

made to obtain the advice and recommendations of representatives of those small entities, and a summary of the comments that have been received to date from those representatives. Once completed, the Panel report is provided to the agency issuing the proposed rule and included in the rulemaking record. The report provides the Panel and the

Agency with an opportunity to identify and explore potential ways of shaping the proposed rule to minimize the burden of the rule on small entities while achieving the rule's purposes and when consistent with Clean Air Act statutory requirements.

EPA has approached this process with care and diligence. To identify representatives of small businesses for

this process, we used the definitions provided by the Small Business Administration (SBA) for manufacturers of nonroad diesel engines and vehicles. The categories of small entities in the nonroad diesel sector that will potentially be affected by this rulemaking are defined in the following table:

Industry	Defined as small entity by SBA if:	Major SIC codes
Engine manufacturers	Less than 1,000 employees	Major Group 35.
Equipment manufacturers:		
—construction equipment	Less than 750 employees	Major Group 35.
—industrial truck manufacturers (<i>i.e.</i> , forklifts)	less than 750 employees	Major Group 35.
—all other nonroad equipment manufacturers	Less than 500 employees	Major Group 35.

One small engine manufacturer and 5 small equipment manufacturers agreed to serve as Small Entity Representatives (SERs) throughout the SBAR Panel process for this proposal. These companies represented the nonroad market well, as the group of SERs consisted of businesses that manufacture various types of nonroad diesel equipment.

The following are the provisions recommended by the SBAR Panel, including both the provisions that we, EPA, are proposing and those on which we are requesting comment. As described in section VII.B above, there are other provisions that apply to all equipment manufacturers; however, most of the discussion in this section is geared to small entities only. We request comment on all aspects of both the provisions recommended by the Panel and on those that we are proposing in today's action.

1. Nonroad Diesel Small Engine Manufacturers

a. Lead Time Transition Provisions for Small Engine Manufacturers

i. What the Panel Recommended

The transition provisions recommended by the SBAR Panel for engines produced or imported by small entities are listed below. For all of the provisions, the Panel recommended that small engine manufacturers and small importers must have certified engines in model year 2002 or earlier in order to take advantage of these provisions. Each manufacturer would be limited to 2,500 units per year as this number allows for some market growth. The Panel recommended these stipulations in order to prohibit the misuse of the transition provisions as a tool to enter the nonroad diesel market or to gain unfair market position relative to other manufacturers.

Currently, certified nonroad diesel engines produced by small manufacturers all have a horsepower rating of 80 or less. The transition provisions that the Panel considered were dependent upon what approach, or approaches, were proposed for the rulemaking.

- For an approach with two phases of standards:

- An engine manufacturer could skip the first phase and comply on time with the second; or,

- A manufacturer could delay compliance with each phase of standards for three years.

- For an approach that entails only one phase of standards, the manufacturer could opt to delay compliance. It was recommended that the length of the delay be three years; however the Panel suggested that we request comment on whether this delay period should be two, three, or four years. Each delay would be pollutant specific (*i.e.*, the delay would apply to each pollutant as it is phased in).

The Panel believed that these options could offer an opportunity to reduce the burden on small manufacturers while at the same time meet the regulatory goals of the Agency. The Panel further believed that these options would not put small manufacturers at a significant disadvantage as they would be in compliance with the Tier 4 standards in the long run and the options would give them more lead time to comply. The Panel also felt that a complete exemption from the upcoming standards (even assuming that such an exemption could be justified legally) would put these manufacturers at a competitive disadvantage as the rest of the market would be producing compliant engines and eventually there would not be equipment designed to accommodate their engines.

ii. What EPA is Proposing

Due to the structure of the standards and their timing as discussed in Section III, EPA is proposing transition provisions for small engine manufacturers which encompass both approaches recommended by the Panel, with the inclusion of the 2,500 unit limit (as suggested by the Panel) for each manufacturer.

- First, with regard to PM:

- Engines under 25 hp and those between 75 and 175 hp have only one standard so the manufacturer could delay compliance with these standards for up to three years. Based on available data, we believe that there are no small manufacturers of nonroad diesel engines above 175 hp.

- For engines between 50 and 75 hp, EPA is proposing a one phase program with the option to delay compliance for one year if interim standards are met. For this power category we are treating the PM standard as a two phase standard with the stipulation that small manufacturers cannot use PM credits to meet the interim standard. Furthermore, if a small manufacturer elects the optional approach to the standard (elects to skip the interim standard), no further relief will be provided.

- Second, with regard to NO_x:

- There is no change in the NO_x standard for engines under 25 hp and those between 50 and 75 hp. For these two power bands EPA is proposing no special provisions.

- For engines in the 25–50 hp and the 75–175 hp categories we are proposing a three year delay in the program consistent with the one-phase approach recommendation above. Based on available data, we believe that there are no small manufacturers of nonroad diesel engines above 175 hp.

b. Hardship Provisions for Small Engine Manufacturers

i. What the Panel Recommended