



BILLING CODE: 8025-01

## SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration

ACTION: Notice of intent to waive the Nonmanufacturer Rule for commercial-type ovens, gas ranges, and ranges.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a class waiver of the Nonmanufacturer Rule for commercial-type ovens, gas ranges, and ranges, under Product Service Code (PSC) 7310 (Food Cooking, Baking, and Serving Equipment), under the North American Industry Classification System (NAICS) code 333318 (Other Commercial and Service Industry Machinery Manufacturing). According to the waiver request, no small business manufacturers supply this class of products to the Federal government. Thus, SBA is seeking information on whether there are small business manufacturers of these items. If granted, the waiver would allow otherwise qualified small businesses to supply the product of any manufacturer on a Federal contract set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses, Participants in the SBA's 8(a) Business Development (BD) program, or Women-Owned Small Businesses (WOSBs).

DATES: Comments and source information must be submitted [WITHIN 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments and source information, identified by docket number SBA-2013-0005, by any of the following methods:

(1) Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov), following the instructions for submitting comments; or

(2) Mail/Hand Delivery/Courier: Edward Halstead, Procurement Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW, Suite 8022, Washington, DC 20416.

All comments will be posted on [www.regulations.gov](http://www.regulations.gov). If you wish to include within your comment confidential business information (CBI) as defined in the Privacy and Use Notice/User Notice at [www.regulations.gov](http://www.regulations.gov), and you do not want that information disclosed, you must submit the comment by either Mail or Hand Delivery. In the submission, you must highlight the information that you consider CBI and explain why you believe this information should be withheld as confidential. SBA will make a final determination, in its sole discretion, as to whether the information is CBI and therefore will be published or withheld.

FOR FURTHER INFORMATION CONTACT: Edward Halstead, by telephone at (202) 205-9885, or by email at [edward.halstead@sba.gov](mailto:edward.halstead@sba.gov).

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 USC 637(a)(17), and SBA's implementing regulations require that recipients of Federal contracts for supplies which are set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses, Women-Owned Small Businesses (WOSBs), or Participants in SBA's 8(a) BD Program must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b). Section 8(a)(17)(B)(iv)(II) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any class of products for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have been awarded or have performed a contract to supply a specific class of products to the Federal Government within 24 months from the date of the request for waiver, either directly or through a dealer, or have submitted an offer on a solicitation for that class of products within that time frame. 13 CFR 121.1202(c). SBA defines "class of products" as an individual subdivision within a (NAICS) Industry Number as established by the Office of Management and Budget in the NAICS Manual. 13 CFR

121.1202(d). In addition, SBA uses (PSCs) to further identify particular products within the NAICS code to which a waiver would apply.

On July 12, 2012, SBA received a request to waive the Nonmanufacturer Rule for commercial ovens and broilers, PSC 7310, under NAICS code 333319 (Other Commercial and Service Industry Machinery Manufacturing). SBA notes that at the time of the request, these items were classified under NAICS code 333319. However, effective October 1, 2012, SBA published revised NAICS codes and Small Business Size Standards, for purposes of Government procurement. As a result of this change, NAICS code 333319 is eliminated from the 2012 NAICS code listing and the items requested for waiver are now listed under the 2012 NAICS code 333318.

The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the products described in this notice within 45 days after the date of publication in the Federal Register.

Dated: May 16, 2013

Kenneth W. Dodds,  
Director, Office of Government Contracting.

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