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Small Entity Compliance Guide for "Control of Hazardous Air Pollutants From Mobile Sources"

(40 CFR Parts 59, 80, 85, and 86, February 26, 2007)

Assessment and Standards Division
Office of Transportation and Air Quality
U.S. Environmental Protection Agency

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NOTICE

This guide was prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), Public Law 104-121. The statements in this document are intended solely to aid regulated entities in complying with the published national regulation "Control of Hazardous Air Pollutants From Mobile Sources" (40 CFR Parts 59, 80, 85, and 86, February 26, 2007).

Final authority rests with the regulation and this guide is not intended to replace, and may not cover all parts of, the regulation. However, in any civil or administrative action against a small business, small government, or small non-profit organization for violation of any parts of the aforementioned regulation, the content of this guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties, or damages. EPA may decide to revise this guide without public notice to reflect changes in EPA's approach to implementing "Control of Hazardous Air Pollutants From Mobile Sources" requirements or to clarify and update text. To determine whether EPA has revised this guide and/or to obtain copies, contact EPA's Chris Lieske at (734) 214-4584, lieske.christopher@epa.gov; Bryan Manning at (734) 214-4832, manning.bryan@epa.gov; or Tia Sutton at (734) 214-4018, sutton.tia@epa.gov.

Acronyms used throughout this guide:

§	Section
§§	Sections
ABT	Averaging, banking, and trading
CAA	Clean Air Act
CFR	Code of Federal Regulations
CG	Conventional Gasoline
DOE	Department of Energy
EIA	Energy Information Administration
EPA	Environmental Protection Agency
FR	Federal Register
LDV	Light Duty Vehicle
MSAT	Mobile Source Air Toxics
NAICS	North American Industry Classification System
NOx	Oxides of Nitrogen
PADD	Petroleum Administration Districts for Defense
Panel	(*see SBAR Panel*)
PFC	Portable Fuel Container
PM	Particulate Matter
ppm	Parts per million
RFA	Regulatory Flexibility Act
RFG	Reformulated Gasoline
SBA	Small Business Administration
SBAR Panel	Small Business Advocacy Review Panel, or Panel
SBREFA	Small Business Regulatory Enforcement Fairness Act
SER	Small Entity Representative
SIC	Standard Industrial Classification
USC	United States Code
VOC	Volatile Organic Compounds

1.0 Introduction

This document is published by the Environmental Protection Agency (EPA) as our official compliance guide for small entities, as required by the Small Business Regulatory Enforcement Fairness Act of 1996. Before you begin using the guide you should know that the information in this guide was compiled and published on February 26, 2007. EPA is continually improving and upgrading its rules, policies, compliance programs, and outreach efforts. You can determine whether EPA has revised or supplemented the information in this guide by checking the Mobile Source Air Toxics web page (www.epa.gov/otaq/toxics.htm) for the rule, any technical amendments, and related information.

Mobile source air toxics (MSATs) are compounds emitted from highway vehicles and nonroad equipment which are known or suspected to cause cancer or other serious health and environmental effects. Benzene is of particular concern because it is a known carcinogen and most of the nation's benzene emissions come from mobile sources. Under the Clean Air Act, EPA is required to set standards to control hazardous air pollutants from motor vehicles, motor vehicle fuels, or both. EPA published a rule in March 2001 that established toxics emissions performance standards for gasoline refiners and committed to an additional rulemaking to evaluate the need for and feasibility of additional controls; the 2007 final rule fulfills that commitment. In addition, the rule contains emission standards for portable fuel containers (such as gas cans) under the consumer products authority of the Clean Air Act.

The new fuel benzene standard and hydrocarbon standards for vehicles and portable fuel containers will together reduce total emissions of mobile source air toxics by 330,000 tons in 2030, including 61,000 tons of benzene. As a result of this rule, new passenger vehicles will emit 45 percent less benzene, gas cans will emit 78 percent less benzene, and gasoline will have 38 percent less benzene overall. In addition, the hydrocarbon reductions from the vehicle and portable fuel container standards will reduce volatile organic compound (VOC) emissions (which are precursors to ozone and can be precursors to PM2.5) by over 1 million tons in 2030. The vehicle standards will reduce direct PM2.5 emissions by 19,000 tons in 2030 and may also reduce secondary formation of PM2.5. Once the regulation is fully implemented, the Agency estimates these PM reductions will result in the avoidance of nearly 900 premature deaths annually.

The additional cost of producing gasoline to comply with the new benzene standard is expected to average $0.0027 per gallon. This per-gallon cost would result from an average of $14 million in capital investment in each refinery that adds equipment to reduce gasoline benzene levels. We estimate that the additional cost to manufacturers will be less than $1 per vehicle. The costs will be associated with vehicle research and development and recalibration, as well as facilities upgrades to handle additional development testing under cold conditions. We are not anticipating additional costs for

the new vehicle evaporative emissions standard since manufacturers will likely continue to produce 50-state evaporative systems that meet California's standards. The average additional cost of producing portable fuel containers that comply with the new standards will be less than $2 per can. The reduced evaporation from containers will result in gasoline savings over the life of the container that will more than offset the increased cost for the container.

If you are a small entity for this rule (you meet the small business size criteria and/or have been approved by the EPA as a "small refiner"), we encourage you to continue to contact EPA if you should have any further questions or concerns (see contact information in section 7 below).

1.1 Who should use this guide?

This guide is mainly for those entities that qualify as small entities under the small business size standards as stated in the rulemaking. If you are not sure whether or not you are a small entity, please refer to section 2 of this guide for the criteria.

The Small Business Regulatory Enforcement Act (SBREFA) requires EPA to prepare Small Entity Compliance Guides to help small businesses comply with the regulation. The regulation has regulatory flexibility provisions specific to small entities in the light-duty vehicle manufacturing, gasoline fuel refining, and portable fuel container manufacturing industries; this guide should help to clarify those provisions.

1.2 How can I obtain a complete copy of the rule?

A complete copy of the rule can be found in the Federal Register, Vol. 72, No. 37, p. 8428 (published on February 26, 2007). The rule is also located on the MSAT home page: www.epa.gov/otaq/toxics.htm.

1.3 How do I use this guide?

The guide is organized as follows:

1. Introduction and general information
2. Description of entities that are subject to the rule; criteria for qualifying as a small entity
3. Overview of the regulatory requirements
4. Detailed information for small gasoline light-duty vehicle manufacturers
5. Detailed information for small refiners
6. Detailed information for small portable fuel container manufacturers
7. Contact information for further assistance

2.0 Entities Subject to the Rule

2.1 Entities subject to the MSAT regulations

Table 1, below, lists the NAICS codes of those entities subject to/directly affected by the rule:

Table 1.
NAICS Codes

Industry	NAICS [a] Codes
Light-duty vehicles: - vehicle manufacturers (including small volume manufacturers) - independent commercial importers - alternative fuel vehicle converters	 336111 811111, 811112, 811198 424720, 335312, 811198
Gasoline fuel refiners	324110
Portable Fuel Container Manufacturers: - plastic container manufacturers - metal fuel container manufacturers	 326199 332431

a- NAICS = North American Industrial Classification System

2.2 Criteria for qualification as a small entity

Who is eligible?

During the rule development, several companies were identified that appear to qualify under the applicable Small Business Administration (SBA) definition of a small entity. In addition, this rule may impact diesel fuel carriers, distributors, and marketers - of which several thousand appear to be small businesses. Table 2 below lists the small business size standards SBA has established for each type of economic activity under each NAICS code.

Only those that meet the criteria in Table 2 may qualify as small entities under this rule. In addition to the information in the table, sections 2.2.1-2.2.3 discuss the small entity qualification criteria in more detail (including the additional criteria that entities eligible for MSAT small refiner relief must also demonstrate, in section 2.2.2).

Table 2. Small Business Size Standards		
Industry	**NAICS Codes**	**Defined by SBA as Small Business if:**
Light-duty vehicles: - vehicle manufacturers (including small volume manufacturers) - independent commercial importers - alternative fuel vehicle converters	336111 811111, 811112, 811198 424720 335312 811198	1,000 employees $6.5 million annual sales 100 employees 1,000 employees $6.5 million annual sales
Gasoline fuel refiners	324110	≤ 1500 employees corporate-wide
Portable Fuel Container Manufacturers: - plastic container manufacturers - metal fuel container manufacturers	 326199 332431	 500 employees 1,000 employees

2.2.1 Gasoline light-duty vehicles qualification criteria

Who is eligible?

Eligibility is determined by the number criteria in Table 2 Small Business Size Standards.

Who is not eligible?

The following are **not** eligible for consideration as a small business under the rule:

- entities that are **not** required to obtain a certificate of conformity for vehicles;
- entities who qualify as small vehicle businesses but subsequently have more than the maximum employees or annual sales revenue listed in Table 2 as a result of merger with, or acquisition of, another entity.

How do I determine the total number of employees?

The total number of employees is the sum of employees from all subsidiary, parent, and any joint venture companies. We define a parent company as any company (or companies) with controlling ownership interest, and a subsidiary of a company as any company in which the company or its parent(s) has a controlling ownership interest.

I believe that I meet the definition, however I am not already an approved small vehicle entity with EPA; how do I apply?

A company that would like to apply for small entity status will need to apply to EPA (similar to all manufacturers) through the EPA's Verify Engine and Vehicle Compliance Computer System, which collects emissions and fuel economy compliance information for all types of vehicles, or by contacting EPA's Compliance and Innovative Strategies Division (CISD). The Verify System is used by engine and vehicle manufacturers to report this information to EPA, and its website is located at http://www.epa.gov/otaq/verify/index.htm. To contact CISD staff, call (734) 214-4516 and indicate whether or not you are a new vehicle manufacturer. The appropriate CISD staff will then be identified, and they will assist you in the application process. The small business criteria are summarized in Table 2.

Where do I send my application?

As indicated earlier, we recommend that you utilize the Verify System or contact EPA's CISD staff to process an application for small entity status. If you still need to send an item to EPA, please use one of the addresses below:

*For **U.S. Postal delivery**:*	*For **commercial delivery**:*
Attn: CISD U.S. Environmental Protection Agency 2000 Traverwood Drive Ann Arbor, MI 48105	Attn: CISD 734-214-4516 U.S. Environmental Protection Agency 2000 Traverwood Drive Ann Arbor, MI 48105

2.2.2 Small refiner qualification criteria

Who is eligible?

In addition to the information in Table 2, to receive small refiner relief under the MSAT program, a refiner must also demonstrate that it meets the following criteria:

- Produced gasoline from crude during calendar year 2005;
- had no more than 1,500 employees, based on the average number of employees for all pay periods from January 1, 2005 through December 31, 2005[1]; and,

[1] As with earlier fuels programs, the effective dates for the determination of employee count and for calculation of the crude capacity represent the most recent complete year prior to the issuing of the proposed rulemaking (2005, in this case).

- had an average crude oil capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 2005; and,
- owned and operated the refinery during the period from January 1, 2005 through December 31, 2005.

For refiners who acquired or reactivated a refinery that was shutdown or was non-operational between January 1, 2005 through December 31 2005, eligibility will be judged under the employment and crude oil capacity criteria based on the most recent 12 consecutive months of data unless we conclude from the data provided by the refiner that another period of time is more appropriate.

Who is not eligible?

The following are **not** eligible for consideration as a small business under the rule:
- entities that do not own or operate a refinery;
- entities that do not produce gasoline from crude;
- refiners of refineries built or started up after January 1, 2005; and,
- refiners who qualify as small refiners and who subsequently employ more than 1500 people as a result of merger[2] with, or acquisition of, another entity.

How do I determine the total number of employees/crude oil capacity?

In determining its total number of employees and crude oil capacity, a refiner must include the number of employees and crude oil capacity of any subsidiary companies, any parent company and subsidiaries of the parent company, and any joint venture partners. We define a parent company as any company (or companies) with controlling ownership interest, and a subsidiary of a company as any company in which the refiner or its parent(s) has a controlling ownership interest.

However, refiners owned and controlled by an Alaska Regional or Village Corporation organized under the Alaska Native Claims Settlement Act (43 U.S.C. 1626), are also eligible for small refiner status, based only on the refiner's employees and crude oil capacity.

I believe that I meet the definition, however I am not already an approved small refiner with EPA; how do I apply?

A refiner that would like to apply for small refiner status must apply to EPA by December 31, 2007. The detailed requirements are located in section VI.A.3.a.ii of the

[2] However, small refiners that merge with another small refiner (and thus do not combine crude oil processing capacities or gain any financial advantage) may retain their status as a small refiner.

preamble to the final rule and §§80.1338 and 80.1340 of the regulations. The criteria are summarized in Table 3, below.

☛ **NOTE:** **<u>All</u> refiners that believe that they may meet the criteria for small refiner status <u>must</u> submit an application for small refiner status, even if you have been approved as a small refiner for a previous fuel program. Fuel programs in the past have allowed a 'grandfather' provision, where refiners that qualified as a small entity for a previous program would not have to reapply for small refiner status for any subsequent fuel program. However, no such provision has been included in the MSAT rule. <u>Therefore, all potential small refiners (whether approved under a previous fuel program or not) are required to submit applications.</u>**

Table 3.
Criteria for Small Refiner Applications

	• The total corporate crude oil capacity- this must be a positive number- of each refinery as reported to the Energy Information Administration (EIA) of the U.S. Department of Energy (DOE) for calendar year 2005. We will presume that the information submitted to EIA is correct. (In cases where a company disagrees with this information, the company may petition EPA with appropriate data to correct the record when the company submits its application for small refiner status. EPA may accept such alternate data at its discretion.)
	• A letter signed by the president, chief operating officer, or chief executive officer of the company (or a designee) stating that the information contained in the application is true to the best of his/her knowledge.
	Contact information for a corporate contact person, including: • Name • Mailing address • Phone and fax numbers • E-mail address
	• Listing of each company facility and each facility's address where any employee worked during the 12 months preceding January 1, 2006. (In the case of a refiner who acquires or reactivates a refinery that was shutdown or non-operational between January 1, 2005, and January 1, 2006, this listing should state the where employees worked since the refiner acquired/reactivated the refinery.) • Average number of employees at each location based upon the number of employees for each pay period for the 12 months preceding January 1, 2006. (In the case of a refiner who acquires or reactivates a refinery that was shutdown or non-operational between January 1, 2005, and January 1, 2006, the average number of employees at each location should be for each calendar year since the refiner acquired/reactivated the refinery.) • The type of business activities carried out at each facility.
	• An indication of the small refiner option(s) the refiner intends to use (for each refinery)

	Additional 'special case' provisions: • For joint ventures, the total number of employees includes the combined employee count of all corporate entities in the venture. • For government-owned refiners, the total employee count includes all government employees.
NOTE: *Applications for small refiner status must contain the information listed above for the company seeking small refiner status, plus any subsidiary companies, any parent company and subsidiaries of the parent company in which the parent has a controlling interest, and any joint venture partners.*	

Applications do not need to be in a specific format. They simply need to convey the required application information listed a clear and concise manner. Approval of MSAT small refiner status will be based on such information. EPA will notify refiners of approval or disapproval of small refiner status by letter. If a refiner is not approved for small refiner status, the refiner must comply with the general program benzene standards.

Where do I send my application?

Applications for small refiner status must be sent to one of the following addresses:

*For **U.S. Postal delivery**:*	*For **commercial delivery**:*
Attn: MSAT2 Benzene Mail Stop 6406J U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW. Washington, DC 20460	MSAT2 Benzene 202-343-9038 U.S Environmental Protection Agency 1310 L Street, NW. Washington, DC 20005

How does a small refiner apply for a benzene baseline?

☛ **NOTE: To generate benzene credits or use the small refiner provisions, a refiner must apply for a benzene baseline.**

The gasoline benzene baseline is calculated using the following equation (from §80.1280 of the regulations):

$$B_{Base} = \frac{\sum_{i=1}^{n} (V_i \times B_i)}{\sum_{i=1}^{n} V_i}$$

Where:

B_{Base} = Benzene baseline concentration (volume percent benzene)
i = Individual batch of gasoline Volume of NRLM diesel fuel batch i
n = Total number of batches of NRLM diesel fuel produced for U.S. use during January 1, 2003 through December 31, 2005 (or the total number of batches of gasoline pursuant to § 80.1285(d))
V_i = Volume of gasoline in batch i (gallons)
B_i = Benzene content of batch i (volume percent benzene)

Table 4 below lists all required information for baseline applications (which must be submitted for each refinery/import facility). Benzene applications must be submitted at least 60 days before the first averaging period that a refinery plans to generate early credits.

Table. 4
Requirements for Refinery Baseline Applications

	• A listing of the names and addresses of all refineries or import facilities owned by the company
	• The benzene baseline for gasoline produced in 2004-2005 at the refinery, calculated in accordance with the equation in §80.1280 (which is shown above) • Copies of the annual reports required under §80.75 (for RFG) and §80.105 (for conventional gasoline)
	• A letter signed by the president, chief operating officer, chief executive officer, or his/her designee stating that the information contained in the application is true to the best of his/her knowledge
	• Name, address, phone and fax numbers, and e-mail address of a corporate contact person
	• Any other additional appropriate information as requested by EPA

Baseline applications must be sent to one of the following addresses:

For U.S Postal delivery: Attn: MSAT2 Benzene Mail Stop 6406J U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW. Washington, DC 20460	**For commercial delivery:** Attn: MSAT2 Benzene 202-343-9038 U.S. Environmental Protection Agency 1310 L Street, NW Washington, DC 20005

Loss of small refiner status

Refiners that no longer meet the criteria for small refiner status may lose their status as a small refiner, and thus will be subject to the general program requirements. These instances are:

- **Acquisitions**

» Refinery owned by small refiner being purchased by 'large' refiner. A small refinery that is acquired by a 'non-small' refiner will cause the newly acquired refinery to lose its status as a small refinery. However, since the acquired refinery was most likely previously subject to the small refiner standards, we feel that it is necessary for there to be some additional time afforded to the purchasing refiner to bring the acquired refinery into compliance with the larger program standards. Therefore, we are allowing a period of 30 months[3] from the purchase date for the purchasing refiner to bring the previously small refinery into compliance.

In the instance of any sort of technical hardship, we have also provided a provision in the rule for refiners to apply for up to six months of additional lead time[4]. Such requests should be provided to EPA in a timely manner and will be considered on a case-by-case basis.

» Small refiner purchasing another refinery (owned by either a small or non-small) refiner. If such a transaction causes the refiner's total employee count and/or crude capacity to exceed the small refiner criteria, then the refiner will lose its small refiner status (and likewise, the newly acquired small refinery will also lose its status as a small refiner).

However, a small refiner that exceeds the small refiner employee count or crude capacity by normal business practice, and not through merger or acquisition, may retain its small refiner status for the MSAT2 program.

- **Mergers**

» The merger of a small refiner with a non-small refiner. A small refiner merging with a non-small refiner is similar to the case of acquisition by a non-small refiner, and thus we are also affording the 30 months lead time in these situations, as the small refiner would lose its status as a small in this situation.

☛ **NOTE:** In the case of a merger of two small refiners/refineries, status as a small refiner will remain in place for both parties. During discussions with small refiners, it was brought to our attention that the merging of two small refiners would not provide any financial benefit to either refiner, and the original compliance plans of both refiners would not be affected by the merger. Therefore, in the case of a merger of two small refiners, each refiner (and thus, their respective refineries) may retain its status as a small refiner.

[3] In no case shall this 30-month period extend beyond December 31, 2014.
[4] Again, this six-month extension cannot extend beyond December 31. 2014.

2.2.3 Small portable fuel container manufacturer qualification criteria

Who is eligible?

Eligibility as a small entity is determined by the number criteria in Table 2 Small Business Size Standards. However, since the regulatory flexibility provisions are the same for all portable fuel container manufacturers, small entities do not need to apply and/or be approved as a small entity to use the provisions.

3.0 What Does the Regulation Require?

3.1 Requirements for gasoline light-duty vehicle manufacturers

3.1.1 General program requirements

EPA is adopting new standards to reduce non-methane hydrocarbon (NMHC) exhaust emissions from new gasoline-fueled passenger vehicles. NMHCs include many mobile source air toxics, such as benzene. Recent research indicates that the current test procedures often do not result in robust control of NMHCs at colder temperatures below 75° F. Therefore, we are requiring that passenger vehicles meet new NMHC exhaust emissions standards at colder temperatures. As shown in Table 5, each manufacturer's vehicles will be subject to a sales-weighted fleet average NMHC level of 0.3 grams/mile for lighter vehicles weighing 6,000 pounds (lbs) or less. Vehicles above 6,000 lbs (which include trucks up to 8,500 lbs and passenger vehicles up to 10,000 lbs) must meet a sales-weighted fleet average NMHC level of 0.5 grams/mile. The standards phase in between 2010 and 2013 for the lighter vehicles, and between 2012 and 2015 for the heavier vehicles. A credit program and other provisions provide flexibility to manufacturers, especially during the phase-in periods.

Table 5 - Cold Temperature NMHC Standard and Phase-In Schedule

Vehicle Weight Class (GVWR)[A]	NMHC Emission Level (grams/mile)	Phase-In Schedule[B] (percent)					
		2010	2011	2012	2013	2014	2015
≤ 6000 lbs	0.3	25	50	75	100		
> 6000 lbs to 8500 lbs plus passenger vehicles up to 10,000 lbs	0.5			25	50	75	100

A Gross Vehicle Weight Rating

B Percent of each manufacturer's fleet, by model year, that must comply with the standard.

Along with the vehicle exhaust standards, we are also adopting more stringent evaporative emission standards for new passenger vehicles. The new standards are equivalent to California's standards and codify the approach that manufacturers are already taking for 50-state evaporative systems. We are implementing the evaporative emission standards in 2009 for lighter vehicles and in 2010 for the heavier vehicles.

3.1.2 Small gasoline light-duty vehicle manufacturer requirements

We analyzed the potential impacts of these requirements on small entities. As a part of this analysis, we convened a Small Business Advocacy Review Panel (SBAR Panel, or 'the Panel' for the SBREFA process). During the Panel process, we gathered information and recommendations from Small Entity Representatives (SERs) on how to reduce the impact of the rule on small entities. Based on these comments, we

proposed lead time transition and hardship (or flexibility) provisions that will be applicable to small volume manufacturers as described below in section 4.

In addition to the major vehicle manufacturers, three distinct categories of businesses relating to highway light-duty vehicles will be covered by the new vehicle standards: small volume manufacturers (SVMs), independent commercial importers (ICIs),[5] and alternative fuel vehicle converters.[6] We define small volume manufacturers as those with total U.S. sales less than 15,000 vehicles per year, and this status allows vehicle models to be certified under a slightly simpler certification process. For certification purposes, SVMs include ICIs and alternative fuel vehicle converters since they sell less than 15,000 vehicles per year. Since a majority of the SVMs are small businesses and all SVMs have similar characteristics, the Panel recommended that we apply the lead time transition and hardship provisions to all SVMs.

3.2 Requirements for gasoline refiners

3.2.1 General program requirements

The MSAT2 gasoline benzene control program contains both a benzene content standard and an upper limit benzene standard. Refiners and importers must meet an annual average benzene standard of 0.62 volume percent (vol%) beginning January 1, 2011 for all reformulated gasoline (RFG) and conventional gasoline (CG). The MSAT2 program includes an averaging, banking, and trading (ABT) program of indefinite duration—credits may be used indefinitely to meet the 0.62 vol% annual average standard. Refiners and importers must also meet a 1.3 vol% refinery maximum average benzene standard beginning July 1, 2012. This standard requires that the annual average benzene level produced by each refinery must be less than or equal to 1.3 vol%. ABT credits cannot be used to meet the 1.3 vol% maximum average standard.

The ABT program allows refiners and importers to generate credits either for early compliance (prior to 2011) or for over-compliance with the 0.62 vol% annual average benzene standard in 2011 and beyond. Further, refiners and importers may also generate early credits for making qualified reductions earlier than required by the MSAT2 program. Again, these credits can be used to meet the 0.62 vol% annual average standard, but may not be used to meet the 1.3 vol% refinery maximum average standard.

3.2.2 Small refiner-specific requirements

[5] ICIs are companies that hold a Certificate (or certificates) of Conformity permitting them to import nonconforming vehicles and to modify these vehicles to meet U.S. emission standards.

[6] Alternative fuel vehicle converters are businesses that convert gasoline or diesel vehicles to operate on alternative fuel (e.g., compressed natural gas), and converters must seek a certificate for all of their vehicle models.

Specific provisions for small refiners were developed due to the fact that (during the SBREFA process and throughout the development of the rule) some small refiners indicated that they will have greater difficulty than larger refiners in complying with the MSAT2 gasoline benzene requirements. The refiners that participated in the SBREFA process as Small Entity Representatives (SERs) noted certain factors and unique circumstances that small refiners generally face with regard to compliance with environmental programs. It was noted that small refiners generally lack the resources that are available to larger refining companies, including those large companies that own small-capacity refineries, to raise capital for investing in benzene control equipment, such as shifting of internal funds, securing of financing, or selling of assets. Small refiners are also likely to have more difficulty in competing for engineering resources and in completing construction of the needed benzene control (and any necessary octane recovery) equipment in time to meet the required standards.

Based on the above discussions and analyses, the SBAR Panel and we agreed that small refiners would likely experience a significant and disproportionate financial hardship in reaching the objectives of the MSAT2 program. However, the Panel also noted that the burden imposed upon the small refiners by the benzene control requirements varied from refiner to refiner and could not be alleviated with a single provision. In addition, the small refiners strongly supported having multiple compliance options. Therefore, three regulatory flexibility options were offered to decrease the burden on small refiners in complying with the MSAT2 program, as well as a review of the ABT program. These are discussed in detail in Section 5 of this guide.

3.3 Requirements for portable fuel container manufacturers

3.3.1 General program requirements

Manufacturers of portable gasoline, kerosene, and diesel fuel containers must apply for and receive a certificate of compliance for all of their containers sold in the United States as of January 1, 2009. All containers must meet the hydrocarbon (HC) emission standard of 0.3 grams per gallon per day (g/gal/day). The PFC standards and program requirements are similar to those adopted by California in 2005, thus enabling manufacturers to be able to sell 50-state products. Compliance is based on testing samples of the containers in environmental chambers where the containers are filled with a specified test fuel and exposed for 24 hours to a temperature profile (72 – 96 °F).

Manufacturers will also be responsible for the durability of their PFCs in relationship to the emission standard. Our chief concerns are the effects of extended use in commercial applications where containers are exposed to ultra violet (UV) light, thousands of pressurizations, and fuel slosh from transportation of containers from one work site to another. EPA has test procedures that manufacturers can use for this

purpose. Regulated PFCs shall also have a one year warranty that starts from the date of sale.

A certified PFC must be labeled so that consumers (as well as EPA) know that it is regulated and that it is covered by a one year warranty. The label shall have contact information so the consumer can report defects and apply for reimbursement under the warranty. Label requirements are discussed in detail at §59.615 of the regulations, and are listed in section 6 below.

Manufacturers must report warranty information, and any other technical issue that may impact their compliance to the emission standard, to EPA once a year. A certificate can be valid for up to 5 years as long as EPA believes that, with regard to emissions, the certified PFCs have not changed and remain durable in-use.

3.3.2 Small PFC manufacturer requirements

Based on comments and discussions during the SBREFA process, the SBAR Panel recommended that we extend regulatory flexibility options and hardship provisions to all PFC manufacturers due to the fact that nearly all PFC manufacturers are small entities and they account for roughly 60 percent of PFC sales. We agreed with this recommendation and thus all PFC flexibility options and hardship provisions are available to all PFC manufacturers. These provisions are discussed in detail in section 6 of this guide.

4.0 Provisions for Small Gasoline Light-Duty Vehicle Manufacturers

4.1 What are the regulatory options that are available to small gasoline light-duty vehicle manufacturers?

Cold NMHC Standards

For cold NMHC standards, SVMs simply comply with the standards with 100 percent of their vehicles during the last year of the four-year phase-in period. The new standards for light-duty vehicles (LDVs) and light light-duty trucks (LLDTs) will begin in model year 2010 and will end in model year 2013 (25%, 50%, 75%, 100% phase-in over four years), and SVMs will be required to certify 100 percent of their LDVs and LLDTs in model year 2013. Also, since the new standard for HLDTs and MDPVs will start in 2012 (25%, 50%, 75%, 100% phase-in over four years), SVMs will be required to certify 100 percent of their heavy light-duty trucks (HLDTs) and medium-duty passenger vehicles (MDPVs) in model year 2015.

Evaporative Emission Standards

In regard to evaporative emission standards, since the new evaporative emissions standards will not have phase-in years, we allow SVMs to simply comply with standards during the third year of the program. Therefore, for a 2009 model year start date for LDVs and LLDTs, SVMs will be required meet the evaporative emission standards in model year 2011. For a model year 2010 implementation date for HLDTs and MDPVs, SVMs will be required to comply in model year 2012.

4.2 What happens if I am not able to comply with the standards, even if I utilize the small entity options?

Hardship provisions will be extended to SVMs for the cold temperature NMHC and evaporative emission standards. SVMs will be allowed to apply for up to an additional 2 years to meet the 100 percent phase-in requirements for cold NMHC and the delayed requirement for evaporative emissions. Applications for such hardship relief must: be made in writing, be submitted before the earliest date of noncompliance, include evidence that the noncompliance will occur despite the manufacturer's best efforts to comply, and include evidence that the company will face severe economic hardship if relief is not granted.

In addition, ICIs will be allowed to participate in the averaging, banking, and trading (ABT) program for cold temperature NMHC fleet average standards. The existing regulations for ICIs specifically prohibit ICIs from participating in emission-related ABT programs unless specific exceptions are provided (see 40 CFR 85.1515(d)). However, an exception for ICIs to participate in an ABT program was made for the Tier 2 NOx fleet average standards (65 FR 6794, February 10, 2000), and

we will provide a similar exception for the cold temperature NMHC fleet average standards.

If an ICI is able to purchase credits or to certify a test group to a family emission level (FEL) below the applicable cold temperature NMHC fleet average standard, we will allow the ICI to bank credits for future use. Where an ICI desires to certify a test group to a FEL above the applicable fleet average standard, we allow them to do so if they have adequate and appropriate credits. Where an ICI desires to certify to an FEL above the fleet average standard and does not have adequate or appropriate credits to offset the vehicles, we will permit the manufacturer to obtain a certificate for vehicles using such a FEL, but will condition the certificate such that the manufacturer can only produce vehicles if it first obtains credits from other manufacturers or from other vehicles certified to a FEL lower than the fleet average standard during that model year. However, ICIs are barred from utilizing the deficit carry forward provisions of the ABT program.

4.3 What are the certification application, recordkeeping and reporting requirements?

For highway light-duty vehicles, EPA will continue the reporting, recordkeeping, and compliance requirements prescribed for this category in 40 CFR 86. Key among these are certification requirements and provisions related to reporting of production, emissions information, flexibility use, etc.

5.0 Provisions for small gasoline refiners

5.1 What are the regulatory options that are available to small refiners?

Described below are: 1) the three options under the MSAT2 program that approved small refiners may choose, and 2) a review of the ABT program. All of the regulatory options can be used in conjunction with one another.

- Delay in the Effective Date of the Standards. A small refiner may delay meeting the MSAT2 gasoline benzene standards for up to 4 years.

  This option is available to any refiner that qualifies as a small refiner, and would allow such refiners to delay compliance with the 0.62 vol% annual average benzene standard until January 1, 2015 (four years after the general program start date for this standard). Small refiners choosing this option would simply continue to meet the requirements of MSAT1 until this point.

  In addition, qualified small refiners may also delay compliance with the 1.3 vol% refinery maximum average benzene standard until July 1, 2016 (again, four years after the general program start date for this standard).

- Early ABT Credit Generation. Small refiners that make qualified reductions to meet the 0.62 vol% annual average benzene standard prior to January 1, 2015 may generate early credits. To generate such early credits, refiners must reduce their 2004-2005 benzene levels by at least ten percent. The small refiner early credit generation period will be from June 1, 2007 through December 31, 2014, after which time standard credits may then be generated (indefinitely) for those that overcomply with the 0.62 vol% annual average standard.

- Extended Credit Life. Under the MSAT2 program, standard ABT credits (i.e., those credits generated on or after January 1, 2011) must be used within five years from the year that they were generated (regardless of when/if they are traded). The extended credit life provision allows standard credits that are traded to, and ultimately used by, a small refiner to receive a credit life extension of two years. Thus, standard credits traded to, and used by, a small refiner will have a maximum credit life of seven years.

- ABT Program Review. EPA will be performing a review of the credit program one year after the general MSAT2 program begins. This review will take into account the number of early credits that are generated industry-wide each year prior to the start of the MSAT2 program, as well as the number of credits generated and transferred during the first year of the program. To support this review, refiners are required to submit pre-compliance reports (similar to those

required under the diesel fuel sulfur programs). In addition, the first compliance report that refiners are to submit for the 2011 compliance period (due on February 28, 2012) will provide important information regarding the number of credits that are being generated or utilized during the first year of the program.

If, following the review, EPA finds that the credit market is not adequate to support the small refiner provisions, we will revisit the provisions to determine whether or not they should be altered or whether EPA can assist the credit market (and small refiners' access to credits) in some way.

A small refiner- specific hardship provision was finalized in the MSAT2 program. This hardship provision will only be available following the ABT program review, which will allow us to use the most accurate information to assess credit availability and the credit market itself. The provision is for the case of a small refiner for which compliance with the 0.62 vol% benzene standard would only be possible by using credits, but for whom the purchase of credits is not economically feasible. This hardship provision will only be given on a case-by-case basis, and the refiner must show practical or economic difficulty in obtaining credits (or some other type of similar situation that would make its compliance with the standard not economically feasible). Applications for relief under this provision must meet the requirements of section 80.1343 of the regulations. The relief offered under this hardship provision is a further delay, on an individual refinery basis, for up to two years. Following the two years, a small refiner will be allowed to request one or more extensions of the hardship until the refinery's material situation has changed. (If a small refiner is unable to comply with the 1.3 vol% refinery maximum average benzene standard, it may apply for relief under the general hardship provisions.)

5.2 What happens if I am not able to comply with the standards, even if I utilize the small refiner options?

We have provided additional provisions—hardship provisions—for cases of extreme and unusual hardship circumstances and where unforeseen circumstances prevent a refiner (small or 'non-small') or importer from meeting the benzene standards. In such cases, the refiner must submit a hardship waiver application and EPA will evaluate the applications, and grant hardship relief, on a case-by-case basis. The hardship application requirements (described below in Tables 6 and 7 , and in the regulations at sections 80.1335 and 80.1336) and the types of relief that EPA would give are slightly different depending upon whether a refiner applies for hardship relief for the 0.62 vol% benzene standard, the 1.3 vol% refinery maximum average, or both (a refiner may apply for relief from both standards, but EPA will address them independently). This is partly due to the fact that a refiner may use credits to meet the 0.62 vol% benzene standard, but not for compliance with the 1.3 vol% refinery maximum average standard.

Extreme Hardship Circumstances. Extreme hardship circumstances could exist from severe financial or physical lead time limitations of the refinery to comply with the standards; such as an inability to physically comply with the standards on time, an inability to secure financing to comply with the standards on time, or an inability to comply on time without facing extreme economic hardship. To receive hardship relief under this provision, a refiner must show that: (1) circumstances exist that impose extreme hardship and significantly affect the ability to comply with the gasoline benzene standards by the applicable date(s); and (2) that it has made best efforts to comply with the requirements. For extreme hardship relief from the 0.62 vol% benzene standard, demonstration of "best efforts to comply" includes showing that the refinery attempted to obtain sufficient credits but was unable to do so. For extreme hardship relief from the 1.3 vol% refinery maximum average benzene standard, a refiner must show that it could not meet the standard on time due to extreme economic or technical problems. Since this provision is intended to address unusual circumstances that should be evident now or well before the standard takes effect, refiners must apply for such relief by January 1, 2008 (January 1, 2013 for small refiners). The application requirements are detailed in Table 6 below, and in the regulations at section 80.1335.

Unforeseen Circumstances Hardships. This hardship provision is to provide refiners and importers relief in unanticipated circumstances—such as a refinery fire or a natural disaster—that cannot be reasonably predicted, and could not have been avoided through proper planning or due diligence. A hardship request under this provision must be based on the inability to produce gasoline that meets the applicable benzene standards at the affected facility due to unanticipated circumstance. For unforeseen circumstances hardship relief from the 0.62 vol% benzene standard, the hardship request must also show that the refiner or importer tried to comply by other means, such as purchasing credits, but that those means were either insufficient or unavailable. Hardship relief from that standard will allow a deficit to be carried forward for an extended time period (more than the one year allowed by the rule). For unforeseen circumstances hardship relief from the 1.3 vol% refinery maximum average benzene standard, the hardship request must show that the refiner or importer cannot comply with the standard on time despite its best efforts. The application requirements are detailed in Table 7 below, and in the regulations at section 80.1336.

Table 6. Requirements for Applications for Extreme Hardship Circumstances Relief (§80.1335)	
	• A plan showing how the refiner will comply with the 0.62 vol% and/or 1.3 vol% requirements (as applicable) that includes: a showing that contracts are or will be in place for engineering and construction of benzene reduction technology, a plan for applying for and obtaining any permits necessary for construction, a description of plans to obtain necessary capital, and a detailed estimate of when the applicable benzene requirements will be met.
	A detailed description of the refinery configuration and operations including: • The refinery's total reformer unit throughput capacity. • The refinery's total crude capacity. • Total crude capacity of any other refineries owned by the same entity. • Total volume of gasoline production at the refinery. • Total volume of other refinery products. • Geographic location(s) where the refinery's gasoline will be sold. • Detailed descriptions of efforts to obtain capital for refinery investments. • Bond rating of entity that owns the refinery. • Estimated capital investment needed to comply with the requirements of this subpart.
	• Any other relevant information requested by EPA.
	Additional requirements for applications for relief from the 0.62 vol% benzene standard: • A detailed description of efforts to obtain credits. • A detailed description of the price(s) of credits available (and deemed uneconomical by the refiner).
	Additional requirements for relief from the 1.3 vol% benzene standard: • Applications must be submitted to EPA by: **January 1, 2008 for non-small refiners** or **January 1, 2013 for approved small refiners**.

Table 7. Requirements for Applications for Unforeseen Circumstances Hardship Relief (§80.1336)	
	A refiner (or importer) must: • Show that it is in the public interest to allow the refiner to exceed the applicable benzene standard(s). • Show that it exercised prudent planning and was not able to avoid the violation, and that it took all reasonable steps to minimize the extent of the nonconformity. • Show how the applicable benzene requirement(s) will be achieved as quickly as possible. • Agree to make up any air quality detriment associated with the nonconformity, where practicable. • Pay to the U.S. Treasury an amount equal to the economic benefit of the nonconformity minus the amount spent in making up the air quality detriment.

5.3 What are the registration, pre-compliance report, compliance report, and recordkeeping requirements?

» Registration

Under the MSAT2 program, refiners and importers subject to the gasoline benzene requirements that are not already registered under §§ 80.76 (RFG program), 80.103 (anti-dumping program), 80.190 (gasoline sulfur) or 80.810 (MSAT1), must register (following the requirements in §80.76, which are listed below in Table 8) by September 30, 2010, or at least three months before the first date that the refiner or importer produces or imports gasoline, whichever is later. Refiners that plan to generate early benzene credits that are not registered under any of the programs listed above must provide to EPA the information required in §80.76 at least 60 days prior to the end of the first year of credit generation.

» Pre-Compliance Reports

All refiners (including small refiners) and importers must report their progress toward compliance with the gasoline benzene requirements to EPA. These pre-compliance reports are due by June 1 of every year from 2008 through 2011. **For small refiners who choose the delay option, these reports are required through 2015.** Data from the reports will be presented each year in a summary and analysis of the year's pre-compliance reports. To maintain the confidentiality of information submitted in the pre-compliance reports, the data will be presented in a generalized format, on a PADD basis. EPA will not hold refiners liable if their actual actions deviate from these reports- as we fully expect that refiners' plans may change. The pre-compliance report requirements are listed in the regulations at section 80.1352, and are summarized below in Table 9.

» Annual Compliance Reports

When the general program begins on January 1, 2011, refiners and importers will be required to submit annual reports that demonstrate compliance with the requirements of the rule. The first annual compliance report, for the period of January 1, 2011 through December 31, 2011, will be due on the last day of February 2012 (February 28, 2012). The reports will be required annually on the last day of February for the prior calendar year averaging period. The annual compliance report requirements are listed in the regulations at section 80.1354, and are summarized in Table 9 below.

» Recordkeeping Requirements

The general recordkeeping requirements stated in §§ 80.74 and 80.104 of the regulations, as applicable, apply for the purpose of complying with the requirements of this subpart (however, duplicate records are not required). In addition, for the MSAT2 program specifically, refiners that produce/importers that import gasoline must keep records containing information related to the following (§80.1350): benzene value; benzene baseline; early credits generated and/or obtained; standard credits generated, used, obtained, and/or transferred (including information on the party or parties credits were obtained from or transferred to); and the number of credits expired or carried-over. Records must be kept by refinery (separately by refinery and by PADD of import, for foreign refiners) and by PADD for importers, and all records must be kept for five years. These requirements are summarized below in Table 10.

Table 8.
Registration Requirements (§80.76)

	• Corporate name and business address of the refiner, importer, or oxygenate blender.
	• Name and telephone number of a company contact person.
	• Facility name, physical location, and type of facility for each separate refinery and oxygenate blending facility.
	• Contact name and telephone number for each separate refinery and oxygenate blending facility.
	The following information for each separate refinery and oxygenate blending facility, and for each importer's operations in a single PADD: • Whether records are kept on-site or off-site of the refinery or oxygenate blending facility, or in the case of importers, the registered address. • If records are kept off-site, the primary off-site storage facility name, physical location, contact name, and telephone number. • The name, address, contact name and telephone number of the independent laboratory used to meet the independent analysis requirements of §80.65(f).
	Updating registration information: • Any refiner, importer, or oxygenate blender must submit updated registration information to EPA within 30 days of any occasion when its previous registration information becomes incomplete or inaccurate. • **NOTE-** EPA must be notified in writing of any change in designated independent laboratory at least thirty days in advance of such change.

Table 9.
MSAT2 Program Reporting Requirements

Pre-Compliance Reporting Requirements (§80.1352)	
	• Any changes to the information submitted in the company's registration and/or changes to the information submitted for any refinery or import facility registration.

	• An estimate of the average daily volume (in gallons) of gasoline produced at each refinery, including RFG, RBOB, CG, and conventional gasoline blendstock that becomes finished gasoline solely upon the addition of oxygenate (exempted gasoline should not be included). These must be provided for the periods of June 1, 2007 through December 31, 2007, and calendar years 2008 through 2015.
	• An estimate of the average gasoline benzene concentration for the periods of June 1, 2007 through December 31, 2007, and calendar years 2008 through 2015.
	The following information must be provided annually through 2015: *For refineries expecting to **generate** benzene credits-* • The actual or estimated, as applicable, numbers of early credits expected to be generated. • The actual or estimated, as applicable, numbers of standard credits expected to be generated. *For refineries expecting to **use** benzene credits-* • The actual or estimated, as applicable, numbers of early credits expected to be banked, transferred or used to achieve compliance with the 0.62 vol% standard. • The actual or estimated, as applicable, numbers of standard credits expected to be banked, transferred or used to achieve compliance with the 0.62 vol% standard.
	Information on any project schedule by quarter of known or projected completion date, by the stage of the project, with respect to the following: • Strategic planning • Planning and front-end engineering • Detailed engineering and permitting • Procurement and Construction • Commissioning and startup
	• Basic information regarding the selected technology pathway for compliance (e.g., precursor re-routing or other technologies, revamp vs. grassroots, etc.).
	• Information regarding whether or not capital commitments have been made or are projected to be made.
Annual Gasoline Benzene Report Requirements (§80.1354)	
	• Benzene volume percent and volume of any RFG, RBOB, and CG (separately by batch) produced by the refinery or importer, and the sum of the volumes and the volume-weighted benzene concentration, in volume percent.
	• The annual average benzene concentration (see §80.1238) and the maximum average benzene concentration (see §80.1240(b)).
	• Any benzene deficit from the previous reporting period.
	• The number of banked benzene credits from the previous reporting period.
	• The number of early benzene credits generated, if applicable.
	• The number of standard benzene credits generated, if applicable.
	• The number of benzene credits transferred to the refinery or importer, if applicable, and the cost of those credits.
	• The number of benzene credits transferred from the refinery or importer, if applicable, and the cost of those credits.
	• The number of benzene credits terminated or expired.
	• The compliance benzene value (see §80.1240).

	• The number of banked benzene credits.
	• Projected credit generation through compliance year 2015.
	• Projected credit use through compliance year 2015.

Table 10. MSAT2 Program Recordkeeping Requirements (§80.1350)	
General Requirements	
	• The general recordkeeping requirements stated in §80.74 and §80.104 of the regulations, as applicable.
	• All records must be kept for five years from the date they were created. Records relating to credit transfers must be kept by the transferor for five years from the date the credits were transferred; these records must be kept by the transferee for five years from the date the credits were transferred, used, or terminated, whichever is later.
	• Records must be provided to EPA upon request. For electronic records, the equipment and software necessary to read the records must be made available (or, upon approval by EPA, electronic records can be converted to paper documents).
Requirements beginning 1/1/11 for non-small refiners (1/1/15 for small refiners)	
	• The compliance benzene value (per §80.1240), and the calculations used to obtain that value.
	• The benzene baseline value (per §80.1280), if the refinery or importer submitted a benzene baseline application to EPA (§80.1285).
	• The number of early benzene credits generated, separately by year of generation.
	• The number of early benzene credits obtained, separately by generating refinery and year of generation.
	• The number of valid credits the refinery or importer has at the beginning of each averaging period, separately by generating facility and year of generation.
	• The number of standard credits generated by the refinery or importer, separately by transferor (if applicable), by facility, and by year of generation.
	• The number of credits used, separately by generating facility and year of generation.
	• If any credits were obtained from, or transferred to, other parties; including the party's name, EPA refinery or importer registration number, and the number of credits obtained from, or transferred to, the party, and the price per credit.
	• The number of credits that expired at the end of each averaging period, separately by generating facility and year of generation.
	• The number of credits that will be carried over into a subsequent averaging period, separately by generating facility and year of generation.
	• Contracts or other commercial documents that establish each transfer of credits from the transferor to the transferee.
	• A copy of all pre-compliance and annual compliance reports submitted to EPA (however, duplicate records are not required).
	• Records of all supporting calculations.
Additional Requirements	
	*For **non-small refiners**, beginning July 1, 2012:* • The maximum average benzene value for the period July 1, 2012 through December 31, 2013, and for each annual compliance period thereafter (for each refinery/gasoline imported) for the records required above. *For **small refiners**, beginning July 1, 2016:* • The maximum average benzene value for the period July 1, 2016 through December 31, 2017, and for each annual compliance period thereafter (for each refinery/gasoline imported) for the records required above.

6.0 Provisions for small portable fuel container manufacturers

6.1 What are the regulatory options that are available to small PFC manufacturers?

As discussed above, since nearly all portable fuel container manufacturers are small entities the regulatory options described below are available to all PFC manufacturers.

Design Certification—Portable fuel container manufacturers can use design certification in lieu of running any or all of the durability aging cycles as long as they can demonstrate that the durability of their gas cans are based in part on emissions test data from similar designs using similar materials. The manufacturer must provide evidence in its application to substantiate that the container will meet the applicable standards based on its design (e.g., use of a particular permeation barrier). Suitable proof would be engineering and other information about the design such that EPA can reasonably determine that the emissions performance of their individual design will not be negatively impacted by slosh, UV exposure, and/or pressure cycling (whichever tests the manufacturer is proposing not to run prior to emissions testing).

Broaden Certification Families—Manufacturers may aggregate substantially similar fuel containers of different sizes across their product line into a single certification family. To be grouped together, containers must be manufactured using the same materials and processes even though they are different sizes. This approach relaxes the criteria used to determine what constitutes a certification family, and results in fewer certification families—thus decreasing the testing and reporting burden to manufacturers. Some small entities may be able to put all of their various size containers into a single certification family. A manufacturer would then certify its containers using the ‘‘worst case’’ configuration within the family.

Product Sell-through—The PFC standards apply to containers manufactured on or after January 1, 2009. The standards do not affect containers produced before this date. Additionally, beginning July 1, 2009, manufacturers may not introduce any containers into U.S. commerce that do not meet the new emissions standards. EPA will thus allow the normal sell through of noncomplying inventory for 6-months to clear any stocks of containers manufactured before January 1, 2009, as long as manufacturers do not create stockpiles of such containers prior to January 1, 2009.

6.2 What happens if I am not able to comply with the standards, even if I utilize the PFC manufacturer flexibilities?

There are two types of hardship provisions available to PFC manufacturers that can not meet the emission standards by January 1, 2009. The first allows a PFC

manufacturer to petition EPA for limited additional lead-time to comply with the standard. A manufacturer must show that it has taken all possible business, technical, and economic steps to comply, but the burden of compliance costs prevents it from meeting the PFC requirements by the required compliance date; and further, that not having an extension would jeopardize the company's solvency. Hardship relief under this provision may include requirements that the manufacturer make for interim emission reductions.

The second provision allows container manufacturers to apply for hardship relief if circumstances outside their control cause the failure to comply (i.e., an ''Act of God,'' a fire at the manufacturing plant, or the unforeseen shut down of a supplier with no alternative available), and if failure to sell the noncompliant containers would jeopardize the company's solvency. The terms and timeframe of hardship relief offered under this provision will depend on the specific circumstances of the company and the situation involved.

For both types of hardship provisions, the length of the hardship relief will be established, during the initial review, for not more than one year and will be reviewed annually thereafter as needed. As part of its application, a company must provide a compliance plan detailing when and how it will achieve compliance with the standards.

6.3 What are the certification application, recordkeeping and reporting requirements?

» Application for Certificate

An application is for an emissions family that describes a single or group of portable fuel containers that are expected to have similar emission characteristics. In general fuel containers made with similar materials, processes, emission control strategy, and design are subject to pooling into a single emission family. An emissions family is limited to a single model year. The information required in an application is found in Table 11.

Table 11.
Requirements for an Application for Certificate of a Portable Fuel Container Emission Family
(§59.623)

	• Manufacturer (or importer) corporate name and business address.
	• Name and telephone number of a company contact person.
	• Describe the emission family's specifications and other basic parameters of the emission controls. List each distinguishable configuration in the emission family. Include descriptions and part numbers for all detachable components such as spouts and caps.

	• Describe and explain the method of emission control.
	• Describe the products you selected for testing and the reasons for selecting them.
	• Describe the test equipment and procedures that you used, including any special or alternate test procedures you used (see §59.650).
	• List the specifications of the test fuel to show that it falls within the required ranges specified in §59.650.
	• Include the maintenance and use instructions and warranty information you will give to the ultimate purchaser of each new portable fuel container (per §59.613).
	• Describe your emission control information label, as listed below in Table 12 (per §59.615).
	• State that your product was tested as described in the application (including the test procedures, test parameters, and test fuels) to show you meet the requirements of this subpart.
	• Present emission data to show your products meet the applicable emission standards. Where applicable, §§ 59.626 and 59.627 may allow you to submit an application in certain cases without new emission data.
	• Report all test results, including those from invalid tests or from any other tests, whether or not they were conducted according to the test procedures of §§ 59.650 through 59.653. We may ask you to send other information to confirm that your tests were valid under the requirements of this subpart
	• Unconditionally certify that all the products in the emission family comply with the requirements of this subpart, other referenced parts of the CFR, and the Clean Air Act.
	• Include estimates of U.S.-directed production volumes.
	• Include other relevant information, including any additional information requested by EPA.
	• Name an agent for service located in the United States. Service on this agent constitutes service on you or any of your officers or employees for any action by EPA or otherwise by the United States related to portable fuel container requirements.

Table 12. Portable Fuel Container Labeling Requirements (§59.615)	
	• The month and year of the container must be clearly marked on the container; and a legible label must be molded into, or affixed to, the container.

	The label must be: • Attached so that it is not easily removable. • Secured to a part of the container that can be easily viewed when the can is not in use (i.e., **not** on the bottom of the can). • Written in English.
	The label must include: • The heading "EMISSION CONTROL INFORMATION". • The full corporate name, trademark, and warranty contact information. • A standardized identifier such as EPA's standardized designation for the emission families, the model number, or the part number. • The statement: "THIS CONTAINER COMPLIES WITH U.S. EPA EMISSION REGULATIONS FOR PORTABLE FUEL CONTAINERS (40 CFR Part 59)." • The statement: "THE EMISSIONS WARRANTY IS VALIED FOR A MINIMUM OF ONE YEAR FROM DATE OF PURCHASE."
	• You may add information to the emission control label to identify other standards that the container does or does not meet (such as the California standards).
	• You may add other information to ensure that the container will be properly maintained and used.
	• You may request approval of modified labeling requirements provided that you show that it is necessary or appropriate.
	You may identify the name and trademark of another company instead of your own on the emission control label: • You must have a contractual agreement with the other company (ensuring that the company: meets the emission warranty requirements under §59.612, and reports all warranty-related information to the certificate holder). • In your certification application, identify the company whose trademark you plan to use and describe the arrangements you have made to meet all requirements under §59.615. • You will remain responsible for meeting all requirements for PFCs under 50 CFR Part 59.

» Recordkeeping Requirements

The recordkeeping requirements are stated in §59.628 of the regulations, and are summarized below in Table13.

Table 13. Recordkeeping Requirements for Portable Fuel Containers (§59.628)	
	• A copy of all applications and any other information you send EPA.
	• Any of the information we specify in §59.623 that you were not required to include in your application.

	Include a detailed history of each emission-data unit, including: • The emission-data unit's construction, including its origin and buildup, steps you took to ensure that it represents production containers, any components you built specially for it, and all the components you include in your application for certification. • All your emission tests, including documentation on routine and standard tests, as specified in §§ 59.650 through 59.653, and the date and purpose of each test. • All tests to diagnose emission-control performance, giving the date and time of each and the reasons for the test. • Any other relevant events or information.
	• Production figures for each emission family divided by assembly plant.
	• If you identify your portable fuel containers by lot number or other identification numbers, keep a record of these numbers for all the containers you produce under each certificate of conformity.
	• Keep data from routine emission tests (such as test cell temperatures and relative humidity readings) for one year after we issue the associated certificate of conformity. Keep all other information specified in paragraph (a) of this section for five years after we issue your certificate.
	• Records may be stored in any format and on any media, as long as you can promptly send us organized, written records in English if we ask for them. You must keep these records readily available. We may review them at any time.
	• Container maintenance instructions or explanations.
	• Emission family warranty claims under §59.612. Information should include the reason for the claim.

» Reporting Requirements

The reporting requirements are stated in §59.628 of the regulations, and are summarized below in Table14.

Table 14. Portable Fuel Container Reporting Requirements (§59.628)	
	• Copies of any maintenance instructions or explanations must be sent to EPA if requested.

	• Annual warranty reports summarizing successful warranty claims by emission family under §59.612, including the reason for the claim. Reports must be submitted annually by July 1 for the preceding calendar year.

7.0 For More Information

Who can I contact if I have questions or need further assistance?

- **General questions about small entity relief:**
  Light-duty vehicles: Bryan Manning- (734) 214-4832, manning.bryan@epa.gov
  Gasoline refiners: Tia Sutton- (734) 214-4018, sutton.tia@epa.gov
  Portable fuel containers: Chris Lieske- (734) 214-4584, lieske.christopher@epa.gov

- **Light-duty vehicle certification/compliance:**
  Marty Reineman- (734) 214-4430, reineman.martin@epa.gov
  Russ Banush- (734) 214-4925, banush.russell@epa.gov

- **Additional questions:**
  Assessment and Standards Division (ASD) Information Line- asdinfo@epa.gov, (734) 214-4636

Where can I find rulemaking documents?

- All rulemaking documents and information regarding the MSAT2 rule can be found on the MSAT Regulations page at:
  www.epa.gov/otaq/toxics.htm#mobile

- You can also view just the regulations on the **Electronic Code of Federal Regulations** [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=81d7d51f143cbdfd8b79def93391efa3&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl]:
  Vehicle regulations— Parts 85 and 86
  Fuel Regulations— Part 80
  Portable Fuel Container Regulations— Part 59