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**Monday,
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Part XLIII

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 2006 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the agenda is to provide information to the public on regulations currently under review, being proposed, completed, or withdrawn by SBA.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 2006 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 website allows SBA to place rules on the website and receive public comments through that medium. SBA also provides a link from www.sba.gov to that website.

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.

Steven C. Preston,
Administrator.

Small Business Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
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3239	Small Business Lending Company and Lender Oversight Regulations	3245-AE14
3240	HUBZone Empowerment Contracting Program	3245-AF13
3241	Testimony and Production of Records; Office of Inspector General and Office of General Counsel	3245-AF18
3242	Small Business Size Standards; Nonmanufacturer Size Standard	3245-AF27
3243	Small Business Technology Transfer (STTR) Policy Directive	3245-AF45
3244	8(a) Business Development/Small Disadvantaged Business Status Determinations	3245-AF53
3245	Small Business Size Regulations; Small Business Innovation Research Program	3245-AF55
3246	Small Business Investment Companies—Conflicts of Interest	3245-AF56
3247	Small Business Protest Regulations	3245-AF57
3248	Small Business Size Standards—Professional, Scientific, and Technical Services	3245-AF59
3249	Small Business Size Standards; Calculation of the Number of Employees	3245-AF60
3250	Amendment to the Small Business Innovation Research (SBIR) Program—A Policy Directive To Increase SBIR Award Amounts To Adjust for Inflation	3245-AF61
3251	Small Business Administration—Implementation of OMB Guidance on Nonprocurement Debarment and Suspension	3245-AF63

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Small Business Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
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3253	Premier Certified Lenders Program	3245-AF23
3254	Small Business Size Standards; Support Activities for Air Transportation	3245-AF29
3255	Amendments to the HUBZone Program	3245-AF31
3256	Amendments to the Surety Bond Guarantee Program Regulations	3245-AF39
3257	Women-Owned Small Business Federal Contract Assistance Program	3245-AF40
3258	Small Business Size Standards; Inflation Adjustment	3245-AF41
3259	Definition of "Employee" for Purposes of the HUBZone Program	3245-AF44
3260	Business Loan Program; Lender Examination and Review Fees	3245-AF49
3261	Amendments to Government Contracting Programs and 8(a) Business Development/Small Disadvantaged Business Status Determinations	3245-AF62
3262	Small Business Administration—Nomenclature Change: Agency Titling Procedure Revision	3245-AF64

Small Business Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3263	Business Loans and Development Company Loans; Liquidation and Litigation Procedures	3245-AE83
3264	Size for Purposes of Long-Term Contracts; Small Business Size Regulations; 8(a) Business Development/Small Disadvantaged Business Status Determinations	3245-AF06
3265	Economic Injury Disaster Loans (EIDL)	3245-AF14
3266	Record Disclosure and Privacy	3245-AF20
3267	Small Business Size Standards; Selected Size Standards Issues	3245-AF22
3268	Amendments to the Disaster Loan Program	3245-AF42
3269	Disaster Relief to SBCs Damaged by Drought	3245-AF46

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3238. SMALL BUSINESS DEVELOPMENT CENTERS (SBDC) PROGRAM REVISIONS

Priority: Other Significant

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

CFR Citation: 13 CFR 130

Legal Deadline: None

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	01/00/08	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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

3239. SMALL BUSINESS LENDING COMPANY AND LENDER OVERSIGHT REGULATIONS

Priority: Other Significant

Legal Authority: 15 USC 650

CFR Citation: 13 CFR 120

Legal Deadline: None

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

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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 Lender Oversight; (5) transfer existing SBA enforcement authority over CDCs from the Office of Financial Assistance to the Office of Lender Oversight; 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	10/00/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Bryan Hooper, Director, Office Of Lender Oversight, Small Business Administration, 409 3rd Street SW, Washington, DC 20416
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RIN: 3245-AE14

3240. HUBZONE EMPOWERMENT CONTRACTING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 657a

CFR Citation: 13 CFR 126

Legal Deadline: None

Abstract: SBA published an Advance Notice of Proposed Rulemaking (ANPRM) requesting comments regarding the HUBZone Program and agricultural commodities purchased by the U.S. Department of Agriculture (USDA). According to the Small Business Act, in the case of a contract for the procurement by the USDA of agricultural commodities, a qualified HUBZone small business concern may not purchase the commodity from a subcontractor if the subcontractor will supply the commodity in substantially the final form in which it is to be supplied to the Government. SBA sought comments on how to define

“substantially the final form” with respect to this statutory requirement. Additionally, SBA sought comments on the implementation of a statutory provision regarding HUBZone set-asides and the definition of “employee.” SBA is reviewing comments received on or before the deadline specified in the ANPRM and deliberating policy internally to support a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/04	69 FR 26511
ANPRM Comment Period End	07/12/04	
NPRM	12/00/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael P. McHale, Director, Office of HUBZone, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245-AF13

3241. TESTIMONY AND PRODUCTION OF RECORDS; OFFICE OF INSPECTOR GENERAL AND OFFICE OF GENERAL COUNSEL

Priority: Info./Admin./Other

Legal Authority: Not Yet Determined

CFR Citation: None

Legal Deadline: None

Abstract: This proposed rule would revise the procedures applicable to SBA's response to a subpoena seeking testimony or evidence in proceedings where SBA or the United States is not a party. The purpose of this revision is to help conserve SBA resources, minimize Agency involvement in matters unrelated to its mission and programs, and avoid needless and potentially costly involvement in litigation to which SBA or the United States is not a party.

Timetable:

Action	Date	FR Cite
NPRM	01/00/08	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Sadie Lowe, Assistant Counsel to the Inspector General, Office of Inspector General, Counsel Division, Small Business Administration, 409 3rd Street SW, Washington, DC 20416
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RIN: 3245-AF18

3242. SMALL BUSINESS SIZE STANDARDS; NONMANUFACTURER SIZE STANDARD

Priority: Other Significant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule would propose revising the 500 employee small business size standard applicable to nonmanufacturers supplying manufactured products to the Federal Government (see 13 CFR 121.406 (b)). The proposed revision would address concerns that the current size standard adversely affects Federal contracting opportunities for small businesses and that businesses no longer disadvantaged due to size benefit from the size standard.

Timetable:

Action	Date	FR Cite
NPRM	09/00/07	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3245-AF27

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3243. SMALL BUSINESS TECHNOLOGY TRANSFER (STTR) POLICY DIRECTIVE**Priority:** Other Significant**Legal Authority:** 15 USC 638 ; PL 107.50**CFR Citation:** None**Legal Deadline:** None

Abstract: SBA is proposing to add to its current STTR Policy Directive a section describing the purpose and intended effects of Executive Order (E.O.) 13329. SBA is proposing to add provisions to define the term "manufacturing-related research and development" and to describe its four main areas: Unit process level technologies, machine-level technologies, system-level technologies, and environment or societal technologies. In accordance with the E.O. 13329, SBA is also proposing to impose new requirements on Federal agencies participating in the STTR Program. Pursuant to these proposed amendments, Federal agencies would be required to: (1) Include specific statements relating to E.O. 13329 in program solicitations; (2) develop an Action Plan for implementing E.O. 13329, including adding information to the agency's website; and (3) report to SBA on the agency's efforts to implement E.O. 13329.

Timetable:

Action	Date	FR Cite
NPRM	01/00/08	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Federal

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-AF45**3244. 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 15 USC 637 (b) (6), 636 (j), 637 (2), 637 (d)**CFR Citation:** 13 CFR 124**Legal Deadline:** None

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	02/00/08	

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Businesses, Governmental Jurisdictions**Government Levels Affected:** None

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RIN: 3245-AF53**3245. SMALL BUSINESS SIZE REGULATIONS; SMALL BUSINESS INNOVATION RESEARCH PROGRAM****Priority:** Other Significant**Legal Authority:** Not Yet Determined**CFR Citation:** 13 CFR 121**Legal Deadline:** None

Abstract: The U.S. Small Business Administration (SBA) proposes to revise its small business size

regulations regarding ownership and control of Small Business Innovation Research (SBIR) Program awardees. Currently, to be eligible for an SBIR award, an awardee must meet the following ownership and control criteria: (a) Be a for-profit concern that is at least 51 percent of the United States, or permanent resident aliens in the United States, or (b) be a concern that is at least 51 percent owned and controlled by another business concern that is itself at least 51 percent owned and controlled by individuals who are citizens of or permanent resident aliens in the United States, or (c) be a joint venture in which each entity to the venture must meet the requirements set forth in (a) or (b) above. In addition, an SBIR awardee, together with its affiliates, can not have more than 500 employees. The proposed rule sets forth changes to the ownership and control provisions of 13 CFR 121.702 to allow for expanded VCOC (Venture Capital Operating Company) ownership (as VCOC is defined by the Department of Labor).

Timetable:

Action	Date	FR Cite
NPRM	11/00/07	

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None

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-AF55**3246. SMALL BUSINESS INVESTMENT COMPANIES—CONFLICTS OF INTEREST****Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 662; 15 USC 681 et seq; 15 USC 683; 15 USC 687**CFR Citation:** 13 CFR 107**Legal Deadline:** None

Abstract: This rule would clarify the circumstances under which a small business investment company must obtain a conflict of interest exemption for a co-investment with an affiliate. In the current regulations, investment by

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an SBIC in a company in which the affiliate has a pre-existing 10 percent or greater ownership interest is addressed in two overlapping provisions, one requiring a conflict of interest exemption and the other requiring SBA's prior written approval (a lower level of regulatory approval than a conflict of interest exemption). The proposed rule would eliminate the overlap and clarify the specific types of transactions that fall under each provision.

Timetable:

Action	Date	FR Cite
NPRM	10/00/07	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Jaime

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RIN: 3245-AF56

3247. • SMALL BUSINESS PROTEST REGULATIONS**Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 632**CFR Citation:** 13 CFR 121**Legal Deadline:** None

Abstract: This rule clarifies and reorganizes the current small business size protest procedures to enable the public to better understand and follow the procedures in preparing a size protest. They consist of realigning all sections in a more cohesive and coherent order. The SBA's Inspector General has added as an official who may request a size determination in conjunction with an investigation involving small business status. Finally, a provision is added that requires for contract officers to update the small business status of an awardee in the Federal Procurement Data System-Next Generation, upon the receipt of a size determination or size appeal decision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/07	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

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RIN: 3245-AF57

3248. • SMALL BUSINESS SIZE STANDARDS—PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES**Priority:** Other Significant**Legal Authority:** 15 USC 632**CFR Citation:** 13 CFR 121**Legal Deadline:** None

Abstract: This rule proposes establishing a special size standard category for Federal contracts consisting of a combination of three or more professional, scientific, and technical services.

Timetable:

Action	Date	FR Cite
NPRM	06/00/07	

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Businesses, Governmental Jurisdictions**Government Levels Affected:** None

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RIN: 3245-AF59

3249. • SMALL BUSINESS SIZE STANDARDS; CALCULATION OF THE NUMBER OF EMPLOYEES**Priority:** Other Significant**Legal Authority:** 15 USC 632**CFR Citation:** 13 CFR 121**Legal Deadline:** None

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	06/00/07	

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None

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RIN: 3245-AF60

3250. • AMENDMENT TO THE SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM—A POLICY DIRECTIVE TO INCREASE SBIR AWARD AMOUNTS TO ADJUST FOR INFLATION**Priority:** Other Significant**Legal Authority:** 15 USC 638(i)**CFR Citation:** Not Yet Determined**Legal Deadline:** None

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	11/00/07	

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None

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RIN: 3245-AF61

3251. • SMALL BUSINESS ADMINISTRATION—IMPLEMENTATION OF OMB GUIDANCE ON NONPROCUREMENT DEBARMENT AND SUSPENSION**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** Not Yet Determined**CFR Citation:** Not Yet Determined**Legal Deadline:** None**Abstract:** SBA removes its regulations implementing the Governmentwide common rule on nonprocurement debarment and suspension, currently codified at 13 CFR 145 and adopts the Office of Management and Budget's (OMB) guidance at title 2 of the Code of Federal Regulations (CFR). This regulatory action implements OMB's initiative to streamline and consolidate all Federal regulations on nonprocurement debarment and suspension into one part of the CFR.**Timetable:**

Action	Date	FR Cite
NPRM	05/00/07	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Kevin Harber, Attorney Advisor, Office of General Counsel, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245-AF63

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3252. SMALL BUSINESS INNOVATION RESEARCH (SBIR) POLICY DIRECTIVE**Priority:** Other Significant**Legal Authority:** 15 USC 638(j)(1)**CFR Citation:** None**Legal Deadline:** None**Abstract:** SBA proposed amendments to the Small Business Innovation and Research (SBIR) Program Policy Directive. Those amendments reflected the requirements that Executive Order 13329 "Encouraging Innovation in Manufacturing," February 24, 2004, imposed on SBA and Federal agencies participating in the SBIR Program (70 FR 28975). In accordance with the Executive order, SBA will issue guidelines on implementing the Executive order, including requiring participating agencies to: (1) Give high priority to SBIR projects that are focused on manufacturing-related R&D in a manner consistent with their missions and the purpose of the SBIR program; (2) develop an action plan for implementing the order; and (3) report to SBA annually on these implementation plans.**Timetable:**

Action	Date	FR Cite
Notice of Proposed Policy Directive	05/19/05	70 FR 28975
Comment Period End	06/20/05	
Final Action	12/00/07	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**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-AF21

3253. PREMIER CERTIFIED LENDERS PROGRAM**Priority:** Other Significant**Legal Authority:** PL 108-232**CFR Citation:** 13 CFR 120**Legal Deadline:** Final, Statutory, July 12, 2004, PCLP Improvement Act of 2003, enacted 5/28/2004, requires publication of rule.**Abstract:** This rule amends SBA's Premier Certified Lenders Program (PCLP) in accordance with recent statutory amendments to the PCLP. Certified Development Companies (CDCs) participating in the PCLP receive increased authority in connection with making and servicing loans made under SBA's Development Company Loan Program ("504 loans"). One PCLP requirement relates to a loan loss reserve fund ("LLRF"), which a CDC participating in the PCLP ("PCLP CDC") must maintain to cover losses it may incur in connection with 504 loans made under the PCLP ("PCLP loans"). Recent statutory changes to the PCLP have amended PCLP LLRF requirements, most significantly by establishing an alternative set of PCLP

LLRF requirements ("Alternative LLRF Requirements") and authorizing certain qualified PCLP CDCs to elect to meet the Alternative LLRF Requirements in lieu of the existing LLRF requirements that would otherwise be applicable. These statutory amendments have been introduced as "pilot" programs, which are initially scheduled to last approximately 2 years. (All PCLP CDCs will still be required to meet existing LLRF requirements unless it is qualified to elect to meet the Alternative LLRF Requirements and properly makes that election and satisfies the alternative requirements.)

Timetable:

Action	Date	FR Cite
NPRM	05/26/06	71 FR 30323
NPRM Comment Period End	07/25/06	
Final Action	11/00/07	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Charles Thomas, Director, Office of Program Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245-AF23

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3254. SMALL BUSINESS SIZE STANDARDS; SUPPORT ACTIVITIES FOR AIR TRANSPORTATION**Priority:** Other Significant**Legal Authority:** 15 USC 632(a)**CFR Citation:** 13 CFR 121**Legal Deadline:** None

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	06/00/07	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None

Sectors Affected: 488111 Air Traffic Control; 488119 Other Airport Operations; 48819 Other Support Activities for Air Transportation

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RIN: 3245-AF29**3255. AMENDMENTS TO THE HUBZONE PROGRAM****Priority:** Other Significant**Legal Authority:** 15 USC 632 (p), 657a (b) (d)**CFR Citation:** 13 CFR 126**Legal Deadline:** None

Abstract: This rule implements statutory amendments of the Small Business Reauthorization and Manufacturing Assistance Act of 2004, subtitle E, HUBZone Program (Reauthorization Act), and makes SBA regulations consistent with the changes in law.

The purpose of the HUBZone program is to provide Federal contracting

assistance for qualified small business concerns (SBCs) located in historically underutilized business zones, or HUBZones, in an effort to promote economic development and employment opportunities in those areas. To receive SBA certification as a qualified HUBZone SBC under current SBA regulations, an SBC must show: (1) It is exclusively owned and controlled by persons who are U.S. citizens; (2) it has a principal office in a HUBZone; (3) at least 35 percent of its employees reside in a HUBZone; and (4) the SBC must certify that it will attempt to maintain that percentage during performance of the HUBZone contract and that it will comply with certain performance requirements of the HUBZone contract. SBA designates areas as HUBZones using data from the U.S. Census Bureau and the Department of Labor in accordance with law.

Among other things, the Reauthorization Act amended eligibility requirements for SBC certification under the Small Business Act and made changes relating to HUBZone designations. These amendments became law on December 8, 2004, and took effect immediately upon enactment. Accordingly, this rule revises 13 CFR part 126 to conform SBA regulations to various amendments under the Reauthorization Act. This rule: (1) Authorizes HUBZone firms to be at least 51 percent owned and controlled by U.S. citizens; (2) amends the definition of the term "HUBZone small business concern" to include small agricultural cooperatives organized and incorporated in the U.S.; (3) designates base closure areas that have undergone final closure as qualified HUBZones for a period of 5 years; (4) amends the definition of a "qualified non-metropolitan county" to allow for a comparison of the county's unemployment rate to either the Statewide average or the national average, whichever is less; and (5) extends the redesignation period for HUBZone areas through the release of the 2010 census data. This rule amends the HUBZone price preference for agricultural commodities purchased for export operations through international food aid programs by providing a 5 percent evaluation preference on 20 percent of the contract.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/30/05	70 FR 51243
Interim Final Rule Comment Period End	10/31/05	
Final Action	12/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Tribal

Additional Information: Comments received by the 10/31/2005 deadline resulted in the Agency considering a revision to 126.607 to reflect a General Service Administration concern that the published rule was overly broad. Publication of the revision will follow internal SBA review of proposed text.

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RIN: 3245-AF31**3256. AMENDMENTS TO THE SURETY BOND GUARANTEE PROGRAM REGULATIONS****Priority:** Other Significant**Legal Authority:** 15 USC 694b**CFR Citation:** 13 CFR 115**Legal Deadline:** None

Abstract: SBA proposed to amend the existing regulations to accomplish the following five objectives. First, SBA would increase its share of loss to 90 percent on bonds issued by Prior Approval Sureties for the benefit of small businesses owned and operated by veterans and service-disabled veterans. Second, SBA would impose a 45-day deadline for the payment of fees owed by Prior Approval Sureties in lieu of the existing regulatory language that requires payment "... in the ordinary course of business." Third, SBA would no longer require prospective Preferred Surety Bond (PSB) Sureties to use premiums promulgated by the Surety Association of America in August 1987; they may charge premiums authorized by applicable State law. This permission will be extended to current PSB

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Sureties. Fourth, regulatory references to the expiration of the PSB program will be deleted. The program was made permanent by Public Law 108-447. Finally, affiliates of PSB Sureties will be allowed to participate in the Prior Approval Surety Program.

Timetable:

Action	Date	FR Cite
NPRM	09/26/06	71 FR 56049
NPRM Comment Period End	10/26/06	
Final Action	12/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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3257. WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT ASSISTANCE PROGRAM

Priority: Other Significant

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

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: This rule will establish regulations to implement the Women-Owned Small Business Federal Contract Assistance Program, authorized under section 8(m) of the Small Business Act. Section 8(m) was enacted as part of Public Law 106-554 to provide a targeted procurement mechanism to assist Federal agencies in achieving the statutory goal of 5 percent for contracting with women-owned small businesses (WOSBs). In accordance with section 8(m), the new regulations would authorize contracting officers to restrict competition to eligible WOSBs for certain Federal contracts in industries in which SBA has determined that WOSBs are underrepresented or substantially underrepresented in Federal procurement. Also consistent with section 8(m), the authority to restrict competition would be limited to contracts not exceeding \$3 million, or \$5 million in the case of manufacturing contracts. In implementing section 8(m)

the proposed regulations would further provide the specific eligibility requirements for WOSBs to qualify for program participation; the procedures for concerns to certify their eligibility; the process for SBA to verify the continuing eligibility of WOSBs; the contractual and business development assistance available under the program; the relevant protest and appeal procedures; and the applicable penalties.

Timetable:

Action	Date	FR Cite
NPRM	06/15/06	71 FR 34550
NPRM Comment Period End	07/17/06	
Final Action	07/00/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3245-AF40

3258. SMALL BUSINESS SIZE STANDARDS; INFLATION ADJUSTMENT

Priority: Other Significant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

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	06/00/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3245-AF41

3259. DEFINITION OF "EMPLOYEE" FOR PURPOSES OF THE HUBZONE PROGRAM

Priority: Other Significant

Legal Authority: 15 USC 657 (a)

CFR Citation: 13 CFR 126

Legal Deadline: None

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 "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.

SBA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/26/07	72 FR 3750
NPRM Comment Period End	02/26/07	
Final Action	11/00/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses**Government Levels Affected:** Federal

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RIN: 3245-AF44

3260. BUSINESS LOAN PROGRAM; LENDER EXAMINATION AND REVIEW FEES**Priority:** Other Significant**Legal Authority:** 15 USC 634 (B)(14)**CFR Citation:** 13 CFR 120**Legal Deadline:** None

Abstract: The purpose of this action is to implement the fee authority that Congress granted SBA in section 131 of Division K of Public Law 108-447. SBA is authorized to require lenders that make loans under section 7 of the Small Business Act to pay fees to cover the Agency's cost of lender examinations and reviews and other lender oversight activities. Under the proposed rules, SBA would have the authority to assess fees to cover the costs of the following lender oversight activities: (1) On-site safety and soundness examinations of Small Business Lending Companies and non-federally regulated lenders (together "SBA Supervised Lenders"); (2) on-site reviews of other 7(a) lenders (which SBA intends at this time for such lenders with \$10 million or more in outstanding SBA guarantees); (3) off-site quarterly reviews of all lenders; and (4) other lender oversight activities.

SBA contracts with other financial services entities to assist in conducting the reviews and examinations. SBA's proposed assessment methodology will

primarily cover the direct costs charged by these contractors.

Timetable:

Action	Date	FR Cite
NPRM	09/05/06	71 FR 52296
NPRM Comment Period End	11/09/06	
Final Action	06/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3245-AF49

3261. • AMENDMENTS TO GOVERNMENT CONTRACTING PROGRAMS AND 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS**Priority:** Other Significant**Legal Authority:** 15 USC 634 (b); 15 USC 632 (p)**CFR Citation:** 13 CFR 124; 13 CFR 125**Legal Deadline:** None

Abstract: SBA is amending its regulations to incorporate the current statutory language that appears in 15 U.S.C. 644(g) and regulatory language that appears in subpart 19.5 of the Federal Acquisition Regulations (FAR). Specifically, this rule codifies within the SBA's regulations the contracting practice commonly referred to as the "rule of two". The rule of two defines the parameters used by contracting activities in determining when to "set-aside" a procurement for exclusive small business participation. In addition, the rule clarifies the relationship between the various small business programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3245-AF62

3262. • SMALL BUSINESS ADMINISTRATION—NOMENCLATURE CHANGE: AGENCY TITLING PROCEDURE REVISION**Priority:** Info./Admin./Other**Legal Authority:** 15 USC 631 et seq**CFR Citation:** 13 CFR 101; 13 CFR 105; 13 CFR 114; 13 CFR 115; 13 CFR 117; 13 CFR 120; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 126; 13 CFR 134; 13 CFR 136; 13 CFR 145**Legal Deadline:** None

Abstract: This rule will allow the U.S. Small Business Administration (SBA) to change a number of titles within SBA's management to conform SBA's management titles with those commonly used across the Federal Government. No changes will be made to the responsibilities, reporting relationship, or compensation of the affected parties.

Timetable:

Action	Date	FR Cite
Final Action	07/00/07	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No**Government Levels Affected:** None

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RIN: 3245-AF64

Small Business Administration (SBA)

Completed Actions

3263. BUSINESS LOANS AND DEVELOPMENT COMPANY LOANS; LIQUIDATION AND LITIGATION PROCEDURES

Priority: Other Significant

CFR Citation: 13 CFR 120

Completed:

Reason	Date	FR Cite
Final Action	04/12/07	72 FR 18349

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3245-AE83

3264. SIZE FOR PURPOSES OF LONG-TERM CONTRACTS; SMALL BUSINESS SIZE REGULATIONS; 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

Priority: Other Significant

CFR Citation: 13 CFR 121

Completed:

Reason	Date	FR Cite
Final Action	11/15/06	71 FR 66434

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3245-AF06

3265. ECONOMIC INJURY DISASTER LOANS (EIDL)

Priority: Other Significant

CFR Citation: 13 CFR 123

Completed:

Reason	Date	FR Cite
Withdrawn	02/13/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3245-AF14

3266. RECORD DISCLOSURE AND PRIVACY

Priority: Substantive, Nonsignificant

CFR Citation: 13 CFR 102

Completed:

Reason	Date	FR Cite
Direct Final Rule	04/09/07	72 FR 17367

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3245-AF20

3267. SMALL BUSINESS SIZE STANDARDS; SELECTED SIZE STANDARDS ISSUES

Priority: Other Significant

CFR Citation: 13 CFR 121

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3245-AF22

3268. AMENDMENTS TO THE DISASTER LOAN PROGRAM

Priority: Other Significant

CFR Citation: 13 CFR 101, 123

Completed:

Reason	Date	FR Cite
Direct Final Rule	10/31/06	71 FR 63674

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3245-AF42

3269. DISASTER RELIEF TO SBCS DAMAGED BY DROUGHT

Priority: Other Significant

CFR Citation: 13 CFR 123

Completed:

Reason	Date	FR Cite
Interim Final Rule	12/15/06	71 FR 75407
Interim Final Rule Comment Period End	01/16/07	
Interim Final Rule Effective	01/16/07	
Comment Period Extended	02/07/07	72 FR 5607
Interim Final Rule Comment Period End	03/09/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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