

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## NUCLEAR REGULATORY COMMISSION

**10 CFR Parts 1, 2, 37, 40, 50, 51, 52, 55, 71, 72, 73, 74, 100, 140, and 150**

[NRC-2019-0170]

RIN 3150-AK37

### Organizational Changes and Conforming Amendments

#### Correction

In rule document 2019-25847, appearing on pages 65639 through 65646, in the issue of Friday, November 29, 2019 make the following correction:

On page 65639, in the third column, in the **DATES** section, on the second line, “December 30, 2020” should read “December 30, 2019”.

[FR Doc. C1-2019-25847 Filed 12-4-19; 8:45 am]

BILLING CODE 1300-01-D

## SMALL BUSINESS ADMINISTRATION

**13 CFR Part 121**

RIN 3245-AH16

### Small Business Size Standards: Calculation of Annual Average Receipts

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Small Business Administration (SBA or Agency) is modifying its method for calculating average annual receipts used to prescribe size standards for small businesses. Specifically, in accordance with the Small Business Runway Extension Act of 2018, SBA is changing its regulations on the calculation of average annual receipts for all of SBA’s receipts-based size standards, and for other agencies’ proposed receipts-based size standards, from a 3-year averaging period to a 5-year averaging period,

outside of the SBA Business Loan and Disaster Loan Programs. SBA intends to seek comment on the Business Loan and Disaster Loan Programs in a proposed rule through a separate rulemaking. For all other programs, SBA adopts a transition period through January 6, 2022, during which firms may choose between using a 3-year averaging period and a 5-year averaging period.

**DATES:** This rule is effective January 6, 2020.

**FOR FURTHER INFORMATION CONTACT:** Khem R. Sharma, Ph.D., Chief, Office of Size Standards, (202) 205-6618 or [sizestandards@sba.gov](mailto:sizestandards@sba.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background Information

Public Law 115-324 (the “Small Business Runway Extension Act of 2018”) amended section 3(a)(2)(C)(ii)(II) of the Small Business Act, 15 U.S.C. 632(a)(2)(C)(ii)(II), to modify the requirements for proposed small business size standards prescribed by an agency without separate statutory authority to issue size standards.

Under section 3(a)(2)(C)(ii) of the Small Business Act, as amended, an agency without separate statutory authority to issue size standards must satisfy three requirements to prescribe a size standard. First, the agency must propose the size standard with an opportunity for public notice and comment. Second, the agency must provide for determining the size of a manufacturing concern based on a 12-month average of the concern’s employment, the size of a services concern based on a 5-year average of gross receipts, and the size of another business concern on the basis of data of not less than 3 years. Third, the agency must obtain approval of the contemplated size standard from the SBA Administrator.

In contrast to agencies subject to section 3(a)(2)(C), SBA has independent statutory authority to issue size standards. Under section 3(a)(2)(A) of the Small Business Act, the SBA Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of SBA’s programs or any other Federal Government program. Section 3(a)(2)(B) of the Small Business Act further provides that such definitions may utilize the number of

employees, dollar volume of business, net worth, net income, a combination thereof, or other appropriate factors. To determine eligibility for Federal small business assistance, SBA establishes detailed size definitions for small businesses (usually referred to as “size standards”) that vary from industry to industry reflecting differences among the various industries. SBA typically uses two primary measures of business size for size standards purposes: (i) Average annual gross receipts for businesses in services, retail trade, agricultural, and construction industries, and (ii) average number of employees for businesses in all manufacturing, most mining and utilities industries, and some transportation, information and research and development (R&D) industries. SBA uses financial assets for certain financial industries and refining capacity, in addition to employees, for the petroleum refining industry to measure business size standards purposes.

The SBA’s size standards are used to establish eligibility for a variety of Federal small business assistance programs, including for Federal Government contracting and business development programs designed to assist small businesses in obtaining Federal contracts and for SBA’s loan guarantee programs, which provide access to capital for small businesses that are unable to qualify for and receive conventional loans elsewhere. The Federal Government contracting programs that use SBA’s size standards include the SBA’s 8(a) Business Development (BD) program, the Historically Underutilized Business Zones (HUBZone) program, the Service Disabled Veteran-Owned Small Business (SDVOSB) program, the Women-Owned Small Business (WOSB) program, and the Economically Disadvantaged Women-Owned Small Business (EDWOSB) program. SBA’s Small Business Investment Company (SBIC), Certified Development Company (CDC/504), and 7(a) loan programs use either the industry-based size standards or tangible net worth and net income based alternative size standards to determine eligibility for those programs.

SBA has long interpreted section 3(a)(2)(C) of the Small Business Act as not applying to SBA’s size standards issued under section 3(a)(2)(A). In the preambles to the proposed and final