



## SMALL BUSINESS ADMINISTRATION

[Docket No.: SBA-2021-0012]

### Small Business Size Standards: Termination of Nonmanufacturer Rule Class Waiver

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of intent to terminate the class waiver to the Nonmanufacturer Rule.

**SUMMARY:** The U.S. Small Business Administration (SBA) is considering terminating a class waiver of the Nonmanufacturer Rule (NMR) for Furniture Frames and Parts, Metal, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 33725 and PSC 7195; Furniture, Factory-type (e.g. cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g. hospital beds, operating room furniture) Manufacturing under NAICS code 339113 and PSC 7195; and Furniture, Laboratory-type (e.g. benches, cabinets, stools, tables) Manufacturing under NAICS code 339113 and PSC 7195.

**DATES:** Comments and source information must be submitted on or before 03/09/2022.

**ADDRESSES:** You may submit comments and source information via the Federal Rulemaking Portal at <https://www.regulations.gov> under Docket ID SBA-2021-0012. 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, Attorney Advisor, Office of Government Contracting, U.S. Small Business Administration, 409 Third Street SW, 8<sup>th</sup> 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](mailto:Carol-Ann.Hulme@sba.gov).

## **SUPPLEMENTARY INFORMATION:**

On October 6, 2019, SBA received a request to terminate the current class waiver of the NMR for the products identified above. According to the request, there are small business manufacturers available to participate in the Federal marketplace for these products. According to the information the requester provided to the SBA, several small manufacturers have provided these products to the Federal agencies within the past 24 months.

Based on this information, the SBA is seeking comment on the termination of the class waiver for Furniture Frames and Parts, Metal, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 33725 and PSC 7195; Furniture, Factory-type (e.g. cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g. hospital beds, operating room furniture) Manufacturing under NAICS code 339113 and PSC 7195; and Furniture, Laboratory-type (e.g. benches, cabinets, stools, tables) Manufacturing under NAICS code 339113 and PSC 7195.

An awardee of a Federal small business set-aside contract valued over \$250,000.00, service-disabled veteran-owned small business contract, HUBZone contract, women-owned small business contract, or 8(a) contract must provide its own product or that of a small business manufacturer unless a waiver is in place. If the above-identified class waiver is terminated, small businesses will no longer be authorized to provide the product of any manufacturer regardless of size on the identified items, unless a Federal Contracting Officer obtains an individual waiver to the NMR.

Sections 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657, and SBA's implementing regulations require that recipients of Federal supply contracts (except those valued between \$3,500 and \$250,000) set aside for small business, service-disabled veteran-owned small business (SDVOSB), women-owned small business (WOSB), economically disadvantaged women-owned small business (EDWOSB), or participants in the SBA's 8(a)

Business Development (BD) program 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 (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.

In accordance with the SBA’s regulations at 13 CFR 121.1204(a)(7), SBA will periodically review existing class waivers to the NMR to determine whether small business manufacturers or processors have become available to participate in the Federal market. Upon receipt of information that such a small business manufacturer or processor exists, the SBA will announce its intent to terminate the NMR waiver for a class of products. 13 CFR 121.1204(a)(7)(ii). Unless public comment reveals no small business exists for the class of products in question, SBA will publish a Final Notice of Termination in the Federal Register.

On June 27, 2006, SBA issued a Notice of Intent to waive the NMR for Furniture Frames and Parts, Metal, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 33725 and PSC 7195; Furniture, Factory-type (e.g. cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g. hospital beds, operating room furniture) Manufacturing under NAICS code 339113 and PSC 7195; and Furniture, Laboratory-type (e.g. benches, cabinets, stools, tables) Manufacturing under NAICS code 339113 and PSC 7195. After the comment and notice period passed, SBA issued a class waiver for those products.

On October 6, 2019, SBA received a request to terminate the previously issued waiver. The requester provided information that established the existence of small business manufacturers of the identified products. These small businesses have submitted bids on Federal solicitations within the past 24 months. Thus SBA is proposing to terminate the class waiver for Furniture Frames and Parts, Metal, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 33725 and PSC 7195; Furniture, Factory-type (e.g. cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g. hospital beds, operating room furniture) Manufacturing under NAICS code 339113 and PSC 7195; and Furniture, Laboratory-type (e.g. benches, cabinets, stools, tables) Manufacturing under NAICS code 339113 and PSC 7195.

The public is invited to comment or provide source information on the proposed termination of the NMR waiver for these products. More information on the NMR and class waivers can be found at Nonmanufacturer rule ([sba.gov](https://www.sba.gov)).

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Acting Director, Office of Government Contracting.

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