

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

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## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

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

**ACTION:** Notice of Denial to Waive the Nonmanufacturer Rule for Eyeglass Frames.

**SUMMARY:** The U. S. Small Business Administration (SBA) is denying a request for a class waiver of the Nonmanufacturer Rule for Optical Eyeglass Frames, Product Service Code (PSC) 6540 (Ophthalmic Instruments, Equipment, and Supplies), under the North American Industry Classification System (NAICS) code 339115 (Ophthalmic Goods Manufacturing) based on SBA's discovery of one small business manufacturer. Denying this waiver will require recipients of Federal contracts set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses, Participants in SBA's 8(a) Business Development (BD) Program, or Women-Owned Small Business (WOSB) concerns to provide the products of small business manufacturers or processors on such contracts, unless an individual waiver in connection with a specific contract is requested and granted.

**DATES:** This action is effective August 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Garcia, Procurement Analyst, by telephone at (202) 205-6842; by FAX at (202) 481-1630; or by e-mail at [amy.garcia@sba.gov](mailto:amy.garcia@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal supply contracts set aside for small businesses, SDVO small businesses, Participants in the SBA's 8(a) BD Program, or WOSB concerns, 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), 125.15(c). Section 8(a)(17)(b)(iv) 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 submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. 13 CFR 121.1202(c). The SBA defines "class of products" based on the Office of Management and Budget's NAICS. In addition, SBA uses PSCs to further identify particular products within the NAICS code to which a waiver would apply. The SBA may then identify a specific item within a PSC and NAICS to which a class waiver would apply.

The SBA received a request on February 15, 2011, to waive the Nonmanufacturer Rule for Optical Eyeglass Frames, PSC 6540 (Ophthalmic Instruments, Equipment, and Supplies), under NAICS code 339115 (Ophthalmic Goods Manufacturing). In response, on April 27, 2011, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Optical Eyeglass Frames (76 FR 10106). SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to the April 27, 2011 notice, SBA received comments from a small business manufacturer indicating that it has furnished this product to the Federal government. Accordingly, based on the available information, SBA has determined that there are one or more small business manufacturers of this class of products, and, is therefore denying the class waiver of the Nonmanufacturer Rule for Optical Eyeglass Frames, PSC 6540 (Ophthalmic Instruments, Equipment, and Supplies), under NAICS code 339115 (Ophthalmic Goods Manufacturing).

**John W. Klein,**

*Acting Director, Office of Government Contracting.*

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## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

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

**ACTION:** Notice of Retraction of a Class Waiver

**SUMMARY:** The U.S. Small Business Administration (SBA) is terminating a waiver of the Nonmanufacturer Rule for Service Code (PSC) 9130, Liquid Propellants—Petroleum Base, under North American Industry Classification System (NAICS) code 324110 (Petroleum Refineries), based on SBA's discovery of small business manufacturers. Terminating this waiver will require recipients of Federal contracts set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses, Participants in SBA's 8(a) Business Development (BD) Program, or Women-Owned Small Business (WOSB) concerns to provide the products of small business manufacturers or processors on such contracts.

**DATES:** This action is effective August 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Garcia, Procurement Analyst, by telephone at (202) 205-6842; by Fax at (202) 481-1630; or by e-mail at [amy.garcia@sba.gov](mailto:amy.garcia@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal supply contracts set aside for small businesses, SDVO small businesses, Participants in the SBA's 8(a) BD Program, or WOSBs, 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), 125.15(c), 127.505. Section 8(a)(17)(b)(iv) 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 submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. 13 CFR 121.1202(c). The SBA defines "class of products" based on the Office of Management and Budget's NAICS. SBA also uses product service codes to further define a class of products with an industry.

On June 8, 2009, SBA granted a class waiver for liquid propellants-petroleum. 74 FR 27202. Liquid propellants-petroleum based are identified in NAICS code 324110 under PSC 9130. Soon after the class waiver was