

manufacturers to demonstrate compliance with the NO_x phase in requirements for engines above 75 horsepower and the PM phase in requirements for engines above 750 horsepower by certifying “split” engine families (*i.e.*, an engine family that is split into two equal-sized subfamilies, one that generates a number of credits and one that uses an equal number of credits). In order to facilitate compliance with the proposed standards, we are proposing that this option be available to all engine manufacturers (*i.e.*, both foreign and domestic manufacturers). Manufacturers would be allowed to certify split engine families with FELs no higher than the levels specified in Table VII.A–3. The maximum NO_x FEL values specified in Table VII.A–3 were set at the level which would result in NO_x ABT credits from engines above the Tier 4 standards offsetting ABT credits from engines below the previously applicable NMHC+NO_x standards, including the 20 percent discount for using NMHC+NO_x credits on Tier 4 engines. The maximum PM FEL value for engines above 750 horsepower was set at the level halfway between the Tier 2 and proposed Tier 4 PM standard for engines above 750 horsepower. Manufacturers certifying split engine families would exclude those engines from end of the year ABT calculations (and therefore would not need to determine actual U.S. sales of such engine families for ABT credit calculation purposes). Manufacturers certifying split engine families would also exclude those engines from the calculations demonstrating compliance with the phase-in percentage requirements as well.

TABLE VII.A–3.—MAXIMUM FEL FOR ENGINE FAMILIES CERTIFIED AS “SPLIT” ENGINE FAMILIES

Power category	Pollutant	Maximum FEL, g/bhp-hr
75 ≤ hp >175 (56 ≤ kW <130).	NO _x	^a 1.7
175 ≤ hp ≤750 (130 ≤ kW <560).	NO _x	1.5
hp >750 (kW >560).	NO _x	2.3
hp >750 (kW >560).	PM	0.08

Notes:

^aA limit of 2.5 g/bhp-hr would apply under the alternative, reduced phase-in requirement (see Section III.B.1. for a description of the proposed alternative).

We are proposing one additional restriction on the use of credits under the ABT program. For the proposed Tier 4 standards we are proposing that manufacturers may only use credits generated from other Tier 4 engines or from engines certified to the previous tier of standards (*i.e.*, Tier 2 for engines below 50 horsepower, Tier 3 for engines between 50 and 750 horsepower, and Tier 2 engines above 750 horsepower). (As discussed in more detail below, we are proposing slightly different restrictions on the use of previous tier credits for engines between 75 and 175 horsepower.) We currently have a similar provision that prohibits the use of Tier 1 credits to demonstrate Tier 3 compliance, and given the levels of the final Tier 4 standards being proposed today, we believe it is appropriate to apply a similar restriction. Otherwise, we would be concerned about the possibility that credits from engines certified to relatively high standards could be used to significantly delay the implementation of the final Tier 4 program and its benefits.

For reasons explained in Section III.B.1.b. of today’s notice, we are proposing unique phase-in requirements for engines between 75 and 175 horsepower in order to ensure appropriate lead time for these engines. Because of these unique phase-in provisions for engines between 75 and 175 horsepower, we are proposing slightly different provisions regarding the use of previous-tier credits. Under this proposal, manufacturers that choose to demonstrate compliance with the proposed phase-in requirements (*i.e.*, 50 percent in 2012 and 2013 and 100 percent in 2014) would be allowed to use Tier 2 NMHC+NO_x credits generated by engines above 50 horsepower (along with any other allowable credits) to demonstrate compliance with the Tier 4 standards for engines between 75 and 175 horsepower during model years 2012, 2013 and 2014 only. These Tier 2 credits would be subject to the power rating conversion already established in our ABT program, and to the 20% credit adjustment we are proposing for use of NMHC+NO_x credits as NO_x credits. Manufacturers that choose to demonstrate compliance with the optional reduced phase-in requirement for engines between 75 and 175 horsepower, would not be allowed to use Tier 2 credits generated by engines above 50 horsepower to demonstrate compliance with the Tier 4 standards. (Use of credits other than banked Tier 2 credits from engines above 50 horsepower would still be allowed, in

accordance with other ABT program provisions.) In addition, manufacturers choosing the reduced phase-in option would not be allowed to generate NO_x credits from engines in this power category in 2012, 2013, and the first 9 months of 2014, except for use in averaging within this power category (*i.e.*, no banking or trading, or averaging with engines in other power categories would be permitted). This restriction would apply throughout this period even if the reduced phase-in option is exercised during only a portion of this period. We believe that this restriction is important to avoid potential abuse of the added flexibility allowance, considering that larger engine categories will be required to demonstrate substantially greater compliance levels with the 0.30 g/bhp-hr NO_x standard several years earlier than engines built under this option.

Under this proposal, we are not proposing any averaging set restrictions for Tier 4 engines. An averaging set is a group of engines, defined by EPA in the regulations, within which manufacturers may use credits under the ABT program. In the current nonroad diesel ABT program, there are averaging set restrictions. The current averaging sets consist of engines less than 25 horsepower and engines greater than or equal to 25 horsepower. The restriction was adopted because of concerns over the ability of manufacturers to generate significant credits from the existing engines and use the credits to delay compliance with the newly adopted standards. (See 63 FR 56977.) We believe the proposed Tier 4 standards are sufficiently protective to limit the ability of manufacturers to generate significant credits from their current engines. In addition, we believe the proposed FEL caps provide sufficient assurance that low-emissions technologies will be introduced in a timely manner. Therefore, under this proposal, averaging would be allowed between all engine power categories without restriction effective with the Tier 4 standards. The averaging set restriction placed on credits generated from Tier 2 and Tier 3 engines would continue to apply if they are used to demonstrate compliance for Tier 4 engines.

As described in section III.B.1.d.i. of today’s notice, we are also proposing a separate PM standard for air-cooled, hand-startable, direct injection engines under 11 horsepower. In order to avoid potential abuse of this standard, engines certified under this proposed requirement would not be allowed to generate credits as part of the ABT program. Credit use by these engines