

Dated: May 30, 2003.

Jeanette C. Brinkley,
Secretary, Farm Credit Administration Board.
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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245-AE89

Small Business Size Standards; Forest Fire Suppression and Fuels Management Services

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is adopting a size standard of \$15 million in average annual receipts for the activities of "Forest Fire Suppression and Fuels Management Service" classified within the "Support Activities for Forestry" industry (North American Industry Classification System (NAICS) 115310). This action will better define the size of businesses in these activities that the SBA believes should be eligible for Federal small business assistance programs. The size standard for the remainder of activities in this industry remains at \$6 million.

DATES: This rule is effective July 7, 2003.

FOR FURTHER INFORMATION CONTACT: Diane Heal, Program Analyst, Office of Size Standards, at (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: On July 19, 2002, the SBA published a proposed rule in the *Federal Register* (67 FR 47480) to establish a \$15 million size standard for forest fire suppression and fuels management services under NAICS code 115310, the Support Activities for Forestry industry. The SBA proposed to establish a size standard for these activities after reviewing requests from firms in the forestry industry. These firms believe that this action is warranted in light of the increased emphasis by the Federal Government on removing biomass fuels from the Nation's forest, the dramatic increase in funding for this effort, and the Federal Government's growing reliance upon the private sector to perform fuels management tasks and to suppress forest fires.

Based on these concerns, the SBA conducted a review of this industry's size standard. In addition to reviewing patterns of Federal procurement in this

industry, it collected and evaluated data on the industry's structure. This review involved comparisons of average firm size, the size distribution of firms, measures of start-up costs, and the degree of concentration of economic activity among very large firms in the industry. Based on its review of each of these evaluation factors, and the nature and patterns of Federal contracting for forest fire suppression and fuels management services, the SBA concluded that the data supported a size standard for forest fire suppression and fuels management services industry activities of \$15 million in average annual receipts. The SBA did not propose a change to the \$6 million size standard for all the other remaining forestry activities within the industry. (For more information on the reasons for the proposed establishment of a \$15 million size standard, see the July 19, 2002, proposed rule.) After careful consideration of the comments received on the proposed rule, the SBA has decided to adopt its proposed size standard of \$15 million.

Discussion of Comments on the Proposed Rule

The SBA received 19 comments on the proposed size standard from eight environmental and economic associations, five firms, three Federal agencies, two individuals, and one trade association. In summary, eight commenters supported the proposed size standard and 11 commenters opposed that change. Below is a summary of the major issues raised by the comments received on the proposed rule and the SBA's response.

Comments Supporting a Higher Size Standard

One organization supported the proposed increase in the size standard, but claimed that the increase could be greater than \$15 million due to the 2002 fire season. This commenter did not provide any supporting statistics or documentation.

The SBA does not adopt this comment. In the proposed rule, the SBA discussed the reasons for proposing the size standard at \$15 million. Even though the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) expended record contract dollars for the 2002 fire season, the SBA found that the firms impacted the most were those whose revenues were below \$6 million before the 2002 season. Several of these firms now exceed the current size standard. The increased revenues from this past fire season support the SBA's reasons for establishing a size standard above the current \$6 million level for

forest fire suppression and fuels management services activities. The SBA believes that a \$15 million size standard is sufficient to allow these companies to grow to a size to meet the capital requirements of forest fire suppression and fuels management services contracts. The SBA is reluctant to adopt a higher size standard than it proposed without more information on the structure of the industry that demonstrates a stronger basis for a higher size standard.

Three commenters supported the proposed size standard because of the importance it has on firms engaged in forest fire suppression and fuels management services. One commenter pointed out that the firms performing these tasks have been developed primarily for Federal Government work. The commenter contends "it is a logical extension of the effort that Federal agencies have pursued to allow companies that have been developed for Federal work to continue this work * * * The higher standard allows continued growth as well as expansion of the small business pool through subcontracting." Another commenter added that the Federal Government's reliance on the private sector is expected to significantly increase due to the emphasis on contract use under the National Fire Plan and the effort to outsource commercial work that can be done by private concerns.

One Federal agency expressed concern about the shift in the forestry industries away from logging and into forest fire suppression and fuels management services. The commenter stated that if a firm exceeds the size standard, there is no commercial market for these types of firms, as "The Government is in the only game in town." These firms make up a significant portion of one of its contracting offices' fire fighting resources. It also pointed out that normally small business set-aside programs are designed to help small businesses graduate and go onto bigger and more lucrative commercial contracts. In this industry, the Federal Government far exceeds the amount of work done by private landowners, or even by the states and counties.

The SBA agrees with these comments. As stated in the preamble to the proposed rule, over the last several years the Federal Government has placed greater reliance upon contractors to perform these services, resulting in a dramatic increase in contract funding for forest fire suppression and fuels management activities. This is especially true in the western part of the country where the Federal Government