

SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
MAJOR GROUP 16—HEAVY CONSTRUCTION, NON BUILDING	\$25.0
EXCEPT:	
1629 (Part) Dredging and Surface Cleanup Activities	\$20.01 ¹
MAJOR GROUP 17—CONSTRUCTION-SPECIAL TRADE CONTRACTORS	\$10.5
* * * * *	
DIVISION E—TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	
* * * * *	
4212 (Part) Garbage and Refuse Collection, Without Disposal	9.0
* * * * *	
4953 Refuse Systems	9.0

¹SIC code 1629—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

Dated: May 28, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99-18955 Filed 7-23-99; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Arrangement of Transportation of Freight and Cargo

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to modify the way average annual receipts are calculated for firms in the Arrangement of Transportation of Freight and Cargo industry (Standard Industrial Classification (SIC) code 4731). This rule would exclude funds received in trust for unaffiliated third parties from calculation of a firm's receipts. The current size standard for this industry, \$18.5 million, is based on gross billings and is equivalent to a firm size of \$1.85 million in income from commissions and fees. SBA also proposes a size standard of \$5 million in average annual receipts (after excluding funds received in trust for unaffiliated third parties). The revisions are proposed to better define the size of business in this industry that SBA believes should be eligible for Federal small business assistance programs.

DATES: Submit comments on or before September 24, 1999.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, S.W.,

Mail Code 6880, Washington D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Patricia B. Holden, Office of Size Standards, (202) 205-6618 or (202) 205-6385.

SUPPLEMENTARY INFORMATION: SBA received requests from the public to review the size standard for the Arrangement of Transportation of Freight and Cargo industry (SIC 4731). These requests express concern about the way average annual receipts are calculated for freight forwarders and customs brokers in this industry.

Under SBA's Small Business Size Regulations (13 CFR 121.104), the size of a firm for a receipts-based size standard is based on information reported on a firm's Federal tax returns. Generally, receipts reported to the Internal Revenue Service (IRS) include a firm's gross receipts or sales from provision of goods or services. The requesters believe that receipts collected for payment of charges imposed by the actual transportation provider or shipper should not be included in the calculation of a freight forwarder and customs broker's average annual receipts for size determination purposes.

SBA evaluated this issue and agrees that certain types of receipts should be excluded from the calculation of size for firms in this industry. Related to this issue is whether the current size standard is appropriate if a significant proportion of receipts is excluded from a firm's gross receipts. In reviewing the size standard for this industry, SBA believes the current \$18.5 million size standard is not appropriate if size is not measured by gross receipts.

Accordingly, SBA proposes a revision to the size standard for the Arrangement of Transportation of Freight and Cargo industry by excluding funds received in trust for unaffiliated third parties and by changing the size standard from \$18.5 million in average annual receipts (gross receipts) to \$5 million (excluding funds received in trust for unaffiliated third parties). The following discussion explains the reasons for these two proposed revisions.

Calculation of Average Annual Receipts

Although SBA reviews requests to exclude receipts of certain business activities on a case-by-case basis, the structure of the reviews is consistent with past proposed rules on this issue (e.g., advertising agencies, 57 FR 38452, and conference management planners, 60 FR 57982). The reviews identify and evaluate five industry characteristics under which it might be appropriate to exclude certain funds received and later transmitted to an unaffiliated third party:

1. A broker or agent-like relationship exists between a firm and a third party provider which is a dominant or crucial activity of firms in the industry;

2. The pass-through funds associated with the broker or agent-like relationship are a significant portion of the firm's total receipts;

3. Consistent with the normal business practice of firms in the industry, a firm's income remaining after the pass-through funds are remitted to a third party is typically derived from a standard commission or fee;

4. Firms in this industry do not usually consider billings that are reimbursed to other firms as their own income, preferring instead to count only

receipts that are retained for their own use; and,

5. Federal government agencies which engage in the collection of statistics and other industry analysts typically represent receipts of the industry firms on an adjusted receipts basis.

SBA's review of information obtained on the Arrangement of Transportation of Freight and Cargo industry finds that these characteristics exist in the industry. These characteristics support the proposal to exclude funds received in trust for unaffiliated third parties from the calculation of a freight forwarder's or customs broker's receipts-size. The following discussion summarizes these findings.

1. Agent-Like Relationship

The Standard Industrial Classification Manual (1987) states that this industry encompasses "establishments primarily engaged in furnishing shipping information and acting as agents in arranging transportation for freight and cargo" (See SIC 4731, page 280). About half of the establishments in this industry are freight forwarders and customs brokers who advise customers on the options for transporting cargo and coordinate the actual shipment of cargo. These firms act as agents, ensuring that customs, shippers and others for whom the funds are collected get paid. The remaining establishments are other types of agents and brokers and establishments that provide shipping information. Therefore, the dominant activity in this industry is carried out in a broker or agent-like relationship.

2. Pass-Through Funds Are a Significant Portion of Total Receipts

It is common practice in the industry, although not mandatory, for the client's bill from the freight forwarder and customs broker to include charges of transportation providers, duties, etc., which are temporarily held in trust by the firm for remittance to the transportation provider, government agency, or other parties. The charges by other providers are stated on the bill. Moreover, these remitted funds are typically much larger in magnitude than the firm's own earnings for arranging the transportation. It is not unusual for the remitted funds to be over 90% of the total billing.

3. Remaining Income Is Derived From Standard Commission or Fee

The freight forwarder or customs broker earns income as a commission from the transportation provider or as a fee for services from their customers. Only six percent to ten percent of the

billings are income from commissions and fees.

4. Firms in This Industry Only Count Receipts Retained for Their Own Use

Firms in this industry do not consider funds collected for unaffiliated third parties as their own funds. As discussed above, the role of freight forwarders and customs brokers is to facilitate the transportation of goods, not to act as the actual shipper. Their income is largely derived from commissions and fees provided by the underlying transporter from the payment of shipping charges paid on behalf of the customer. This payment structure shows that charges for shipping costs are not those of the freight forwarder or customs broker. This point is also reinforced by the fifth and final characteristic.

5. Federal Agencies and Industry Analysts Typically Represent Receipts of These Firms on an Adjusted Receipts Basis

Finally, data from the U.S. Bureau of the Census (Census Bureau) on this industry that SBA uses to evaluate size standards show firm receipts on a commission or fee basis. The survey form used by the Census Bureau (UT 4700) when surveying freight forwarders, customs brokers, shipping agents, and other freight brokers or arrangers specifically instructs them to only report "Agency or brokerage commissions or fees for arranging transportation of freight and cargo" and "Freight Forwarding (net)" (UT 4700, Page 2, items 1 and 2).

Thus, the Census Bureau recognizes that the normal arrangement in this industry is to handle money for others, retaining a small fraction as commission or fee income. Similarly, the credit reporting firm of Dun and Bradstreet also reports receipts for firms in this industry by using income derived from commission and fees, not gross billings.

Based on these findings, SBA believes it is appropriate to exclude amounts collected on behalf of a third party when calculating receipts for firms in the Arrangement of Transportation of Freight and Cargo industry, as it presently does for real estate agencies, travel agencies, conference planners and advertising agencies. More specifically, charges by the shipper for transporting cargo, customs duties, and other direct fees associated with the cost of shipping cargo which the firm holds in trust for an unaffiliated third party and to which it does not have a claim of right would be excluded from gross receipts. Receipts from fees, commissions, and income derived from other activities would be attributable to the firm.

Size Standard for the Arrangement of Transportation of Freight and Cargo

The above proposal effectively increases the current \$18.5 million size standard. A firm with receipts exclusive of pass-throughs to third parties of \$18.5 million would be equivalent to a firm with gross billings between \$185 million to \$308 million.

Accordingly, SBA believes it is appropriate to re-evaluate the size standard along with its proposal to allow exclusions for certain types of pass-through funds. Based on that evaluation, SBA proposes a \$5 million size standard for this industry—net of pass-through funds. The following discussion describes SBA's size standards methodology and the evaluation of data on the Arrangement of Transportation of Freight and Cargo industry supporting a revision to the current size standard.

Size Standards Methodology

Congress granted SBA discretion to establish detailed size standards. SBA's Standard Operating Procedure (SOP) 90 01 3 "Size Determination Program" sets out four categories 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 may come to SBA's attention during the public comment period or from SBA's own research on the industry. The reason SBA has not adopted a general formula or uniform weighting system is to ensure that the factors will be evaluated in 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.

Industry Analysis

In 13 CFR part 121.102 (a) and (b), evaluation factors are listed which are the primary factors describing the structural characteristics of an industry—average firm size, distribution of firms by size, start-up costs and entry barriers, and degree of industry competition. While these evaluation factors are generally considered the most important indicators of industry structure, SBA will consider and evaluate all relevant information that

would assist it in assessing an industry's size standard. Below is a brief description of the industry structure evaluation factors.

1. *Average firm size* is simply total industry revenues (or number of employees) divided by the total number of firms. If an industry has an average firm size significantly higher than the average firm size of a group of comparative industries (in this case, industries with the anchor size standard of \$5 million in receipts), this fact may support establishing a higher size standard than the one in effect for the group of related industries. Conversely, data showing an industry with a significantly lower average firm size relative to the related group of industries tends to support a lower size standard.

2. *The distribution of firms by size* examines the proportion of industry sales, employment, or other economic activity accounted for by firms of different sizes within an industry. If the preponderance of an industry's output is by large firms, this would tend to support a higher size standard than the anchor. The opposite is true for an industry in which the distribution of firms by size indicates that output is concentrated among the smaller firms in an industry.

3. *Start-up costs* affect a firm's initial size because entrants into an industry must have sufficient capital to start a viable business. To the extent that firms in an industry have greater start-up capital requirements than firms in other industries, SBA is justified in considering a higher size standard. As a proxy measure for start-up costs, SBA examines the average level of assets for firms in an industry. An industry with a relatively high level of average assets per firm as compared with the average assets per firm of the group of comparative industries with a \$5.0 million size standard is likely to be a capital intensive industry in which start-up costs tend to be higher for firms entering the industry. For those types of industries, that circumstance may support the need for a relatively higher size standard than the anchor size standard.

4. SBA assesses the *degree of industry competition* by measuring the proportion or share of industry sales obtained by firms above a relatively large firm size. In this proposed rule, SBA analyzes the proportion of industry sales generated by the four largest firms in an industry—generally referred to as the "four-firm concentration ratio." If a significant proportion of revenue from sales within an industry is concentrated among a few relatively large producers,

SBA tends to set a higher size standard to assist a broader range of firms to compete with firms that are clearly dominant in the industry. If this factor shows the industry to be highly competitive, SBA tends to apply the anchor.

5. *Competition for Federal procurements and SBA financial assistance.* SBA also evaluates the impact of a size standard on its programs and other applications of size standards to determine whether small businesses defined under the existing size standard are receiving a reasonable level of assistance. This assessment mainly focuses on the proportion or share of Federal contract dollars awarded to small businesses. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal procurement revenues, the greater is the justification for a size standard higher than the existing one.

As another factor to evaluate the impact of a proposed size standard on SBA programs, the volume of guaranteed loans within an industry and the size of firms in that industry obtaining loans in SBA's financial assistance programs is considered when determining whether or not the current size standard may inappropriately restrict the level of financial assistance to firms in that industry. If small businesses receive ample assistance through these programs, a change to the size standard (especially if it is already above the anchor size) may not be appropriate.

SBA established a size standard of 500 employees for the manufacturing and mining industries at SBA's inception in 1953 and shortly thereafter established a \$1 million size standard for the nonmanufacturing industries. These two size standards are generally referred to as "a base or anchor size standards." The revenue-based size standards were adjusted for inflation so that, currently, the anchor size for the nonmanufacturing industries is \$5 million.

If the structural characteristics of an industry are significantly different from the average characteristics of industries with the anchor size standard, a size standard higher or, in rare cases, lower than the anchor size standard may be supportable. Only when all or most of the industry data are significantly smaller than the average characteristics of the anchor group industries, or other industry considerations suggest the anchor standard is an unreasonably high size standard, will SBA adopt a size standard below the anchor size standard.

Excluding agriculture and subsistence categories which for the most part have size standards established by statute, only seven industries in the revenue-based size standards are below the \$5.0 million anchor and none in the manufacturing or mining industries is below the 500 employee-based size standards.

For the Arrangement of Transportation of Freight and Cargo industry under review in this proposed rule, SBA begins by comparing the characteristics of the five evaluation factors for this industry to the average characteristics of the nonmanufacturing industries which have the anchor size standard of \$5 million (hereafter referred to as the nonmanufacturing anchor group). If the characteristics of the industry are similar to the average characteristics of the nonmanufacturing anchor group, then the anchor size standard of \$5 million is considered an appropriate size standard for that industry. If, however, the industry characteristics significantly differ from the average characteristics of the nonmanufacturing anchor group, then a size standard above or below \$5 million may be appropriate.

Evaluation of Industry Size Standard

SBA analyzed the size standard for the Arrangement of Transportation of Freight and Cargo industry by comparing the industry's characteristics with the average characteristics of the nonmanufacturing group discussed above. SBA examined economic data on the industry using:

- A special tabulation of the 1992 Economic Census prepared on contract by the U.S. Bureau of the Census (which for the Arrangement of Transportation of Freight and Cargo industry collects revenue data based on commissions and fees, not gross billings);
- Asset data from Dun and Bradstreet's 1998 Industry Norms and Key Business Ratios (revenue data are also reported based on commissions and fees); and
- Federal contract award data for fiscal years 1997 and 1998 from the U.S. General Services Administration's Federal Procurement Data Center.
- 7(a) Business Loans from SBA's database.

The table below shows the characteristics for the Arrangement of Transportation of Freight and Cargo industry compared to the average characteristics for the nonmanufacturing anchor group. A review of these factors leads to a proposed size standard of \$5 million for this industry.

INDUSTRY CHARACTERISTICS OF SIC 4731 COMPARED TO THE NONMANUFACTURING ANCHOR GROUP

Category	Average firm size (\$ mil.)	Percent of industry-sales by firms of			Average assets per firm (\$ mil.)	Four-firm concentration ratio	Percent of gov't procurement dollars to small business
		<\$5mil.	<\$10mil.	<\$25mil.			
Nonmanufacturing Anchor Group	\$0.85	51.0	61.0	67.0	\$0.5	15.0	21.0
Arrangement of Transportation of Freight & Cargo	0.94	52.5	61.8	70.9	0.2	5.7	50.1

The average firm size in the Arrangement of Transportation of Freight and Cargo industry is very close to the average firm size of the nonmanufacturing anchor group, and supports a size standard at the \$5 million anchor size standard. Similarly, the distribution of sales by firm size also supports a size standard for this industry at the anchor size standard. Under this factor, the proportion of industry sales obtained by firms of \$5 million and less in sales, \$10 million and less in sales, and \$25 million and less in sales, is nearly identical with that of firms of the same size class found for the anchor nonmanufacturing group.

The average assets per firm and the four-firm concentration ratio support a size standard no higher than \$5 million. The average assets for firms in the Arrangement of Transportation of Freight and Cargo industry is less than half the average assets of the comparable nonmanufacturing industries in the anchor group. This factor indicates that the industry is not as capital intensive as those in the anchor group, and thus, would support a size standard moderately below the anchor of \$5 million.

The four-firm concentration ratio shows that the four largest firms in the Arrangement of Transportation of Freight and Cargo industry account for only about one-third of the proportion accounted for by the four-firm concentration of the anchor group. This factor shows the industry is already highly competitive. If a few large firms were controlling a large portion of the industry revenues, then raising the size standard above the anchor size standard might help smaller firms compete. However, when the industry is already competitive, as this one is, nothing would be gained in competitiveness by lowering the size standard. Therefore, we conclude that the four-firm concentration ratio does not support a standard higher than the anchor, but do not make the parallel argument supporting a size standard lower than the anchor.

Purpose of and Impact on SBA Programs

The percent of Federal contract dollars awarded to small firms in the Arrangement of Transportation of Freight and Cargo industry during fiscal years 1997 and 1998 is more than twice as large as the share of Federal contracting going to small firms within the nonmanufacturing anchor group and does not seem to support an increase to the current size standard. In fiscal years 1997 and 1998, of the 208 actions reported by the Federal Procurement Data System, 97 went to small firms. While the 97 actions were 46.6% of the total actions, they were 50.1% of the total contract dollars awarded, when the two years are combined. Assuming small businesses used gross billings (as required under the current size standard) when they identify themselves as "small," they had obtained a reasonable share of Federal procurements.

However, SBA's review of preliminary data reveals that there may have been inconsistencies on how firms were self-certifying as small business that significantly affects how this factor should be assessed and the conclusions regarding an appropriate size standard. An industry association informed us that there is no standard way for firms to report revenues to the Internal Revenue Service. Whether they report gross billings and deduct pass-through funds as "cost-of goods sold" to arrive at gross or total income, or whether they report commissions and fees as gross or total income, the tax consequences are the same.

For SBA size standard purposes, the different methods have different results. SBA procedures changed effective March 1996 making the Federal tax returns forms the predominant documentation for determining annual receipts. Historically, SBA has interpreted the size standard for SIC 4731 to be based on \$18.5 million in gross billings without any deductions for pass-through funds. The proportion of contracts reported to small businesses in this SIC has doubled since SBA

started using Federal tax returns for self-certifying to a revenue-based size. When the procurement data are reviewed before and after that procedural change, it shows a big difference in proportion of contract dollars going to small businesses. The 50% share reported above is a two-year average for FY 1997 and 1998. In FY 1994 small businesses in SIC 4731 obtained 26.3%, 21.6% in FY 1995, 39.9% in FY 1996.

The procurement data suggests that the proportion of contracts reported to small business may have been overstated over the last two years as compared to how SBA prefers to define a small business in this industry. When considering that there is some evidence that awards reported to small businesses were likely made to businesses exceeding \$18.5 million in gross revenues, it leads to some uncertainty about how to suitably evaluate this factor. If the small business awards were made only to firms with \$18.5 million in gross billings (equivalent to \$1.85 million in commissions and fees), the current size standard would be appropriate.

However, SBA believes that some of the reported small business awards have been made to firms exceeding \$18.5 million in gross billing (although these firms earned commissions and fees less than \$18.5 million). If so, a size standard higher than \$18.5 million in gross billings or \$1.85 million in commissions and fees would be supportable. Based on these considerations, SBA believes that a \$5 million size standard measured in adjusted gross receipts (i.e., adjusted to exclude funds held in trust for unaffiliated third-parties) indicated by most of the industry factors would be a reasonable size standard in terms of its impact on Federal procurement. That size standard would likely result in a small business share no higher than currently shown, but would not return to the lower 1994-1995 levels either.

Also, an increase to the size standard for this industry appears reasonable based on the distribution of SBA guaranteed loans under the 7(a) program. In fiscal years 1997 and 1998,

small businesses in the Arrangement of Transportation of Freight and Cargo industry received approximately \$14.5 million in loans per year. About 92% of the loans went to firms with 50 or fewer employees (equivalent to firms with less than \$4 million in receipts) and they received \$12 million per year in loans, or 83% of the value of 7(a) loans made to all firms in this industry.

The percentage of firms and 7(a) loans to firms in this industry with less than 50 employees is similar but somewhat below the comparable percentages for all industries combined (96% of firms and 93% of loans made to firms with less than 50 employees). A size standard of \$5 million (equivalent to approximately 60 employees) could moderately expand the level of financial assistance SBA is currently providing to firms in this industry. Almost all new loans would likely go to firms in the 20 to 50 employee range, thereby raising the share of loans to firms with less than 50 employees in this industry closer to the average percentage for all industries combined. As with the Federal procurement data, the same size reporting uncertainties as discussed above may exist here. However, only a very few loans could have been made to firms exceeding the current size standard. Thus, the potential increase in 7(a) loans in this industry is expected to be modest and would support a \$5 million size standard as one providing a reasonable level of assistance to small businesses in this industry.

Considering these industry structure factors and the impact on SBA programs in the aggregate, SBA believes that the \$5 million anchor size standard is reasonable and would provide assistance to firms we believe should be eligible as small business for this industry. Three of the industry factors support a size standard in-line with the nonmanufacturing anchor group and one industry factor supports a size standard lower than the anchor size standard. As discussed above, there exists some uncertainty on how to fully assess the program factor, especially for the Federal procurement data. However, \$5 million appears to be a reasonable size standard for SBA programs. Without more of the factors pointing to a size standard lower than the anchor standard, and with no factor pointing to a higher size standard, we believe the anchor standard is a reasonable standard for this industry.

Dominant in Field of Operation

Section 3(a) of the Small Business Act defines a small concern as one that is independently owned and operated, not dominant in its field of operation, and

within detailed definitions or 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 recommended size standard would be considered dominant in its field of operation. This assessment generally considers the market share of firms at a proposed size standard as well as other factors that may reveal if 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 at the recommended size standard of \$5 million for the Arrangement of Transportation of Freight and Cargo industry no firm at or below that level would be of a sufficient size to be dominant in its field of operation. A firm at the proposed size standard of \$5 million accounts for less than 0.1% of industry total industry sales. This level of market share effectively precludes any firm from exerting a controlling effect on an industry. This is the third of four evaluations and all three support a size like the anchor. As for "other factors", everything we have obtained from the industry association or otherwise, has been considered in the first three evaluations, industry structure, dominance in the industry, or purpose of or impact on SBA programs. However, during the public comment period, we may obtain other information and will consider it before going forward with a final rule.

Alternative Size Standards

SBA considered two alternative size standards for this industry. One alternative considered was modifying the average annual receipts method to allow for pass-through funds received in trust for third parties without adjusting the current \$18.5 million size standard. Assuming that firms in this industry normally earn receipts of six percent to ten percent of gross billings, \$18.5 million is equivalent to \$185 million to \$308 million in gross billings. Had SBA only modified the receipts calculation method and retained the current size standard, it would define all but 158 out of 9,631 firms in the industry as small. Further, small businesses with \$18.5 million or less in commissions and fees cumulatively account for two-thirds of total industry sales. SBA considers a size standard that defines that large of a proportion of an industry as small businesses to be undesirable.

A second alternative considered was to select a size standard between \$1.1 million and \$1.8 million to conform to the six percent to ten percent of gross billings that firms in the industry with

gross billings of \$18.5 million report as receipts. However, the industry characteristics of the Arrangement of Transportation of Freight and Cargo industry, as compared with the average characteristics of the nonmanufacturing anchor group, support a higher size standard than one simply based on an arithmetic conversion of the existing size standard.

SBA welcomes public comments on the proposed size standards for the Arrangement of Transportation of Freight and Cargo industry. Comments addressing the basis for allowing an exclusion of funds held in trust for third parties from the calculation of average annual receipts, as well as the types of receipts held in trust for others would be especially helpful to SBA in making its final decision.

Also, SBA solicits comments on;

1. whether or not six percent to ten percent of gross billings typically represents the commissions and fees earned by firms in this industry, and
2. whether a size standard between the anchor size of \$5 million and the current effective size of \$ 1.8 million would be more appropriate. In your comments on any of these alternatives, or alternatives not yet discussed, please present the reasons why it is preferable to the proposed size standard.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

SBA certifies that this rule, if adopted, would not be a significant rule within the meaning of Executive Order 12866. The total amount of Federal procurement and SBA guaranteed loans combined is less than \$50 million to this industry annually. It is unlikely that these programs would be significantly affected by a change to the size standard.

For purposes of the Regulatory Flexibility Act, this rule would not have a substantial impact on a significant number of small entities. Although potentially 1,000 additional firms could gain small business status as a result of this rule, only a very small percentage of firms in the industry compete for Federal procurements or obtain guaranteed loans through SBA's financial assistance programs.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, SBA certifies that this rule would not impose new reporting or record-keeping requirements other than those already required of SBA.

For purposes of Executive Order 12612, SBA certifies that this rule does

not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs-business, Loan programs-business, Small business.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation of Part 121 continues to read as follows:

Authority: Pub. L. 105–135 Sec. 601 *et seq.*, 111 Stat. 2592; 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

2. Revise § 121.104 (a) (1) to read as follows:

§ 121.104 How does SBA calculate annual receipts?

(a) * * *

Receipts means “total income” (or in the case of a sole proprietorship, “gross income”) plus the “cost of goods sold” as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms (Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for other sole proprietorships). However, the term receipts excludes net capital gains or losses, taxes collected for and remitted to a taxing authority if included in gross or total income, proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS), and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker.

* * * * *

§ 121.201 [Amended]

3. In § 121.201, the table “SIZE STANDARDS BY SIC INDUSTRY,” is amended as follows:

a. Under Division E—Transportation, Communications, Electric, Gas, and Sanitary Services, Major Group 42—Motor Freight Transportation and Warehousing, revise the entry 4731:

b. Revise, in the table “SIZE STANDARDS BY SIC INDUSTRY,” Footnote 6 to read as follows:

SIZE STANDARDS BY SIC INDUSTRY				
SIC code and description				Size standards in number of employees or millions of dollars
*	*	*	*	*
Division	E—Transportation, Communications, Electric, Gas, and Sanitary Services			
*	*	*	*	*
4731	Arrangement of Transportation of Freight and Cargo			6 \$5.0
*	*	*	*	*

⁶ SIC codes 4724, 4731, 6531, 7311, 7312, 7313, 7319, and 8741 (part): As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

Dated: July 20, 1999.

Aida Alvarez,
Administrator.

[FR Doc. 99–19022 Filed 7–23–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–94–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This proposal would require modification of the autopilot mode engagement/disengagement lever of the rudder artificial feel unit. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent reduced controllability of the airplane due to the failure of the rudder artificial feel unit

to properly disengage from autopilot mode during approach and landing.

DATES: Comments must be received by August 25, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–94–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket Number 99–NM–94–AD.” The