Monday, 
June 28, 2004

Part XLIII

Small Business Administration

Semiannual Regulatory Agenda
SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION
13 CFR Ch. I

Semiannual Regulatory Agenda, Spring 2004

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The regulatory agenda (agenda) is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed regulatory actions of SBA. The agenda provides the public with information about SBA’s regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate 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 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.

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 2003 edition. Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the Federal Register of an agenda of regulations. As permitted by law, SBA is combining the publication of its agendas and conforming them to the Unified Agenda of Federal Regulatory and Deregulatory Actions format developed by the Regulatory Information Service Center.

Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the fall 2003 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by SBA. The agenda is intended to facilitate comments and views by interested members of the public. SBA also encourages public participation through www.regulations.gov, by placing SBA rules on that website, by encouraging commenters to use the website, and by providing a link from to the website.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item. Moreover, regulatory actions not listed in the agenda are not precluded. SBA regulations are developed in a manner that promotes 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 ensure maximum efficiency and effectiveness.

Hector V. Barreto,
Administrator.

Small Business Administration—Prerule Stage

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Small Business Administration (SBA)  

**3713. SURETY BOND GUARANTEE**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC app 3; 15 USC 687b; 15 USC 694b; PL 105–135; 15 USC 687c; 15 USC 694a

**CFR Citation:** 13 CFR 115

**Legal Deadline:** None

**Abstract:** SBA is considering revising the Preferred Surety Bond and the Prior Approval program regulations to simplify the language, make the rule easier to understand, and clarify policy.

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**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Johnnie L. Albertson, AA, Office of Surety Guarantees, Small Business Administration, 409 Third Street SW, Washington, DC 20416

Phone: 202 205–6540  
RIN: 3245–AE13

**3714. • HUBZONE EMPowerment CONTRACTING PROGRAM**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 15 USC 657(a)

**CFR Citation:** 13 CFR 126

**Legal Deadline:** None

**Abstract:** This Advanced Notice of Proposed Rulemaking is 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 SBC 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. The SBA is seeking comments on how to define “substantially the final form” with respect to this statutory requirement. Additionally, SBA is requesting comments on the implementation of a statutory provision regarding HUBZone set-asides and the definition of “employee.”

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**Period End**

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Michael P. McHale, Associate Administrator for HUBZone Empowerment Contracting Program, Small Business Administration, 409 Third Street SW, Washington, DC 20416
SBA

Abstract: The SBA is seeking public comments on whether it should provide an exclusion from affiliation for venture capital companies in size determinations for eligibility for the Small Business Innovation Research (SBIR) Program. Under such a policy venture capital companies that invest in SBIR participants would not be considered affiliates of the SBIR participant and their size would therefore not be included in determining the size of the participant.

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Regulatory Flexibility Analysis
Required: Undetermined

Government Levels Affected: None

Agency Contact: Edsel Brown, Assistant Administrator for Technology, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–6450
Email: edsel.brown@sba.gov

RIN: 3245–AF15

Small Business Administration (SBA) Proposed Rule Stage

3716. SMALL BUSINESS DEVELOPMENT CENTERS (SBDC) PROGRAM REVISIONS

Priority: Other Significant

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

CFR Citation: 13 CFR 120.470

Legal Deadline: None

Abstract: SBA is revising its SBDC regulations to reflect statutory and other changes. The proposed regulation incorporates provisions from Public Law 103-403, enacted on October 22, 1994; Public Law 104-208, enacted on September 30, 1996; and Public Law 105-135, enacted on December 2, 1997. This regulation will bring SBA into compliance with the statutory requirements for due process procedures in termination of Small Business Development lead centers. In addition, the funding formulas will be updated and the use of appropriated funds for administration of the program will be aligned with the statutory requirements.

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Regulatory Flexibility Analysis
Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Antonio Doss, Associate Administrator for Lender Oversight, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–3049
Email: janet.tasker@sba.gov

RIN: 3245–AE14

3717. SMALL BUSINESS LENDING COMPANIES REGULATIONS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b)

CFR Citation: 13 CFR 120.470

Legal Deadline: None

Abstract: This rulemaking would amend 13 CFR 120.470 to clarify and strengthen the rules regarding Small Business Lending Companies (SBLCs) monitoring and oversight for safety and soundness, compliance, and related areas.

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Regulatory Flexibility Analysis
Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janet A. Tasker, Associate Administrator for Lender Oversight, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–3049
Email: janet.tasker@sba.gov

RIN: 3245–AE14

3718. 8(A) BUSINESS DEVELOPMENT/PROGRAM IMPROVEMENT

Priority: Other Significant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule will make program improvements to the 8(a) regulations. Among other things, the rule will clarify: The mentor/protege program, who will be considered socially disadvantaged, who will be considered economically disadvantaged, and the provision requiring firms to make substantial and sustained efforts to attain the targeted levels of non-8(a) revenue established in their business plans as it applies only to firms in the developmental stage of program participation. The rule will also give SBA the discretion to permit a disadvantaged individual to meet the full-time devotion requirement and prohibit tribes from being majority owner of more than one 8(a) concern in the same or similar line of business. The rule will set forth the procedures for terminations and early graduations and amend the rules governing Federal surplus property. The rule will clarify what criteria an 8(a) participant must meet in order to be considered eligible for a sole source 8(a) contract. Part 124 will also be amended to include certain new policies and procedures.

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3719. SDB CERTIFICATION AND ELIGIBILITY—PROGRAM IMPROVEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661; PL 100-656, sec 1207; PL 101-37; PL 101-574; 42 USC 9815

CFR Citation: 13 CFR 124; 13 CFR 134

Legal Deadline: None

Abstract: Program improvements to clarify regulations governing the SDB program. The proposed changes clarify requirements, enhance customer service, and correct omissions. For example: A procedure for recertifying eligible firms is established; provisions are made to prevent loss of SDB certification by a subcontractor following award of a contract; and stipulations are made requiring contracting officers to forward protests to SBA for determination of merit.

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Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Albert Stubblefield, Acting Associate Administrator for Business Development, Small Business Administration, 409 3rd Street SW, Washington, DC 20416
Phone: 202 619-0628

RIN: 3245-AE38

3720. SMALL BUSINESS INVESTMENT COMPANIES—CIVIL PENALTIES FOR LATE SUBMISSION OF REQUIRED REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 681 et seq; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m; 15 USC 662

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule will provide for the imposition of civil penalties on small business investment companies that fail to file required reports by the applicable due date. The proposed amount of civil penalties are, for each day past the due date, it must pay to SBA $100.00 per day per report. The civil penalties will continue to accrue until and including the date upon which it submits the complete and accurate report.

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Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey D. Pierson, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW, Suite 6300, Washington, DC 20416
Phone: 202 205-6510
Fax: 202 205-6959

RIN: 3245-AE79

3721. SMALL BUSINESS INVESTMENT COMPANIES—MAXIMUM LEVERAGE ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 662; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule will revise the size standard applicable to construction and service companies seeking assistance under SBA’s Surety Bond Guarantee Program. Changes in the program and economic trends support an increase above the current $6 million size standard.

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Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618
Fax: 202 205-6390
Email: gary.jackson@sba.gov

RIN: 3245-AE81

3722. SMALL BUSINESS SIZE STANDARDS; SURETY BOND GUARANTEE PROGRAM

Priority: Other Significant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule will provide for the imposition of civil penalties on small business investment companies that fail to file required reports by the applicable due date. The proposed amount of civil penalties are, for each day past the due date, it must pay to SBA $100.00 per day per report. The civil penalties will continue to accrue until and including the date upon which it submits the complete and accurate report.

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Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey D. Pierson, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW, Suite 6300, Washington, DC 20416
Phone: 202 205-6510
Fax: 202 205-6959

RIN: 3245-AE79

3723. BUSINESS LOANS AND DEVELOPMENT COMPANY LOANS; LIQUIDATION AND LITIGATION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); 15 USC 697(a)(2)
CFR Citation: 13 CFR 120
Legal Deadline: None
Abstract: This proposed rule would implement statutory provisions that give some Certified Development Companies (CDCs) authority to handle liquidation and litigation of loans that are funded with the proceeds of debentures guaranteed by the SBA under the 504 loan program. It also proposes uniform liquidation and litigation procedures for authorized CDCs and for lenders participating in the 7(a) business loan program.

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Regulatory Flexibility Analysis
Required: Yes
Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Walter C. Intlekofer, Director, Portfolio Management Division, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-7543
Email: walter.intlekofer@sba.gov
RIN: 3245-AE83

3724. SMALL BUSINESS SIZE STANDARDS; NEW CAR DEALERS
Priority: Other Significant
Legal Authority: 15 USC 632(a)
CFR Citation: 13 CFR 121
Legal Deadline: None
Abstract: This rule proposes to increase the current size standard for the New Car Dealer industry. Changes in the industry over the last 10 years indicate that a size standard review of the current $24.5 million is warranted.

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Regulatory Flexibility Analysis
Required: Yes
Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618
Fax: 202 205-6390
Email: gary.jackson@sba.gov
RIN: 3245-AF01

3725. SURETY BOND GUARANTEE PROGRAM—PROCEDURAL CHANGES FOR PAYMENT OF FEES
Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Legal Authority: 5 USC app 3; 15 USC 687(b); 15 USC 694(b); 15 USC 687(c); 15 USC 694 (a); PL 105–135
CFR Citation: 13 CFR 115
Legal Deadline: None
Abstract: SBA is revising its Surety Bond Guarantee Program regulations to change the procedures for the payment of the Principal’s and the Surety’s fees. Currently, the Principal pays its fee to SBA directly, but the proposed regulations would require the Surety to pay the Principal’s fee to SBA. An additional change would require the Surety to pay SBA its fee within a specified timeframe.

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Regulatory Flexibility Analysis
Required: Undetermined
Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Johnnie L. Albertson, AA, Office of Surety Guarantees, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–6540
RIN: 3245-AF10

3726. - ECONOMIC INJURY DISASTER LOANS (EIDL)
Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Legal Authority: 15 USC 634(b)(6); 15 USC 634(b); 15 USC 634(c); 15 USC 634(f); PL 102–395, 106 Stat 1828; PL 103–75, 107 Stat 739
CFR Citation: 13 CFR 123
Legal Deadline: None
Abstract: The SBA is amending its disaster loan rules to ensure that when a small business entity is engaged in both agricultural and non-agricultural business ventures, SBA can provide economic injury disaster loans (EIDL) to the non-agricultural business which has been economically hurt by fires, floods or other disasters.

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Regulatory Flexibility Analysis
Required: No
Government Levels Affected: None
Agency Contact: Albert Stubblefield, Acting Associate Administrator for Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 619–0628
RIN: 3245-AF17
### SBA

3728. • TESTIMONY AND PRODUCTION OF RECORDS; OFFICE OF INSPECTOR GENERAL

**Priority:** Info./Admin./Other  
**Legal Authority:** Not Yet Determined  
**CFR Citation:** None  
**Legal Deadline:** None  
**Abstract:** This proposed rule would implement the requirements for testimony, documents or other information or subpoenas issued to the Office of Inspector General (OIG) or OIG employees and for OIG responses to the requests or subpoenas in proceedings where OIG, SBA or the United States is not a party.

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**Small Entities Affected:** None

**Government Levels Affected:** Undetermined

**Agency Contact:** cherry.w.tolliver@sba.gov, Assistant Counsel to the Inspector General, Office of Inspector General, Counsel Division, Small Business Administration, 409 3rd Street SW, Washington, DC 20416

| **RIN:** | 3245-AF18 |

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3729. ADMINISTRATIVE WAGE GARNISHMENT

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 5 USC 504; 15 USC 632; 15 USC 634(b)(6); 15 USC 637(a); 31 USC 3711; 31 USC 3720; 31 USC 3716

**CFR Citation:** 13 CFR 134; 13 CFR 140

**Legal Deadline:** None  
**Abstract:** SBA is issuing a rule adopting administrative wage garnishment regulations to implement the Debt Collection Improvement Act of 1996. The rule will allow SBA to garnish the wages of a person indebted to the United States for any non-tax debt without first obtaining a judgment. The debtor generally will be entitled to a hearing before a Judge assigned to SBA’s Office of Hearings and Appeals.

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<th><strong>Timetable:</strong></th>
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<tr>
<td><strong>Action</strong></td>
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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Federal

**Agency Contact:** Walter C. Intlekofer, Director, Portfolio Management Division, Small Business Administration, 409 Third Street SW, Washington, DC 20416

| **RIN:** | 3245-AE50 |

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3730. SMALL BUSINESS SIZE REGULATIONS; SMALL BUSINESS INNOVATION RESEARCH PROGRAM

**Priority:** Other Significant  
**Legal Authority:** 15 USC 632(a)

**CFR Citation:** 13 CFR 121

**Legal Deadline:** None  
**Abstract:** This rule will allow wholly owned subsidiaries to be eligible for Small Business Innovation Research funding agreements. Current regulations limit the eligibility of the program to businesses owned by individuals.

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**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Agency Contact:** Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416

| **RIN:** | 3245-AE96 |

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3731. SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM POLICY DIRECTIVE

**Priority:** Other Significant  
**Legal Authority:** 15 USC 638

**CFR Citation:** None

**Legal Deadline:** None

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3732. SIZE FOR PURPOSES OF THE MULTIPLE AWARD SCHEDULE AND OTHER MULTIPLE AWARD CONTRACTS; SMALL BUSINESS SIZE REGULATIONS; 8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

**Priority:** Other Significant  
**Legal Authority:** 15 USC 632(a); 15 USC 634(b)(6)

**CFR Citation:** 13 CFR 121

**Legal Deadline:** None
**Abstract:** This rule will amend SBA’s small business size regulations as it relates to the General Services Administration’s Multiple Award Schedule Program, including the Federal Supply Schedule, multiple award contracts, including Governmentwide Acquisition Contracts.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Agency Contact:** Barry Meltz, Deputy AA, Office of Government Contracting, Small Business Administration, 409 Third Street SW, Washington, DC 20416

Phone: 202 205–6390

Email: barry.meltz@sba.gov

Fax: 202 205–6390

Phone: 202 205–6618

Email: dean.koppel@sba.gov

**RIN:** 3245–AF06

### 3734. SMALL BUSINESS GOVERNMENT CONTRACTING PROGRAMS

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 15 USC 634(b)(6); 15 USC 637; 15 USC 644; 31 USC 9701; 31 USC 9702

**CFR Citation:** 13 CFR 125

**Legal Deadline:** None

**Abstract:** The U.S. Small Business Administration (SBA) proposes to amend its regulation governing small business subcontracting assistance. As proposed, the rule would implement additional subcontracting goals required by statute, clarify prime contractor responsibilities in providing subcontracting opportunities for small businesses, and provide additional guidance on evaluating the good faith efforts of large businesses to comply with subcontracting plans.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Dean Robert Koppel, Assistant Administrator, Policy and Research, Small Business Administration, 409 Third Street SW, Washington, DC 20416

Phone: 202 205–7322

Email: dean.koppel@sba.gov

**RIN:** 3245–AF11

### 3733. SMALL BUSINESS SIZE STANDARDS; RESTRUCTURING OF SIZE STANDARDS

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 15 USC 632

**CFR Citation:** 13 CFR 121

**Legal Deadline:** None

**Abstract:** The SBA proposes to restructure its small business size standards by reducing the number of different size standards levels. This restructuring will simplify the identification of which businesses are small and the use of size standards in Federal small business programs.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416

Phone: 202 205–6618

Fax: 202 205–6390

Email: gary.jackson@sba.gov

Fax: 202 205–6390

Phone: 202 205–6618

Email: gary.jackson@sba.gov

**RIN:** 3245–AF16

### 3736. AMENDMENT TO SBA’S REGULATIONS REGARDING ADMINISTRATIVE OFFSET

**Priority:** Info/Admin/Other. Major status under 5 USC 801 is undetermined.

**Legal Authority:** Not Yet Determined

**CFR Citation:** None

**Legal Deadline:** None

**Abstract:** SBA intends to amend its regulations to include references to administrative offset and other remedies that the Treasury Department may use on behalf of SBA to collect debt pursuant to the Debt Collection Improvement Act of 1996. Publication of this regulatory change is required to comply with Treasury directive.

**Timetable:**

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**Email:** dean.koppel@sba.gov

**Phone:** 202 205–7322
### Small Business Administration (SBA) Completed Actions

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#### Regulatory Flexibility Analysis

- **Required**: No
- **Government Levels Affected**: None
- **Agency Contact**: Walter C. Intlekofer, Director, Portfolio Management Division, Small Business Administration, 409 Third Street SW, Washington, DC 20416 Phone: 202 205–7543 Email: walter.intlekofer@sba.gov

| RIN: 3245–AF19 |

#### Small Business Administration (SBA) Completed Actions

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#### Regulatory Flexibility Analysis

- **Required**: Yes
- **Small Entities Affected**: Businesses
- **Government Levels Affected**: None
- **Agency Contact**: Jeffrey D. Pierson Phone: 202 205–6510 Fax: 202 205–6959

| RIN: 3245–AE70 |

#### Small Business Administration (SBA) Completed Actions

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#### Regulatory Flexibility Analysis

- **Required**: Yes
- **Small Entities Affected**: Businesses
- **Government Levels Affected**: None
- **Agency Contact**: Gary M. Jackson Phone: 202 205–6618 Fax: 202 205–6390 Email: gary.jackson@sba.gov

<p>| RIN: 3245–AE80 |
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**Regulatory Flexibility Analysis**

- **Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal, Tribal

**Agency Contact:** Bridget Bean

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Phone: 202 205–6390

**RIN:** 3245–AE92

[FR Doc. 04–12479 Filed 06–25–04; 8:45 am]

BILLING CODE 8025–01–S