in model results and would facilitate the study of the effects of influent radionuclide form and quantity on POTW worker doses. The commenter also suggested licensees should be encouraged to provide dosimetry and elementary radiation safety training to POTW workers. One commenter expressed the opinion that radionuclides in licensees' effluents should be monitored to record the highest concentrations discharged and facilitate a regulator's ability to link discharges with their sources. Three commenters suggested the radioactivity of sewage sludge should be monitored. One commenter expressed concern about the radioactivity of an engineered wetland used to treat wastewater in his town.

*Response:* Recommendations regarding locations for monitoring a licensee's effluent are beyond the scope of the proposed rulemaking.

*Comment:* A representative of the New York State Department of Environmental Conservation recommended that the Notice of Proposed Rulemaking for any change to the regulation governing the release of radioactive material into sanitary sewers notice, for public comment, the compatibility category NRC intends to apply to each provision so that Agreement States and other interested parties can participate in decisions about compatibility requirements. The commenter stated that, as of 1994, Agreement States were required to develop regulations that were compatible with the revised 10 CFR part 20 without NRC having determined compatibility requirements and stated that this type of situation must not recur.

*Response:* NRC acknowledges the commenter's recommendation that intended compatibility categories be included in Notices of Proposed Rulemaking. Compatibility categories for the options discussed in the ANPR are moot because the ANPR is being withdrawn.

*Comment:* One commenter expressed a number of concerns about the case studies described in the ANPR. Concerns raised by the commenter included specific exposure pathways that may not have been included in the dose analyses, the appropriateness of NRC's comparison of doses with background radiation, and the concern that calculated doses to individuals could have been higher if the sludge to which they were exposed included radiation from multiple sources. The commenter expressed the view that

radioactivity in the environment may increase because of human activity, and that it would be inappropriate to consider manmade contributions of radioactivity to the environment in the calculation of "background" radiation, or to allow releases because they would be minimal in comparison to background radiation. The commenter also remarked that the cases of contamination that had occurred in Washington, DC, and Cleveland, OH, indicated the potential for contamination to be significant to large populations. In addition, the commenter asked specific questions about the assumptions used to calculate the doses resulting from the case studies discussed in the ANPR and what sources of radiation NRC included in its calculation of "background radiation."

*Response:* The commenter's concerns about the doses calculated in the case studies are no longer applicable because more recent studies served as the technical basis for the withdrawal of the ANPR. NRC acknowledges the commenter's concern regarding contamination at POTWs. The commenter's specific questions about the modeling assumptions used to calculate doses for the case studies discussed in the ANPR are addressed in NUREG/CR-1548. NRC notes that its definition of "background radiation," provided in 10 CFR 20.1003, excludes contributions of radioactivity from source, byproduct, or special nuclear materials regulated by NRC.

For the reasons cited in this document, NRC withdraws this ANPR.

Dated at Rockville, Maryland, this 11th day of October, 2005.

For the Nuclear Regulatory Commission.

**Luis A. Reyes,**

*Executive Director for Operations.*

[FR Doc. 05-22432 Filed 11-9-05; 8:45 am]

**BILLING CODE 7590-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 121**

**RIN 3245-AF28**

#### **Small Business Size Standards; Security Guards and Patrol Services**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Small Business Administration (SBA) proposes to increase the size standard for the Security Guards and Patrol Services Industry (North American Industry Classification System (NAICS) 561612)

from \$10.5 million in average annual receipts to \$15.5 million. The proposed revision is being made to better define the size of business in this industry based on a review of industry characteristics.

**DATES:** Comments must be received by SBA on or before December 12, 2005.

**ADDRESSES:** You may submit comments, identified by RIN 3245-AF28 by any of the following methods: (1) Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments; (2) Fax: (202) 205-6390; or (3) Mail/Hand Delivery/Courier: Gary M. Jackson, Assistant Administrator for Size Standards, 409 Third Street, SW., Mail Code 6530, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Carl Jordan or Diane Heal, Office of Size Standards, (202) 205-6618 or [sizestandards@sba.gov](mailto:sizestandards@sba.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. Small Business Administration (SBA) has received requests from firms in the Security Guards and Patrol Services Industry (referred to as the Security Guards Industry) to review the current \$10.5 million size standard. This size standard was last revised in 2002 to incorporate an inflation adjustment to receipt-based size standards (67 FR 3041, January 23, 2002). These firms believe that a size standard increase is warranted due to the increased costs of complying with Federal agency requirements for security guards, increased number of large security firms competing for Federal contracts, and the relative success by large firms in winning Federal contracts. These firms also believe that these industry trends would shrink the pool of eligible small businesses causing Federal agencies to scale back their use of small business preferences in Federal procurement. Below is a discussion of the methodology used by SBA to review its size standards, and the analysis leading to the proposal to increase the Security Guards Industry's size standard to \$15.5 million.

*Size Standards Methodology:* Congress granted SBA discretion to establish detailed size standards (15 U.S.C. 632(a)(2)). SBA's Standard Operating Procedure (SOP) 90 01 3, "Size Determination Program" (available on SBA's web site at <http://www.sba.gov/library/soprooom.html>) describes four factors for establishing and evaluating size standards: (1) The structure of the industry and its various economic characteristics; (2) SBA program objectives and the impact of different

size standards on these programs; (3) whether a size standard successfully excludes those businesses which are dominant in the industry; and (4) other factors if applicable. Other factors, including the impact on other Federal agencies' programs, may come to the attention of SBA during the public comment period or from SBA's own research on the industry. No formula or weighting has been adopted so that the factors may be evaluated in the context of a specific industry. Below is a discussion of SBA's analysis of the economic characteristics of an industry, the impact of a size standard on SBA programs, and the evaluation of whether a firm at or below a size standard could be considered dominant in the industry under review.

*Industry Analysis:* Section 3(a)(3) of the Small Business Act (15 U.S.C. 632 (a)(3)), requires that size standards vary by industry to the extent necessary to reflect differing industry characteristics. SBA has two "base" or "anchor" size standards that apply to most industries—500 employees for manufacturing industries and \$6 million in average annual receipts for nonmanufacturing industries. SBA established 500 employees as the anchor size standard for the manufacturing industries at SBA's inception in 1953 and shortly thereafter established a \$1 million average annual receipts size standard for the nonmanufacturing industries. The receipts-based anchor size standard for the nonmanufacturing industries has been adjusted periodically for inflation so that, currently, the anchor size standard is \$6 million. Anchor size standards are presumed to be appropriate for an industry unless its characteristics indicate that larger firms have a much greater significance within that industry than the "typical industry."

When evaluating a size standard, the characteristics of the specific industry under review are compared to the characteristics of a group of industries, referred to as a "comparison group." A comparison group is a large number of industries grouped together to represent the typical industry. It can be comprised of all industries, all manufacturing industries, all industries with receipt-based size standards, or some other logical grouping.

If the characteristics of a specific industry are similar to the average characteristics of the comparison group, then the anchor size standard is considered appropriate for the industry. If the specific industry's characteristics are significantly different from the characteristics of the comparison group, a size standard higher or, in rare cases,

lower than the anchor size standard may be considered appropriate. The larger the differences between the specific industry's characteristics and the comparison group's characteristics, the larger the difference between the appropriate industry size standard and the anchor size standard. SBA will consider adopting a size standard below the anchor size standard only when (1) all or most of the industry characteristics are significantly smaller than the average characteristics of the comparison group, or (2) other industry considerations strongly suggest that the anchor size standard would be an unreasonably high size standard for the industry under review.

The primary evaluation factors that SBA considers in analyzing the structural characteristics of an industry include average firm size, distribution of firms by size, start-up costs, and industry competition (13 CFR 121.102(a) and (b)). SBA also examines the possible impact of a size standard revision on SBA's programs as an evaluation factor. SBA generally considers these five factors to be the most important evaluation factors in establishing or revising a size standard for an industry. However, it will also consider and evaluate other information that it believes relevant to the decision on a size standard for a particular industry. Public comments submitted on proposed size standards are also an important source of additional information that SBA closely reviews before making a final decision on a size standard. Below is a brief description of each of the five evaluation factors.

1. "Average firm size" is simply total industry receipts (or number of employees) divided by the number of firms in the industry. If the average firm size of an industry is significantly higher than the average firm size of a comparison industry group, this fact would be viewed as supporting a size standard higher than the anchor size standard. Conversely, if the industry's average firm size is similar to or significantly lower than that of the comparison industry group, it would be a basis to adopt the anchor size standard or, in rare cases a lower size standard.

2. "Distribution of firms by size" is the proportion of industry receipts, employment, or other economic activity accounted for by firms of different sizes in an industry. If the preponderance of an industry's economic activity attributed by smaller firms, this tends to support adopting the anchor size standard. A size standard higher than the anchor size standard is supported for an industry in which the distribution of firms indicates that economic activity

is concentrated among the largest firms in an industry.

In this proposed rule, SBA examines the percent of total industry sales cumulatively generated by firms up to a certain level of sales. For example, assume for the industry under review that 30 percent of total industry sales are generated by firms of less than \$10 million in sales. This statistic is compared to a comparison group. For the nonmanufacturer anchor comparison group (used in this proposed rule), firms of less than \$10 million in sales cumulatively generated 49.4 percent of total industry sales. Viewed in isolation, the lower figure for the industry under review indicates the presence of larger-sized firms in this industry than firms in the industries in the nonmanufacturing anchor size standards comparison group and, therefore, a higher size standard may be warranted.

3. "Start-up costs" affect a firm's initial size because entrants into an industry must have sufficient capital to start and maintain a viable business. To the extent that firms entering into one industry have greater financial requirements than firms do in other industries, SBA is justified in considering a higher size standard. In lieu of direct data on start-up costs, SBA uses a proxy measure to assess the financial burden for entry-level firms. For this analysis, SBA has calculated average firm assets within an industry. Data from the Risk Management Association's Annual Statement Studies, 2000–2001, provide average sales to total assets ratios. These were applied to the average receipts size of firm in an industry to estimate average firm assets. An industry with a significantly higher level of average firm assets than that of the comparison group is likely to have higher start-up costs, which would tend to support a size standard higher than the anchor size standard. Conversely, if the industry showed a significantly lower level of average firm assets when compared to the comparison group, the anchor size standard would be considered the appropriate size standard, or in rare cases a lower size standard.

4. "Industry competition" is assessed by measuring the proportion or share of

industry receipts obtained by firms that are among the largest firms in an industry. In this proposed rule, SBA compares the proportion of industry receipts generated by the four largest firms in the industry—generally referred to as the "four-firm concentration ratio"—to the average four-firm concentration ratio for industries in the comparison groups. If a significant proportion of economic activity within the industry is concentrated among a few relatively large producers, SBA tends to set a size standard relatively higher than the anchor size standard in order to assist firms in a broader size range to compete with firms that are larger and more dominant in the industry. In general, however, SBA does not consider this to be an important factor in assessing a size standard if the four-firm concentration ratio falls below 40 percent for an industry under review.

5. "Impact of a size standard revision on SBA programs" refers to the possible impact a size standard change may have on the level of small business assistance. This assessment most often focuses on the proportion or share of Federal contract dollars awarded to small businesses in the industry in question. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal contracting revenues, the greater is the justification for a size standard higher than the existing one.

Another factor to evaluate the impact of a proposed size standard on SBA's programs is the volume of guaranteed loans within an industry and the size of firms obtaining those loans. This factor is sometimes examined to assess whether the current size standard may be restricting the level of financial assistance to firms in that industry. If small businesses receive significant amounts of assistance through these programs, or if the financial assistance is provided mainly to small businesses much lower than the size standard, a change to the size standard (especially if it is already above the anchor size standard) may not be necessary.

*Evaluation of Industry Size Standard:* The two tables below show the industry structure characteristics for the Security Guards Industry and for two comparison

groups. The first comparison group is comprised of all industries with a \$6 million receipts-based size standard referred to as the nonmanufacturing anchor group. Since SBA's size standards analysis is assessing whether the Security Guards Industry's size standard should be moderately higher, or much higher than the nonmanufacturing anchor size standard, this is the most logical set of industries to group together for the industry analysis. In addition, this group includes a sufficient number of firms to afford a meaningful assessment and comparison of industry characteristics. The second comparison group consists of the nonmanufacturing industries with the highest receipt-based size standards established by SBA. SBA refers to this comparison group as the "nonmanufacturing higher-level size standard group." This group's size standards range from \$21 million to \$30 million. If an industry's characteristics are significantly larger than those of the nonmanufacturing anchor group, SBA will compare them to the characteristics of the higher-level size standards group. By doing so, SBA can assess whether a size standard should be among the highest size standards or somewhere between the anchor size standard and the highest size standards.

For its analysis, SBA examined 2002 industry data prepared for SBA's Office of Advocacy by the U.S. Bureau of the Census ([http://www.sba.gov/advo/research/us\\_rec02.txt](http://www.sba.gov/advo/research/us_rec02.txt)), data from a U.S. Bureau of the Census report "Investigation and Security Services: 2002", (Report EC02–561–06), and data from the Risk Management Association's Annual Statement Studies, 2000–2001. SBA also examined Federal contract award data for fiscal years 2002–2004 from the U.S. General Service Administration's Federal Procurement Data Center, and SBA's internal loan database on SBA guaranteed loans during fiscal year 2004.

*Security Guards Industry Structure Considerations:* Table 1 shows data on three evaluation factors for the Security Guards Industry and the two comparison groups. These factors are average firm size, average firm assets, and the four-firm concentration ratio.

TABLE 1.—SELECTED INDUSTRY CHARACTERISTICS BY INDUSTRY CATEGORY

Industry category	Average firm size receipts (millions)	Average firm assets (millions)	Four-firm concentration ratio (percent)
Security Guards and Patrol Services .....	\$2.81	\$0.43	32.7
Nonmanufacturing Anchor Group .....	1.29	0.60	14.4

TABLE 1.—SELECTED INDUSTRY CHARACTERISTICS BY INDUSTRY CATEGORY—Continued

Industry category	Average firm size receipts (millions)	Average firm assets (millions)	Four-firm concentration ratio (percent)
Higher-level Size Standard Group .....	4.73	2.00	26.4

For the Security Guards Industry, its average firm size in receipts is more than twice that of the average firm size in the nonmanufacturer anchor group, but significantly lower than the average firm size in the higher-level size standards group. This factor indicates a size standard within a range of \$13 to \$15 million may be appropriate, which is slightly more than double the \$6 million anchor size standard. The average firm assets factor is below the nonmanufacturing anchor group and does not provide a basis for increasing the current size standard. The four-firm concentration ratio provides some

support for a change to the current size standard. While the factor is appreciably higher than the average industry in the two comparison groups, it is not at a sufficient level to suggest that larger firms in the industry could control the industry through pricing or other forms of collaboration nor that a very substantial increase to the size standard should be considered. In relation to the higher-level size standards group, the four-firm concentration ratio suggests a standard higher than \$10.5 million is reasonable. The level of the size standard, however, should be based on

the consideration of the other evaluation factors.

Table 2 below examines the size distribution of firms. For this factor, SBA evaluates the percent of total sales cumulatively generated by firms at or below specific receipts sizes. For example, firms in the Security Guards Industry with \$10 million or less in receipts cumulatively obtained 27.1 percent of total industry sales. Within the nonmanufacturing anchor group, these size firms captured 49.4 percent of total industry sales while similar firms in the higher-level size standards group captured 21.1 percent.

TABLE 2.—PERCENTAGE DISTRIBUTION OF FIRMS BY RECEIPTS SIZE

Industry category	Percent of industry sales by firm of			
	< \$1 million	< \$5 million	< \$10 million	< \$50 million
Security Guards .....	7.0%	19.4%	27.1%	43.9%
Nonmanufacturing Anchor Group .....	16.8%	39.9%	49.4%	63.7%
Higher-level Size Standard Group .....	3.8%	13.3%	21.1%	40.4%

The distribution of sales for the Security Guards Industry show the presence of larger-sized firms than in the nonmanufacturer anchor group, but not as large as those in the higher-level size standards group. The data for the less than \$1 million and less than \$5 million size classes support a size standard well above the anchor size standard, but below the higher-level size standards ranges. The other two size classes, less than \$10 million and less than \$50 million, support a size standard at or near the higher-level size standards range. Considering the overall distributions across size classes, an appropriate size standard appears to be near, but below, the higher-level size standards group, such as between \$18 million to \$20 million.

*SBA Program Considerations:* SBA also considers the potential impact of changing a size standard on its programs. Because SBA's review of the Security Guards Industry's size standard was prompted by concerns about the application of the size standard to Federal contracting, SBA examines the pattern of Federal contract awards to small businesses as one of the factors in evaluating whether the size standard should be revised. The findings provide

mixed support for a change to the current size standard.

Small businesses in the Security Guards Industry received 37.2 percent of the total dollar value of Federal contracts awarded during fiscal years (FY) 2003 and 2004. This share is moderately higher than the 28 percent of sales cumulative generated by firms at or below the current \$10.5 million size standard. This performance indicates that small businesses as currently defined have not encountered substantial difficulties in obtaining Federal contracts, and does not provide a basis for revising the size standard.

SBA also evaluated specific contract data available for FY 2002 and 2003 to assess the concern that Federal contracts may be concentrated among a few firms. The data revealed some degree of concentration may exist. Between 400 and 500 businesses received security guard contracts in those two years. In FY 2002, three businesses captured two-thirds of the dollar value of Federal security guard contracts. However, in FY 2003, the top three large businesses obtained only 38 percent. Only one large business was among the top three contractors in both years. These contracting patterns indicate that one

large business is the top contractor for Federal security guard contracts, but both large and small businesses have many opportunities. As with the assessment of the factor of industry concentration discussed above, the distribution of Federal contracts suggests that a standard higher than \$10.5 million is a reasonable change, but does not provide a basis to significantly depart from the level indicated by the analysis of the industry evaluation factors.

SBA also reviewed data on its financial assistance to small businesses in this industry. In FY 2003 and 2004, SBA guaranteed an average of 75 loans for \$10.8 million in the Security Guards Industry. Ninety percent of these loans were made to firms less than half the current size standard. It is unlikely that an increase to the size standard would have an appreciable impact on the financial programs, and therefore, this factor is not part of the assessment of this industry's size standard.

*SBA Proposal:* Based on the analysis of each evaluation factor, SBA is proposing a \$15.5 million size standard—a \$5 million increase (47 percent) to the current size standard. Three of the five evaluation factors

support a size standard higher than the current \$10.5 million size standard, while the other two factors support no change. SBA believes the presence of large-sized firms in the industry, as depicted by the factors of average size firm, the distribution of firms by size, and four-firm concentration ratio, is sufficiently strong to support a moderate change to the current size standard. The proposed size standard represents an average of the lower range of potential size standards indicated by the average firm size and size distribution factors.

*Dominant in Field of Operation:*

Section 3(a) of the Small Business Act defines a small concern as one that is (1) independently owned and operated, (2) not dominant in its field of operations and (3) within detailed definitions or size standards established by the SBA Administrator. SBA considers as part of its evaluation of a size standard whether a business concern at or below a size standard would be considered dominant in its field of operation. This assessment generally considers the market share of firms at the proposed or final size standard, or other factors that may show whether a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged.

SBA has determined that no firm at or below the proposed size standard for the Security Guards Industry would be of a sufficient size to dominate its field of operation. The largest firm at the size standard level generates less than 0.11 percent of total industry receipts. This level of market share effectively precludes any ability for a firm at or below the proposed size standard from exerting a controlling effect on this industry.

*Alternative Size Standards:* SBA considered an alternative size standard based on average number of employees instead of average annual receipts. This approach was considered in a proposed rule of March 19, 2004 (69 FR 13130) as part of restructuring of size standards. Because of the large proportion of part-time employees in this industry, SBA has decided to retain average annual receipts as the size standard measure. A receipts-based size standard treats firms more equitably because firms vary on the use of part-time employees and subcontractors. An employee size standard could unintentionally influence decisions of some firms to alter the use of part-time employees and subcontractors to retain their status as small businesses.

SBA welcomes public comments on its size standard for the Security Guards Industry. Comments on alternatives, including the option of retaining the

size standard at \$10.5 million or establishing an employee-based size standards as discussed above, should explain why the alternative would be preferable to the proposed size standard.

**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. 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, other than those required of SBA. For purposes of Executive Order 13132, SBA has determined that this rule does not have any Federalism implications warranting the preparation of a federalism assessment. For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that Order.

**Initial Regulatory Flexibility Analysis**

Under the Regulatory Flexibility Act (RFA), this rule, if finalized, may have a significant impact on a substantial number of small entities engaged in the Security Guards Industry. As described above, this rule may impact small entities seeking SBA (7a) and 504 Guaranteed Loan Programs, its Economic Impact Disaster Loans, and SBA and other Federal small business procurement preference programs. Newly defined small businesses would benefit from SBA’s 7(a) and 504 Guaranteed Loan Programs. SBA estimates that one or two additional loans totaling \$1 million or less in new Federal loan guarantees could be made to these newly defined small businesses. Because of the size of the loan guarantees, most loans are made to small businesses well below the size standard. Thus, increasing the size standard will likely result in only a small increase in small business guaranteed loans to businesses in this industry, and the \$1 million estimate may overstate the actual impact. These additional loan guarantees, because of their limited magnitude, will have virtually no impact on the overall availability of loans for SBA’s loan programs, which have averaged about 88,000 loans totaling more than \$17 billion in fiscal year 2004.

The size standard may also affect small businesses participating in

programs of other agencies that use SBA size standards. As a practical matter, however, SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of this proposed rule on the Security Guards Industry 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, recordkeeping, 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?*

The revision to the size standard for the Security Guards Industry more appropriately defines the size of businesses in this industry that SBA believes should be eligible for Federal small business assistance programs. SBA reviewed the structure of this industry using five factors that were compared with averages for two groups of industries. A review of the latest available data supports a change to the current size standard.

*(2) What is SBA’s description and estimate of the number of small entities to which the rule will apply?*

SBA estimates that 50 additional firms out of 4,853 firms in this industry would be considered small as a result of this rule, if adopted. The firms would be eligible to seek available SBA assistance provided that they meet other program requirements. Firms becoming eligible for SBA assistance as a result of this rule, if finalized, cumulatively generate \$790 million in this industry out of a total of \$13.6 billion in annual receipts. The small business coverage in this industry would increase by 5.8 percent of total receipts. Also, SBA estimates that approximately 100 small businesses that are within 20 percent of the existing size standard could grow and retain their small business status if this proposed rule were adopted.

(3) What are the projected reporting, recordkeeping, and other compliance requirements of the rule and an estimate of the classes of small entities which will be subject to the requirements?

A new size standard does not impose any additional reporting, recordkeeping 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.

(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 § 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), 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.

Other Federal agencies also may use SBA size standards for a variety of

regulatory and program purposes. If such a case exists where an SBA size standard is not appropriate, an agency may establish its own size standards with the approval of the SBA Administrator (see 13 CFR 121.902–903). 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)).

(5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

SBA considered an alternative size standard based on average number of employees instead of average annual receipts. It also considered a range of size standards as part of the assessment of each evaluations factor. Because of the large proportion of part-time employees in this industry, an employee size standard could unintentionally influence decisions of some firms to alter the use of part-time employees and subcontractors to remain as small businesses. SBA believes that a moderate increase to the size standard will assist businesses that should be included as small businesses and small businesses that are growing. In selecting the proposed size standard, currently defined small businesses will not be competitively disadvantaged as compared to a much higher size standard.

SBA welcomes comments on other alternatives that minimize the impact of this rule on small businesses and achieve the objectives of this rule. These comments should describe the alternative and explain why it is preferable to this proposed rule.

**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 part 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(a), 634(b)(6), 636(b), 637(a), 644(c), and 662(5); and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188, Pub. L. 106–24, 113 Stat. 39.

2. In § 121.201, in the table “Small Business Size Standards by NAICS Industry,” under the heading “Subsector 561—Administrative and Support Services,” revise the entry for 561612 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
* * *	* * *	*	*
<b>Subsector 561—Administrative and Support Services</b>			
561612	Security Guards and Patrol Services	\$15.5	*
* * *	* * *	*	*

Dated: November 3, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05-22430 Filed 11-9-05; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 21

[Docket No. FAA-2003-14825; Notice No. 05-13]

RIN 2120-AH90

#### Standard Airworthiness Certification of New Aircraft

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The FAA is proposing language to supplement a proposal published in the **Federal Register** on February 15, 2005. This action is necessary to include in the proposal a provision from the recently enacted Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users. The supplemental language allows a person to manufacture one new aircraft based on a type certificate without holding the type certificate or having a licensing agreement from the type certificate holder, provided the manufacturing began before August 5, 2004.

**DATE:** Send your comments on or before December 12, 2005.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2003-14825 using any of the following methods:

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
  - *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
  - *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
  - *Fax:* 1-202-493-2251.
  - *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- For more information on the rulemaking process, see the

**SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dan Hayworth, Airworthiness Certification Branch, AIR-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8449.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

*Privacy Act:* Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>.

Before acting on this proposal, we will consider all comments we receive

on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

##### **Proprietary or Confidential Business Information**

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

##### **Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or
- (3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.