

to requests for clarification from the Commission.

*Impact on the Price Cap.* The Postal Service proposes to treat the program, for purposes of the price cap, as if it were a negotiated service agreement subject to 39 CFR 3010.24. *Id.* at 8. The Postal Service signals its intent to ignore the net price decrease resulting from the program, and for purposes of the price cap, calculate revenues for the volumes as though they paid the appropriate non-discounted rates. *Id.* at 8; 39 CFR 3010.24(a). Therefore, the Postal Service makes no calculation of cap or price changes as described in 39 CFR 3010.14(b)(1) through (4). Notice at 8.

*Objectives and Factors, Workshare Discounts, and Preferred Rates.* The Postal Service lists the relevant objectives and factors of 39 U.S.C. 3622, and claims that the program supports several factors and is unlikely to impact the ability of Standard Mail (as a class) to cover its costs. *Id.* at 8–13. The Postal Service also asserts that, to the extent it affects workshare discounts, the program will shrink them, keeping discounts with a passthrough of 100 percent or less in compliance, and bringing passthroughs over 100 percent closer to compliance. *Id.* at 13. The Postal Service also indicates that Standard Mail letters and flats entered at nonprofit prices will be eligible for the same rebate, and since the rebate is a fixed percentage, the 60 percent differential between regular and nonprofit prices will remain unchanged. *Id.*

*Mail Classification Schedule (MCS) Language.* The Postal Service addresses 39 CFR 3010.14(b)(9) in Appendix A of its Notice. *Id.* at 1. This rule requires that the notice include all the changes to the product descriptions within the MCS that are necessitated by the planned price adjustments. These changes are presented based on draft MCS language being developed by the Commission in cooperation with the Postal Service. The draft MCS will be the subject of a future rulemaking, which will include the opportunity for public comment. The Postal Service provides the proposed MCS revisions in Appendix A.

### III. Commission Action

The Commission establishes Docket No. R2009–3 to consider all matters related to the Notice as required by 39 U.S.C. 3622. The Commission's rules provide for a 20 day comment period starting from the date of the filing of the Notice. See 39 CFR 3010.13(a)(5). Interested persons may express views and offer comments on whether the planned changes are consistent with the

policies of 39 U.S.C. 3622 and 39 CFR part 3010. Comments are due no later than May 21, 2009.

The Commission appoints Richard A. Oliver and Kenneth R. Moeller to represent the interests of the general public in this proceeding. See 39 U.S.C. 505. Pursuant to rule 3010.13(c), the Commission will issue its determination in this proceeding by June 4, 2009.

### IV. Ordering Paragraphs

*It is Ordered:*

1. The Commission establishes Docket No. R2009–3 to consider matters raised by the Postal Service's May 1, 2009 filing.

2. Interested persons may submit comments on the planned price adjustments. Comments are due May 21, 2009.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Richard A. Oliver and Kenneth R. Moeller to represent the interests of the general public in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this Notice in the **Federal Register**.

By the Commission.

**Steven W. Williams,**

*Secretary.*

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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 intent to waive the Nonmanufacturer Rule for Product Service Code (PSC) 9130—Liquid Propellants—Petroleum Base.

**SUMMARY:** The U. S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for PSC 9130—Liquid Propellants—Petroleum Base. According to a request, no small business manufacturers supply these classes of products to the Federal government. If granted, the waiver would allow otherwise qualified nonmanufacturer to supply the products of any manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses, or participants in the SBA's 8(a) Business Development Program.

**DATES:** Comments and source information must be submitted May 26, 2009.

**ADDRESSES:** You may submit comments and source information to Pamela M. McClam, Program Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Ms. Pamela M. McClam, by telephone at (202) 205–7408; by FAX at (202) 481–4783, or by e-mail at [Pamela.mcclam@sba.gov](mailto:Pamela.mcclam@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 provide that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or participants in the SBA's 8(a) Business Development 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), 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(1). The SBA defines "class of products" based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS). In addition, SBA uses product service codes to identify particular products within the NAICS code to which a waiver would apply.

The SBA is currently processing a request to waive the Nonmanufacturer Rule under NAICS code 324110, for Petroleum Refineries, PSC 9130—Liquid Propellants—Petroleum Base.

The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of products within 15 days after date of publication in the **Federal Register**.

**Karen C. Hontz,**

*Director for Government Contracting.*

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