



SMALL BUSINESS ADMINISTRATION

Class Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for commercially handheld land mobile radios under NAICS code 334220/PSC 5820.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a class waiver of the Nonmanufacturer Rule (NMR) for handheld land mobile radios under North American Industry Classification System (NAICS) code 334220 and Product Service Code (PSC) 5820. This U.S. industry comprises establishments primarily engaged in manufacturing handheld land mobile radios. According to the request, no small business manufacturers supply this product to the Federal government. If granted, the class waiver would allow otherwise qualified regular dealers to supply handheld land mobile radios, regardless of the business size of the manufacturer, on a Federal contract set aside for small business, service-disabled veteran-owned small business (SDVOSB), women-owned small business (WOSB), economically disadvantaged women-owned small business (EDWOSB), historically underutilized business zones (HUBZone), or participants in the SBA's 8(a) Business Development (BD) program.

DATES: Comments and source information must be submitted by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments and source information via the Federal Rulemaking Portal at <https://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice

at <https://www.regulations.gov>, please submit the information to Carol Hulme, Program Analyst, Office of Government Contracting, U.S. Small Business Administration, 409 Third Street SW, 8th Floor, Washington, DC 20416. Highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review the information and make a final determination as to whether the information will be published.

FOR FURTHER INFORMATION CONTACT: Carol Hulme, Program Analyst, by telephone at 202-205-6347; or by email at Carol-Ann.Hulme@sba.gov.

SUPPLEMENTARY INFORMATION: Sections 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657s, and SBA's implementing regulations, found at 13 CFR §121.406(b), require that recipients of Federal supply contracts (except those valued between \$3,500 and \$250,000) set aside for small business, SDVOSB, WOSB, EDWOSB, HUBZone, or BD program participants provide the product of a small business manufacturer or processor if the recipient of the set-aside is not the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule (NMR). 13 CFR §121.406(b). Sections 8(a)(17)(B)(iv)(II) and 46(a)(4)(B) of the Act authorize SBA to waive the NMR for a "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR §121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or been awarded a contract to supply the class of products within the last 24 months.

The SBA defines “class of products” based on a combination of 1) the six-digit North American Industry Classification System (NAICS) code, 2) the four-digit Product Service Code (PSC), and 3) a description of the class of products.

SBA invites the public to comment on this pending request to waive the NMR for handheld land mobile radios under NAICS code 334220 and PSC 5820. The public may comment or provide source information on any small business manufacturers of this class of products that are available to participate in the Federal market. The public comment period will run for 30 days after the date of publication in the Federal Register.

More information on the NMR and class waivers can be found at <https://www.sba.gov/contracting/contracting-officials/non-manufacturer-rule/non-manufacturer-waivers>.

David Loines,
Director, Office of Government Contracting.

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