

Small Refiner Eligibility Criteria

Note: These eligibility criteria define the "target audience," or refiner community, from whom RMP would be requesting information for purposes of assessing market conditions in anticipation of another R_IK sale. (See 30 CFR § 208.2)

Onshore

- o For *onshore* sales, an eligible refiner is one that has an operating refinery and qualifies as a small, independent refiner as defined under Sections 3(3) and 3(4) of the Emergency Petroleum Allocation Act, 15 USC 751 et seq.
- o A refiner that inputs domestic crude oil from his own production *exceeding 30 percent* of total refinery input is ineligible to participate in royalty oil sales. (Crude oil received in exchange for the refiner's own production is considered to be part of that refiner's own production for purposes of this criterion.)

Outer Continental Shelf (OCS)

- o For *offshore* sales, an eligible refiner is one that has an operating refinery and qualifies as a small business enterprise under the rules of the Small Business Administration (13 CFR 121.201). (OCSLA, Sec. 27, provides that the term "small refiner" has the meaning as established by the SBA. There is no independence requirement stated in the OCSLA.)
- o The SBA standard for a small business within the Petroleum Refining Industry is ≤ 75,000 BPD, and ≤ 1,500 employees

*A "preference eligible refiner" is further defined as an eligible refiner having at least one operating refinery within the area defined as the preference eligible area in the "Notice of Availability of Royalty Oil." (For example, under OCS Sale 94-1, a preference eligible refiner would have been a refiner with an operating refinery(ies) in the States of Texas, Louisiana, and California; or a refiner with a history of purchasing crude oil from the Gulf of Mexico or Pacific Region that they either refined themselves or exchanged for oil they refined.)

last year and the two multiplied by 52.

ation other than the

Where other information to regard

size returns as false,

size determination

of affiliates. (1) If a concern had an affiliate or affiliates during the period or before certification, the determining size standards of both firms. Aggregation applies to the period used in determining size only for the affiliation arose. Related for the concern in accordance with this section even result in different publications annual re-

ceipts of a former included as annual released before the finding size. This excepts of a former during the entire period after which

SBA define "business concern"

ern eligible for as a small business organized for profit business located in and which operates

United States or recent contribution through payment American products.

ern may be in the individual proprietor limited liability joint venture, cooperative ex- em is a joint ven more than 49 percent foreign business venture

be treated as a earn if a substantial and or liability

Small Business Administration

§ 121.201

ties are the same as those of a predecessor entity. In such a case, the annual receipts and employees of the predecessor will be taken into account in determining size.

§ 121.106 How does SBA calculate number of employees?

(a) Employees counted in determining size include all individuals employed on a full-time, part-time, temporary, or other basis. SBA will consider the totality of the circumstances, including factors relevant for tax purposes, in determining whether individuals are employees of the concern in question.

(b) Where the size standard is number of employees, the method for determining a concern's size includes the following principles:

(1) The average number of employees of the concern is used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months.

(2) Part-time and temporary employees are counted the same as full-time employees.

(3) If a concern has not been in business for 12 months, the average number of employees is used for each of the pay periods during which it has been in business.

(4) The treatment of employees of former affiliates or recently acquired affiliates is the same as for size determinations using annual receipts in § 121.104(d).

§ 121.107 How does SBA determine a concern's "primary industry"?

In determining the primary industry in which a concern or a concern combined with its affiliates is engaged, SBA considers the distribution of receipts, employees and costs of doing business among the different industries in which business operations occurred

for the most recently completed fiscal year. SBA may also consider other factors, such as the distribution of patents, contract awards, and assets.

§ 121.108 What are the penalties for misrepresentation of size status?

In addition to other laws which may be applicable, section 16(d) of the Small Business Act, 15 U.S.C. 645(d), provides severe criminal penalties for knowingly misrepresenting the small business size status of a concern in connection with procurement programs. Section 16(a) of the Act also provides, in part, for criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing in any way the actions of the Agency.

SIZE STANDARDS USED TO DEFINE SMALL BUSINESS CONCERN

§ 121.201 What size standards has SBA identified by Standard Industrial Classification codes?

The size standards described in this section apply to all SBA programs unless otherwise specified. The size standards themselves are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small. The following is a listing of size standards for industries under the SIC System. Size standards are listed by Division and apply to all industries in that Division except those specifically listed with separate size standards for a specific two-digit major group or four-digit industry code. The industry code applicable to a business that cannot be otherwise classified will be SIC code 9999, Nonclassifiable Establishments, with a corresponding size standard of 15.0 million in annual receipts.

SIZE STANDARDS BY SIC INDUSTRY

SIC code and description	Size standards in number of employees or millions of dollars
DIVISION A—AGRICULTURE, FORESTRY AND FISHING	
MAJOR GROUP 01—AGRICULTURAL PRODUCTION CROPS	10.5
MAJOR GROUP 02—LIVESTOCK AND ANIMAL SPECIALTIES	10.5

SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
Except:	
0211 Beef Cattle Feedlots (Contract)	51.0
0252 Chicken Eggs	51.0
MAJOR GROUP 07—AGRICULTURAL SERVICES	55.0
MAJOR GROUP 08—FORESTRY	55.0
MAJOR GROUP 09—FISHING, HUNTING, AND TRAPPING	55.0
DIVISION B—MINING	
MAJOR GROUP 10—METAL MINING	500
MAJOR GROUP 12—COAL MINING	500
MAJOR GROUP 13—OIL AND GAS EXTRACTION AND MAJOR GROUP 14—MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS.	500
EXCEPT:	
1081 Metal Mining Services	55.0
1241 Coal Mining Services	55.0
1382 Oil and Gas Field Exploration Services	55.0
1388 Oil and Gas Field Services, N.E.C.	55.0
1481 Nonmetallic Mineral Services, Except Fuels	55.0
DIVISION C—CONSTRUCTION	
MAJOR GROUP 15—GENERAL BUILDING CONTRACTORS	\$17.0
MAJOR GROUP 16—HEAVY CONSTRUCTION, NON BUILDING	\$17.0
EXCEPT:	
1629 (Part) Dredging and Surface Cleaning Activities	\$15.5*
MAJOR GROUP 17—CONSTRUCTION—SPECIAL TRADE CONTRACTORS	\$7.0
DIVISION D—MANUFACTURING,*	500
EXCEPT:	
2032 Canned Specialty	1,000
2033 Canned Fruits, Vegetables, Preserves, Jams and Jellies	500*
2043 Canned Breakfast Foods	1,000
2051 Fresh Corn, Sweet	750
2052 Cookies and Crackers	750
2062 Cane Sugar Refining	750
2063 Beet Sugar	750
2071 Shortening, Lard, Larder Oil, Vegetable Oil, Margarine, and Other Edible Fats and Oils, N.E.C.	1,000
2085 Distilled and Blended Liquors	750
2111 Operatives	1,000
2211 Broadwoven Fabric Mills, Cotton	1,000
2281 Finishers of Broadwoven Fabrics of Cotton	1,000
2286 Coated Fabrics, Not Rubberized	1,000
2298 Tire Cord and Fabrics	1,000
2611 Pulp Mills	750
2621 Paper Mills	750
2631 Paperboard Mills	750
2656 Sanitary Food Containers, Except Folding	750
2657 Folding Paperboard Boxes, Including Sanitary	750
2812 Alkalies and Chlorine	1,000
2813 Industrial Gases	1,000
2816 Inorganic Pigments	1,000
2819 Industrial Inorganic Chemicals, N.E.C.	1,000
2821 Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	750
2822 Synthetic Rubber (Vulcanizable Elastomers)	1,000
2823 Cellulose Manmade Fibers	1,000
2824 Manmade Organic Fibers, Except Cellulose	1,000
2833 Medicinal Chemicals and Botanical Products	750
2834 Pharmaceutical Preparations	750
2841 Soap and Other Detergents, Except Specialty Cleaners	750
2860 Cyclo Organic Compounds and Intermediates, and Organic Dyes and Pigments	750
2880 Industrial Organic Chemicals, N.E.C.	1,000
2873 Nitrogenous Fertilizers	1,000
2997 Explosives	750
2998 Petroleum Refining	1,500*
3000 Vacuum Heat Treatment	750
3011 Tires and Inner Tubes	1,000*
3421 Rubber and Plastic Foaming	1,000
3731 Film Cases	1,000

§ 121.201

SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC code and description	Size standards in number of employees or millions of dollars
6721 Accounting, Auditing, and Bookkeeping Services	500 ¹
6731 Commercial Physical and Biological Research	500 ¹
Aircraft	1,500
Aircraft Parts, and Auxiliary Equipment, and Aircraft Engines and Engine Parts	1,000
Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Unit Parts, and their Auxiliary Equipment and Parts	1,000
6741 (part) Conference Management Services	\$5.0 ²
6744 Facilities Support Management Services	\$5.0 ¹¹
Base Maintenance	\$20.0 ¹²
Environmental Remediation Services	500 ¹³

Footnotes:

¹ SIC code 1620—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.

² SIC Division D—Manufacturing: For rebuilding machinery or equipment on a factory basis, or equivalent, use the SIC code for a newly manufactured product. Concerns performing major rebuilding or overhaul activities do not necessarily have to meet the criteria for being a "manufacturer" although the concern may be classified under a manufacturing SIC code. Ordinary repair services of machinery or equipment are not included.

³ SIC code 3333: For purposes of Government procurement for large carrying and preserving, the standard of 500 employees excludes agricultural labor as defined in section 3306(h) of the Internal Revenue Code, 36 U.S.C. 3306(h).

⁴ SIC code 3011: For purposes of Government procurement, the firm may not have more than 1,000 employees nor more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or lease gas, regardless. Capacity includes owned or leased facilities as well as facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or lease gas feedstocks.

⁵ SIC code 3011: For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification codes 30111 and 30112 provided:

(1) The value of tires within Census Classification codes 30111 and 30112 which is manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture;

(2) The value of pneumatic tires within Census Classification codes 30111 and 30112 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period; and

(3) the value of the principal product which it manufactures or otherwise produces, or sells worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during that period.

⁶ SIC codes 4724, 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.

⁷ A concern's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. Assets for the purpose of this section include the assets delivered according to the Federal Financial Institutions Examination Council 604 call report form.

⁸ SIC code 6515: Leasing of building space to the Federal Government by Owner: For Government procurement, the size standard of \$15.0 million in gross receipts applies to the owners of building space leased to the Federal Government. This standard does not apply to ~~all~~ ^{new} leases.

⁹ SIC codes 7809 and 3728: Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under SIC code 3728.

¹⁰ SIC code 8731: For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

¹¹ Research and Development means laboratory or other physical research and development, if these do not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

¹² For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by see 13 CFR § 121.701.

¹³ Research and development for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

¹⁴ Facilities Management, a component of SIC code 8744, includes establishments, not elsewhere classified, which provide overall management and the personnel to perform a variety of related support services in operating a complete facility or a construction installation, or ~~various~~ ^{one} business or Government establishment. Facilities management means services centered around a specific building, or ~~various~~ ^{one} business or Government establishment. Facilities management means services centered around three or more personnel supply services, which may include, but are not limited to, ~~various~~ ^{one} personnel services, hotels, telephone answering, reproduction or mimeograph service, mailing service, financial or business management, public relations, conference planning, travel arrangements, word processing, maintaining files and/or libraries, officehousehold operation, writers, bookbinding, ~~various~~ ^{one} office equipment maintenance and repair, or use of information systems (not programming).

¹⁵ SIC code 8744:

(1) If one of the activities of base maintenance, as defined in paragraph (2) of this section, can be associated with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry and not the Base Maintenance size standard.

(2) "Base Maintenance" requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed these activities must each be in a separate SIC code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Residential Care Services, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required for a contract to be classified as "Base Maintenance."

¹⁶ SIC code 8744: (1) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site investigation, remedial investigation, feasibility studies, remedial action, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such services accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services industry.

Small Business

(2) For purposes of procurement must be or more separate inc codes with separate such as, Heavy Con Reuse Systems, Sa mercial, Physical and component of a code with Service size standard.

[61 FR 3286, Ja. 1996; 61 FR 7306, 1, 1996]

SIZE ELIGIBILITY
SBA F121.301 Wh
plicable t
grams?

(a) For Bu:
Loans (other
loans), an al
the size stan
which:

(1) The ap
affiliates is p
(2) The ap
engaged.

(b) For De
grams, an ap
the following

(i) Includi
net worth nc
and average
income taxes
losses) for th
fiscal years r
or

(2) The se
under paragr.

(c) For th
ment Compa:
plicant must
standards:

(1) Includi
net worth nc
and average
income taxes
losses) for t
fiscal years :
or

(2) The s:
under paragr.

(d) For Su
istance—

(1) Any co
cial trade) c
ing & contra
its average
over 40.0 mil