

Industry	Defined as small entity by SBA if:	Major SIC ^a 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.
Fuel refiners	Less than 1500 ^b	2911.
Fuel distributors	(varies)	(varies).

Notes:^a Standard Industrial Classification^b EPA has included in past fuels rulemakings a provision that, in order to qualify for the small refiner flexibilities, a refiner must also have a company-wide crude refining capacity of no greater than 155,000 barrels per calendar day. EPA has included this criterion in the small refiner definition for a nonroad diesel sulfur program as well.**2. Background**

Controlling emissions from nonroad engines and equipment, in conjunction with diesel fuel quality controls, has very significant public health and welfare benefits, as explained in Section II of this preamble. We are proposing new engine standards and related provisions under sections 213(a)(3) and (4) of the Clean Air Act which, among other things, direct us to establish (and from time to time revise) emission standards for new nonroad diesel engines. Similarly, section 211(c)(1) authorizes EPA to regulate fuels if any emission product of the fuel causes or contributes to air pollution that may endanger public health or welfare, or that may impair the performance of emission control technology on engines and vehicles.

In accordance with Section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) that examines the impact of the proposed rule on small entities along with regulatory alternatives that could reduce that impact. The IRFA is available for review as part of the draft RIA for the rule. This is available in the public docket and is summarized below.

3. Summary of Regulated Small Entities

The following section discusses the small entities directly regulated by this proposed rule.

a. Nonroad Diesel Engine Manufacturers

Using information from the industry profile that was conducted for the nonroad diesel sector, EPA identified a total of 61 engine manufacturers. The top 10 engine manufacturers comprise 80 percent of the total market, while the other 51 companies make up the remaining 20 percent.³⁴⁵ Of the 61 manufacturers, four fit the SBA definition of a small entity. These four manufacturers were Anadolu Motors, Farymann Diesel GMBH, Lister-Petter Group, and V & L Tools (parent

company of Wisconsin Motors LLC, formerly “Wis-Con Total Power”). These businesses comprise 8 percent of the total engine sales for the year 2000.

b. Nonroad Diesel Equipment Manufacturers

To determine the number of equipment manufacturers, EPA also used the industry profile that was conducted. From this, EPA identified over 700 manufacturers with sales and/or employment data that could be included in the screening analysis. These businesses included manufacturers in the construction, agricultural, and outdoor power equipment (mainly, lawn and garden equipment) sectors of the nonroad diesel market. The equipment produced by these manufacturers ranged from small walk-behind equipment (sub-25 hp engines) to large mining and construction equipment (using engines in excess of 750 hp). Of the manufacturers with available sales and employment data (approximately 500 manufacturers), small equipment manufacturers represent 68 percent of total equipment manufacturers (and these manufacturers account for 11 percent of nonroad diesel equipment industry sales). Thus, the majority of the small entities that could potentially experience a significant impact as a result of this rulemaking are in the nonroad equipment manufacturing sector.

c. Nonroad Diesel Fuel Refiners

Our current assessment is that 26 refiners (collectively owning 33 refineries) meet SBA’s definition of a small business for the refining industry. The 33 refineries appear to meet both the employee number and production volume criteria mentioned above. These small refiners currently produce approximately 6 percent of the total high-sulfur diesel fuel. It should be noted that because of the dynamics in the refining industry (*e.g.*, mergers and acquisitions), the actual number of refiners that ultimately qualify for small

refiner status under a future nonroad diesel sulfur program could be different than this initial estimate.

d. Nonroad Diesel Fuel Distributors and Marketers

The industry that transports, distributes, and markets nonroad diesel fuel encompasses a wide range of businesses, including bulk terminals, bulk plants, fuel oil dealers, and diesel fuel trucking operations, and totals thousands of entities that have some role in this activity. More than 90 percent of these entities would meet small entity criteria. Common carrier pipeline companies are also a part of the distribution system; 10 of them are small businesses.

4. Potential Reporting, Recordkeeping, and Compliance

As with any emission control program, the Agency must have the assurance that the regulated entities will meet the emissions standards and all related provisions. For engine and equipment manufacturers, EPA is proposing to continue the reporting, recordkeeping, and compliance requirements prescribed for these categories in 40 CFR part 89. Key among these are certification requirements and provisions related to reporting of production, emissions information, use of transition provisions, etc.

For any fuel control program, EPA must have the assurance that fuel produced by refiners meets the applicable standard, and that the fuel continues to meet the standard as it passes downstream through the distribution system to the ultimate end user. This is particularly important in the case of diesel fuel, where the aftertreatment technologies expected to be used to meet the engine standards under consideration are highly sensitive to sulfur. The recordkeeping, reporting and compliance provisions of the proposed rule are fairly consistent with those in place today for other fuel programs, including the current 15 ppm highway diesel regulation. For example,

³⁴⁵ All sales information used for this analysis was 2000 data.