

## **Chapter 10: Small Business Flexibility Analysis**

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute. This requirement does not apply if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The following discussion provides an overview of small entities in the heavy duty vehicle and engine market. Small entities include small businesses, small organizations, and small governmental jurisdictions. For the purposes of assessing the impacts of the rule on small entities, a small entity is defined as: (1) a small business that meets the definition for business based on the Small Business Administration's (SBA) size standards (see **Error! Reference source not found.** Table 10-1); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Table 0-1 provides an overview of the primary SBA small business categories potentially affected by this regulation.

**Table 0-1**

|  | NAICS CODES <sup>1</sup> | DEFINED BY SBA AS A SMALL BUSINESS IF LESS THAN OR EQUAL TO: <sup>2</sup> |
|--|--------------------------|---|
| Engine Equipment Manufacturer                | 333618                   | 1,000 employees   |
| Automobile Manufacturer                      | 336111                   | 1,000 employees   |
| Light Truck and Utility Vehicle Manufacturer | 336112                   | 1,000 employees   |
| Heavy-Duty Truck Manufacturer                | 336120                   | 1,000 employees   |
| Motor Vehicle Body Manufacturing             | 336211                   | 1,000 employees   |

We compiled a list of engine manufacturers, vehicle manufacturers, and body manufacturers that would be potentially affected by the rule from the EPA database for engine certification, Ward's Automotive Database, and the M.J. Bradley's Heavy Duty Vehicle Market Analysis. We then identified companies that appear to meet the definition of small business provided in the table above based on the number of employees based on company information included in Hoover's. Based on this assessment, the agencies identified the following:

- two tractor manufacturers<sup>3</sup> which comprise less than 0.5 percent of the total heavy-duty combination tractors in the U.S. based on Polk Registration Data from 2003 through 2007;<sup>4</sup>

## Regulatory Impact Analysis

---

- ten chassis manufacturers<sup>5</sup> less than 0.5 percent of the total heavy-duty combination tractors in the U.S. based on Polk Registration Data from 2003 through 2007;<sup>6</sup> and
- three heavy duty engine manufacturers<sup>7</sup> which comprise less than 0.1 percent of total heavy-duty engine based on 2008 and 2009 model year engine certification data submitted to EPA for non-GHG emissions standards.

The proposed exemption from the standards established under this proposal would have a negligible impact on the GHG emissions and fuel consumption reductions otherwise due to the standards.

EPA has not conducted an Initial Regulatory Flexibility Analysis for this proposed rulemaking because we are certifying that the rule would not have a significant economic impact on a substantial number of small entities. EPA is exempting manufacturers, domestic and foreign, meeting SBA's size definitions of small business as described in 13 CFR § 121.201. EPA will instead consider appropriate GHG standards for these entities as part of a future regulatory action.

To ensure that EPA and NHTSA are aware of which companies would be exempt, the agencies propose to require that such entities submit a declaration to EPA containing a detailed written description of how that manufacturer qualifies as a small entity under the provisions of 13 CFR § 121.201.

## **References**

<sup>1</sup> North American Industry Classification System

<sup>2</sup> According to SBA's regulations (13 CFR Part 121), businesses with no more than the listed number of employees or dollars in annual receipts are considered "small entities" for RFA purposes.

<sup>3</sup> The agencies have identified Ottawa Truck, Inc. and Kalmar Industries USA as two potential small tractor manufacturers

<sup>4</sup> M.J. Bradley. Heavy Duty Vehicle Market Analysis. May 2009.

<sup>5</sup> The agencies have identified Lodal, Indiana Phoenix, Autocar LLC, HME, Giradin, Azure Dynamics, DesignLine International, Ebus, Krystal Koach, and Millenium Transit Services LLC as potential small business chassis manufacturers.

<sup>6</sup> M.J. Bradley. Heavy Duty Vehicle Market Analysis. May 2009.

<sup>7</sup> The agencies have identified Baytech Corporation, Clean Fuels USA, and BAF Technologies, Inc. as three potential small businesses