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Protection of Stratospheric Ozone: The 2007 Critical Use Exemption From the Phaseout of Methyl Bromide; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2005–0538; FRL–8257–2]

RIN 2060–AN54

Protection of Stratospheric Ozone: The 2007 Critical Use Exemption From the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing an exemption to the phaseout of methyl bromide to meet the needs of 2007 critical uses. Specifically, EPA is authorizing uses that will qualify for the 2007 critical use exemption and the amount of methyl bromide that may be produced, imported, or supplied from inventory for those uses in 2007. EPA is taking action under the authority of the Clean Air Act to reflect recent consensus Decisions taken by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) at the 17th Meeting of the Parties (MOP).

DATES: This final rule is effective on December 14, 2006.

ADDRESSES: EPA has established a docket for this action identified under Docket ID No. EPA–HQ–OAR–2005–0538. All documents in the docket are listed on the *http://www.regulations.gov* site. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available only through *www.regulations.gov* or in hard copy. To obtain copies of materials in hard copy, please call the EPA Docket Center at (202) 564–1744 between the hours of 8:30am–4:30pm E.S.T., Monday–Friday, excluding legal holidays, to schedule an appointment. The EPA Docket Center's Public Reading Room address is EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC.

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SUPPLEMENTARY INFORMATION: This final rule concerns Clean Air Act (CAA) restrictions on the consumption, production, and use of methyl bromide (a class I, Group VI controlled substance) for critical uses during calendar year 2007. Under the CAA, methyl bromide consumption (consumption is defined under the CAA as production plus imports minus exports) and production was phased out on January 1, 2005 apart from allowable exemptions, namely the critical use exemption and the quarantine and preshipment exemption. With this action, EPA is authorizing the uses that will qualify for the 2007 critical use exemption as well as specific amounts of methyl bromide that may be produced, imported, or made available from stocks for critical uses in 2007.

Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section 307(d) of the Clean Air Act, which states: ''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.'' CAA section 307(d)(1). Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this rule effective on December 14, 2006. APA section 553(d) provides an exception for any action that grants or recognizes an exemption or relieves a restriction. This final rule grants an exemption from the phaseout of methyl bromide.

Table of Contents

I. General Information
A. Regulated Entities
II. What Is the Background to the Phaseout Regulations for Ozone-Depleting Substances?
III. What Is Methyl Bromide?
IV. What Is the Legal Authority for Exempting the Production and Import of Methyl Bromide for Critical Uses Authorized by the Parties to the Montreal Protocol?
V. What Is the Critical Use Exemption Process?
A. Background of the Process
B. How Does This Final Rulemaking Relate to Previous Critical Use Exemption Rulemakings?
C. Critical Uses and Adjustments to Critical Use Amounts
D. The Criteria in Decisions IX/6 and Ex. I/4
E. Emissions Minimization
F. Critical Use Allowance Allocations
G. Critical Stock Allowance Allocations and Inventory of Methyl Bromide
VI. Statutory and Executive Order Reviews
A. Executive Order No. 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order No. 13132: Federalism
F. Executive Order No. 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order No. 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order No. 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Congressional Review Act

I. General Information

A. Regulated Entities

Entities potentially regulated by this action are those associated with the production, import, export, sale, application, and use of methyl bromide covered by an approved critical use exemption. Potentially regulated categories and entities include:

Category	Examples of regulated entities
Industry	Producers, Importers and Exporters of methyl bromide; Applicators, Distributors of methyl bromide; Users of methyl bromide, *e.g.*, farmers of vegetable crops, fruits and seedlings; and owners of stored food commodities and structures such as grain mills and processors, agricultural researchers.

The above table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is aware could potentially be regulated by this action. To determine whether your facility, company, business, or organization is regulated by this action, you should carefully examine the regulations promulgated at 40 CFR part 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person

listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. What Is the Background to the Phaseout Regulations for Ozone-Depleting Substances?

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone-depleting substances can be found at 40 CFR part 82, subpart A. The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing and subsequent ratification of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). The Protocol is the international agreement aimed at reducing and eliminating the production and consumption of stratospheric ozone depleting substances. The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 12, 1988. Congress then enacted, and President George H.W. Bush signed into law, the Clean Air Act Amendments of 1990 (CAAA of 1990) which included Title VI on Stratospheric Ozone Protection, codified as 42 U.S.C. Chapter 85, Subchapter VI, to ensure that the United States could satisfy its obligations under the Protocol. EPA issued new regulations to implement this legislation and has made several amendments to the regulations since that time.

III. What Is Methyl Bromide?

Methyl bromide is an odorless, colorless, toxic gas which is used as a broad-spectrum pesticide and is controlled under the CAA as a class I ozone-depleting substance (ODS). Methyl bromide is used in the U.S. and throughout the world as a fumigant to control a wide variety of pests such as insects, weeds, rodents, pathogens, and nematodes. Additional characteristics and details about the uses of methyl bromide can be found in the proposed rule on the phaseout schedule for methyl bromide published in the **Federal Register** on March 18, 1993 (58 FR 15014) and the final rule published in the **Federal Register** on December 10, 1993 (58 FR 65018).

The phaseout schedule for methyl bromide production and consumption was revised in a direct final rulemaking on November 28, 2000 (65 FR 70795), which allowed for the phased reduction in methyl bromide consumption and extended the phaseout to 2005. The revised phaseout schedule was again amended to allow for an exemption for quarantine and preshipment purposes on July 19, 2001 (66 FR 37751) with an interim final rule and with a final rule on January 2, 2003 (68 FR 238). Information on methyl bromide can be found at *http://www.epa.gov/ozone/mbr and http://www.unep.org/ozone* or by contacting the Stratospheric Ozone Hotline at 1–800–296–1996.

Because it is a pesticide, methyl bromide is also regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and other statutes and regulatory authority, as well as by States under their own statutes and regulatory authority. Under FIFRA, methyl bromide is a restricted use pesticide and therefore subject to certain Federal and State requirements governing its sale, distribution, and use. Nothing in this final rule implementing the Clean Air Act is intended to derogate from provisions in any other Federal, State, or local laws or regulations governing actions including, but not limited to, the sale, distribution, transfer, and use of methyl bromide. All entities that would be affected by provisions of this final rule must continue to comply with FIFRA and other pertinent statutory and regulatory requirements for pesticides (including, but not limited to, requirements pertaining to restricted use pesticides) when importing, exporting, acquiring, selling, distributing, transferring, or using methyl bromide for critical uses. The regulations in this action are intended only to implement the CAA restrictions on the production, consumption and use of methyl bromide for critical uses exempted from the phaseout of methyl bromide.

IV. What Is the Legal Authority for Exempting the Production and Import of Methyl Bromide for Critical Uses Authorized by the Parties to the Montreal Protocol?

Methyl bromide was added to the Protocol as an ozone-depleting substance in 1992 through the Copenhagen Amendment to the Protocol. The Parties agreed that each industrialized country's level of methyl bromide production and consumption in 1991 should be the baseline for establishing a freeze in the level of methyl bromide production and consumption for industrialized countries. EPA published a final rule in the **Federal Register** on December 10, 1993 (58 FR 65018), listing methyl bromide as a class I, Group VI controlled substance, freezing U.S. production and consumption at this 1991 level, and, in 40 CFR 82.7, setting forth the percentage of baseline allowances for methyl bromide granted to companies in each control period (each calendar year) until the year 2001, when the complete phaseout would occur. This phaseout date was established in response to a petition filed in 1991 under sections 602(c)(3) and 606(b) of the CAAA of 1990, requesting that EPA list methyl bromide as a class I substance and phase out its production and consumption. This date was consistent with section 602(d) of the CAAA of 1990, which for newly listed class I ozone-depleting substances provides that ''no extension [of the phaseout schedule in section 604] under this subsection may extend the date for termination of production of any class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances.'' EPA based its action on scientific assessments and actions by the Parties to the Montreal Protocol to freeze the level of methyl bromide production and consumption for industrialized countries at the 1992 Meeting of the Parties in Copenhagen.

At their 1995 meeting, the Parties made adjustments to the methyl bromide control measures and agreed to reduction steps and a 2010 phaseout date for industrialized countries with exemptions permitted for critical uses. At that time, the U.S. continued to have a 2001 phaseout date in accordance with the CAAA of 1990 language. At their 1997 meeting, the Parties agreed to further adjustments to the phaseout schedule for methyl bromide in industrialized countries, with reduction steps leading to a 2005 phaseout for industrialized countries. The controls on methyl bromide appear in Article 2H of the Protocol. Critical use exemptions are addressed in Article 2H(5), which provides that the 2005 methyl bromide phaseout shall not apply ''to the extent the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses.''

In October 1998, the U.S. Congress amended the CAA to prohibit the termination of production of methyl bromide prior to January 1, 2005, to require EPA to bring the U.S. phaseout of methyl bromide in line with the schedule specified under the Protocol, and to authorize EPA to provide exemptions for critical uses. These amendments were contained in Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. 105–277, October 21, 1998) and were codified in Section 604 of the CAA, 42 U.S.C. 7671c. The amendment that specifically addresses the critical use exemption appears at Section 604(d)(6), 42 U.S.C. 7671c(d)(6). Section 604(d)(6) provides that ''[t]o the extent consistent with the

Montreal Protocol, the Administrator, after notice and the opportunity for public comment, and after consultation with other departments or instrumentalities of the Federal Government having regulatory authority related to methyl bromide, including the Secretary of Agriculture, may exempt the production, importation, and consumption of methyl bromide for critical uses.'' More generally, Section 614(b) provides that Title VI of the CAAA of 1990 ''shall be construed, interpreted, and applied as a supplement to the terms and conditions of the Montreal Protocol.''

On November 28, 2000, EPA issued regulations to amend the phaseout schedule for methyl bromide and extend the complete phaseout of production and consumption to 2005 (65 FR 70795). On December 23, 2004 (69 FR 76982), EPA published a final rule (the ''Framework Rule'') in the **Federal Register** that established the framework for the critical use exemption; set forth a list of approved critical uses for 2005; and specified the amount of methyl bromide that could be supplied in 2005 from pre-phaseout inventory and new production or import to meet the needs of approved critical uses. EPA then published a second final rule that added additional uses to the exemption program for 2005 and allocated additional critical stock allowances (70 FR 73604). EPA published a final rule on February 6, 2006 to exempt production and import of methyl bromide for 2006 critical uses and to indicate which uses met the criteria for the exemption program for that year (71 FR 5985). A Technical Correction amending the critical use allowances was published on April 28, 2006 (71 FR 25077). With this action, under authority of section 604(d)(6) of the CAA, EPA is listing the uses that will qualify as approved critical uses in 2007 and the amount of methyl bromide required to satisfy those uses.

This action reflects Decision XVII/9, taken at the Parties' Seventeenth Meeting in December 2005. In accordance with Article 2H(5), the Parties have issued several Decisions pertaining to the critical use exemption. These include Decisions IX/6 and Ex. I/4, which set forth criteria for review of proposed critical uses. The status of Decisions is addressed in the recent D.C. Circuit opinion, *NRDC* v. *EPA*., D.C. Cir. No. 04–1438 (August 29, 2006), 2006 U.S. App. LEXIS 22074, and in EPA's ''Supplemental Brief for the Respondent,'' filed in *NRDC* v. *EPA* and available on Docket No. EPA–HQ–OAR–2005–0538. In this final rule, EPA is honoring commitments made by the United States in the Montreal Protocol context.

V. What Is the Critical Use Exemption Process?

A. Background of the Process

Starting in 2002, EPA began notifying applicants of the process for obtaining a critical use exemption to the methyl bromide phaseout. On May 10, 2002, the Agency published its first notice in the **Federal Register** (67 FR 31798) announcing the availability of the application for a critical use exemption and the deadline for submission of the requisite data. Applicants were informed that they may apply as individuals or as part of a group of users (a ''consortium'') who face the same limiting critical conditions (*i.e.* specific conditions that establish a critical need for methyl bromide). EPA has repeated this process annually since then. The critical use exemption is designed to permit production and import of methyl bromide for uses that do not have technically and economically feasible alternatives.

The criteria for the exemption initially appeared in Decision IX/6 of the Parties to the Protocol. In that Decision, the Parties agreed that ''a use of methyl bromide should qualify as 'critical' only if the nominating Party determines that: (i) The specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and (ii) there are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and public health and are suitable to the crops and circumstances of the nomination.'' These criteria are reflected in EPA's definition of ''critical use'' at 40 CFR 82.3.

In response to the yearly requests for critical use exemption applications published in the **Federal Register**, applicants have provided data on the technical and economic feasibility of using alternatives to methyl bromide. Applicants further submit data on their use of methyl bromide, on research programs into the use of alternatives to methyl bromide, and on efforts to minimize use and emissions of methyl bromide.

EPA's Office of Pesticide Programs reviews the data submitted by applicants, as well as data from governmental and academic sources, to establish whether there are technically and economically feasible alternatives available for a particular use of methyl bromide and whether there would be significant market disruption if no exemption were available. In addition, EPA reviews other parameters of the exemption applications such as dosage and emissions minimization techniques and applicants' research or transition plans. This assessment process culminates with the development of a document referred to as the ''Critical Use Nomination'' or CUN. The CUN is submitted annually by the U.S. Department of State to the United Nations Environment Programme (UNEP)'s Ozone Secretariat. The CUNs of various countries are subsequently reviewed by the Methyl Bromide Technical Options Committee (MBTOC) and the Technical and Economic Assessment Panel (TEAP), which are independent advisory bodies to Parties to the Montreal Protocol. These bodies make recommendations to the Parties on the nominations. The Parties then take a Decision to authorize a critical use exemption for a particular country. The Decision also identifies how much methyl bromide may be supplied for the exempted critical uses. Finally, for each exemption period, EPA provides an opportunity for comment on the amounts of methyl bromide that the Agency has determined to be necessary for critical uses and the uses that the Agency has determined meet the criteria of the critical use exemption.

For more information on the domestic review process and methodology employed by the Office of Pesticide Programs, please refer to a detailed memo titled ''Development of 2003 Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America'' available on the docket for this rulemaking. While the particulars of the data continue to evolve and clerical matters are further streamlined, the technical review itself has remained the same since the inception of the program.

On January 31, 2005, the U.S. Government submitted the third U.S. Nomination for a Critical Use Exemption for Methyl Bromide to UNEP's Ozone Secretariat. This nomination contained the request for 2007 critical uses. On March 16 and 18, 2005, and June 10 and 13, 2005, MBTOC sent questions to the U.S. Government concerning technical and economic issues in the nomination. The U.S. Government transmitted responses to these requests for clarification on April 8, 2005 and August 18, 2005. These documents, together with reports by the advisory bodies noted above, can be accessed in the docket for this rulemaking. The determination in this final rule reflects the analysis contained in those documents.

EPA received one comment requesting it not exempt any methyl bromide for critical uses. The CAA allows the Agency to create an exemption for critical uses from the production and consumption phaseout of methyl bromide. Although the Act does not require EPA to establish an exemption, EPA believes the lack of suitable alternatives for the uses listed as approved critical uses in this rulemaking warrants the continuation of the exemption process begun in 2005.

The history of ozone protection programs has been the transition of industries away from production, import, and use of ozone-depleting substances to alternatives. In some instances a successful transition was possible within the allotted time. In other instances, additional time has been required to allow for the development and market penetration of alternatives. In fact, more than ten years after the phaseout of chlorofluorocarbons (CFCs), the U.S. Government is still exempting the production of CFCs for essential uses in metered dose inhalers. In the instance of critical uses where suitable alternatives are not yet available for all uses, EPA believes it would be inconsistent with the history and the goals of the ozone protection program not to allow for a safety valve in accordance with the provisions of both international and domestic law.

B. How Does This Final Rulemaking Relate to Previous Critical Use Exemption Rulemakings?

The December 23, 2004 Framework Rule (69 FR 76982) established the bulk of the framework for the critical use exemption in the U.S. including trading provisions and recordkeeping and reporting obligations. In this action, EPA is not changing the framework of the exemption program but rather is establishing a list of approved critical uses for 2007 and is issuing allowances that will determine the amount of methyl bromide available for those uses consistent with the Framework Rule.

In the proposed rulemaking, published on July 6, 2006 (71 FR 38325), EPA sought comment on the proposed critical use exemptions for the 2007 calendar year. No major changes to the operational framework were proposed. Some commenters, however, requested that EPA re-examine significant portions of the operational framework identified in the December 23, 2004 Framework Rule. In this action, EPA is only addressing comments within the scope of the proposal, but may consider additional suggestions pertaining to other areas in future critical use exemption rulemakings. With respect to the comments on the operational framework, EPA has already addressed similar points in the Response to Comments document for the Framework Rule, accessible on Docket No. EPA–HQ–OAR–2005–0538.

EPA received three comments concerning the term significant market disruption, as described in Decision IX/6. One commenter requested a proper definition of the term, in addition to the terms ''technical feasibility'' and ''economic feasibility.'' Another commenter stated that the proposal lacked a market disruption finding and that EPA did not provide support for its claims of market disruption. The other commenter noted that the critical use exemption application for the Florida Golf Course Superintendents Association was rejected because of a failure to demonstrate that the loss of methyl bromide would result in significant market disruption, and believes the term is undefined by EPA. These comments are addressed in the separate response to comments document, available on the docket for this action. A description of EPA's application of this concept is available in the memo titled ''Development of the 2003 Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America,'' on Docket Nos. EPA–HQ–OAR–2003–0017, EPA–HQ–OAR–2004–0506, EPA–HQ–OAR–2005–0122, and EPA–HQ–OAR–2005–0538. One commenter stated that a ''significant market disruption'' refers to ''a decrease or delay in supply or an increase in price of a commodity produced with methyl bromide.'' EPA views this as one possible type of market disruption. As stated in the memo available on EPA–HQ–OAR–2004–0506, ''markets are partially defined by the interaction between supply and demand, which determines the price and quantity of a good traded in a market. EPA's position is that a disruption to either side of a market, demand or supply, would result in market disruption.'' For example, if the loss of methyl bromide in strawberry production resulted in significant production decreases, followed by an increase in the price of strawberries—and, depending on the price elasticity of strawberries, potential loss of grower income—EPA could determine that it constituted a significant market disruption.

In determining whether a change in supply or demand is significant, EPA considers several dimensions of which two are key: (1) Individual versus aggregate and (2) absolute versus relative. EPA typically evaluates losses at the individual level, *e.g.*, on a per-acre basis. We then extrapolate to the aggregate loss by multiplying this loss by the number of acres affected, using crop budgets and other relevant information. EPA balances the two measures to determine whether impacts are significant. For example, if the loss of methyl bromide in Michigan for vegetable production results in high prices in the upper Midwest, EPA may determine that it constitutes a significant market disruption, even if producers and consumers in the rest of the country are unaffected.

The other key dimension is absolute versus relative impacts. The loss of a single processing plant may not seem significant. However, if there are only three such plants, the loss of one could still result in significant market disruption. EPA relies on detailed crop budgets and other sources of information for data on production costs, gross revenues, and other measures.

C. Critical Uses and Adjustments to Critical Use Amounts

In Decision XVII/9, taken in December 2005, the Parties to the Protocol agreed as follows: ''for the agreed critical-use categories for 2007, set forth in table C to the annex to the present decision for each Party, to permit, subject to the conditions set forth in the present decision and decision Ex.I/4, the levels of production and consumption for 2007 set forth in table D of the annex to the present decision which are necessary to satisfy critical uses * * *''

The following uses are those set forth in table C of the annex to Decision XVII/9: cucurbits; dry commodities/structures cocoa beans; dried fruit and nuts; NPMA dry commodities/structures (processed foods, herbs & spices, dried milk and cheese processing facilities); dry cure pork products (building and product); eggplant (field); forest nursery seedlings; mills and processors; nursery stock-fruit trees, raspberries, roses; orchard replant; ornamentals; peppers (field); strawberry fruit (field); strawberry runners; tomato (field) and turf grass. When added together, the agreed critical-use levels for 2007 total 6,749,060 kilograms, which is equivalent to 26.4% of the U.S. 1991 methyl bromide consumption baseline of 25,528,000 kilograms. However, the maximum amount of allowable new production or import as set forth in table D of Decision XVII/9 is 5,149,060 kilograms, which is equivalent to 20% of the 1991 methyl bromide consumption baseline. The difference between allowable new production or import and the total critical use amount

will be made up from pre-phaseout inventory. EPA further discusses the breakout between new production or import and stocks in section V.G. of this preamble.

EPA is establishing the following reductions to the amount of newly produced or imported methyl bromide authorized in Decision XVII/9 to satisfy critical uses:

(a) Reductions to accommodate uptake of sulfuryl fluoride in 2007;

(b) Reductions to account for unused critical use methyl bromide at the end of 2005;

(c) Reductions to accommodate increased allocation of critical stock allowances (CSAs).

Eleven commenters objected to EPA's proposed reductions and stated that EPA should grant the full amount of new production allowed by the Parties to the Montreal Protocol in Decision XVII/9. However, another commenter stated that new production and import should be decreased further to account for large inventory. The comments on EPA's proposed reductions are addressed in the subsequent section of this preamble, and the comments on inventory are addressed in Section F.

In the 2006 CUE Rule (71 FR 5985), EPA allocated less methyl bromide for critical uses than was authorized by the Parties, in order to account for the recent registration of sulfuryl fluoride. The Agency based those reductions on the data contained in the 2008 CUN, which was submitted to the Ozone Secretariat in January 2006. The 2008 CUN is available in the docket for the July 6, 2006 proposed rule. The nomination indicated that sulfuryl fluoride is registered to control the relevant pests in all post-harvest sectors except for cheese and dry cured ham use categories and that between 12 percent and 18 percent of the industry, depending on the use category, could feasibly transition to this alternative each year. This analysis still represents the best available data on the transition to sulfuryl fluoride including factors such as potential obstacles in the export of treated commodities. The report of the Methyl Bromide Technical Options Committee (MBTOC) indicated that the MBTOC did not make any reductions in these use categories for the uptake of sulfuryl fluoride in 2007 because the United States Government indicated that it would do so in its domestic allocation procedures. Therefore, EPA is reducing the total volume of critical use methyl bromide by 53,703 kilograms to reflect the continuing transition to sulfuryl fluoride. The July 6, 2006 proposed rule sought comment on the transition rates for sulfuryl fluoride described in the 2008 CUN. In particular, the Agency sought comment on the ability of certain end users, such as dried fruit and nut processors, to use sulfuryl fluoride given the progress made by importing countries in establishing and approving tolerance levels for the use of sulfuryl fluoride. A copy of the 2008 analysis is available in the rulemaking docket for comment.

EPA received 26 comments on the availability of sulfuryl fluoride. Nine commenters stated that EPA's transition estimates of 12%–18% were not justified and were premature, and five commenters contended that the proposed reduction had no factual basis. Four commenters cited the Motion of Stay of Effectiveness of Sulfuryl Fluoride Tolerances, described in the Request For Stay of Tolerances notice published in the **Federal Register** on July 5, 2006 (71 FR 38125). The commenters also cited concerns with the regulatory status of sulfuryl fluoride. One commenter noted that data collection on the efficacy of sulfuryl fluoride is just beginning this year and will continue over the next three years. This commenter requested that EPA not make any additional reductions in methyl bromide allocations until sulfuryl fluoride and other alternatives have been more thoroughly studied. One commenter stated that sulfuryl fluoride is not meeting expectations as an alternative and another questioned the viability of sulfuryl fluoride as a commercial use. Another commenter provided supporting documents, available on the docket for this action, explaining why sulfuryl fluoride uptake has not kept pace with EPA's transition estimates. Similar comments expressed concerns relating to the safety, efficacy, and/or trade limitations associated with sulfuryl fluoride.

In contrast, eight commenters stated that sulfuryl fluoride is a satisfactory alternative to methyl bromide because of its excellent results in application, pest population control, and aeration timing, among other reasons, and supported the use of sulfuryl fluoride in post-harvest applications. Two commenters noted that sulfuryl fluoride could replace all methyl bromide in the post-harvest sector by December 31, 2007. One commenter noted that sulfuryl fluoride provides pest control at all life stages and does not deplete the ozone layer. The commenter provided nineteen supporting documents. Another commenter stated that the market penetration of sulfuryl fluoride is inhibited by the continued availability of methyl bromide through the critical use exemption process.

The Agency sought comments on the ability of certain end-users, such as dried fruit and nut processors, to use sulfuryl fluoride given the progress made by importing countries in establishing and approving tolerance levels for the use of sulfuryl fluoride. One commenter responded by noting that Maximum Residue Levels (MRLs) have been established in Japan, Canada, the European Union, and the U.S. The commenter also noted that sulfuryl fluoride is registered in eight nations. Three other commenters noted that there were few or no tolerances for sulfuryl fluoride.

One commenter suggested EPA poll industries that have the opportunity to use sulfuryl fluoride to identify those able to transition. On August 23, 2006, EPA issued letters to a sample of fumigation and flour milling operations under Section 114 of the CAA in order to obtain better data on sulfuryl fluoride transition estimates. However, the data received from the Section 114 responses did not result in significantly comparable data points and therefore EPA is making no additional sulfuryl fluoride reductions at this time. However, EPA may use the data obtained from the Section 114 responses in future rulemakings and in conjunction with information that EPA may receive in the future.

After considering the comments received, in this final rule, EPA is reducing the amount of newly produced or imported critical use methyl bromide by 53,703 kilograms to reflect the continuing transition to sulfuryl fluoride. The July 6, 2006 proposed rule sought to reduce the amount of newly produced or imported methyl bromide by 68,170 kilograms. However, one post-harvest sub-sector had been double-counted in the original post-harvest calculations. EPA has placed the revised spreadsheet demonstrating the revised calculation on the docket. Responses to specific comments appear in the separate Response To Comment document, available on the docket for this rulemaking.

As described in the December 23, 2004 Framework Rule (69 FR 76997), EPA is deducting the amount of unused methyl bromide from the total number of allowances issued for the control period following the control period immediately after the control period when the methyl bromide was unused for critical uses. For example, all unused methyl bromide that was produced or imported under the critical use exemption in 2005 was reported to EPA in 2006 and would be reduced from the total allowable levels of new production/import in 2007. EPA's July

6, 2006 proposed rule proposed to reduce the total level of new production and import for critical uses by 443,000 kilograms to reflect the total level of unused material available at the end of 2005. As described in the Framework Rule, after applying this reduction to the total volumes of allowable new production or import, EPA allocates prorated critical use allowances (CUAs) to each company based on their 1991 baseline market share in the corresponding proposal.

EPA received fourteen comments objecting to EPA's proposal to reduce the level of new production and import for critical uses by 443,000 kilograms to reflect the total level of unused material at the end of 2005. The commenters contend that the unused amount described in the proposal was largely attributed to the delay in finalizing the 2005 supplemental rule and that stakeholders should not be penalized.

EPA notes that the accumulation of inventory is not allowed under the critical use exemption program, and that the unused amount consists of material that was produced but was never sold to critical users. The 2005 supplemental rule only authorized an additional 610,655 kilograms of pre-phaseout inventory to be made available for critical uses (70 FR 73604) and did not authorize additional new production or import for the 2005 calendar year. Thus, the 2005 supplemental rule did not affect the carryover amount. Therefore, to account for carryover of inventory, EPA is reducing the level of new production and import for critical uses by 443,000 kilograms as proposed.

Decision XVII/9, paragraph 7, ''request[s] Parties to endeavor to use stocks, where available, to meet any demand for methyl bromide for the purposes of research and development.'' EPA then proposed to reduce the total supply of new production and import for critical uses by an amount equivalent to the total amount authorized for research purposes, which is 21,702 kilograms. The calculations used by the Agency for the research adjustment are available for public comment in the docket for this action. Further, EPA encouraged methyl bromide suppliers to sell pre-phaseout inventory to researchers and encouraged researchers to purchase stocks of methyl bromide.

EPA received three comments stating that research amounts should come from new production amounts because such research is critical to the long-term acceptance of alternatives, and allowing new production for this use will facilitate the transition to non-ozone-depleting substances.

EPA's allocation for the 2007 control period is consistent with the above Decision. To account for research amounts, in this final rule EPA is reducing the amount of methyl bromide available for new production and import by 21,702 kilograms but notes that use of methyl bromide for research purposes will facilitate the transition to alternatives. In response to Decision XVII/9, EPA continues to encourage methyl bromide suppliers to sell inventory to researchers and encourages researchers to purchase inventory. Additional discussion can be found in Section V.F of this final rule.

Lastly, the Agency proposed to allocate critical stock allowances (CSAs) for 2007 critical uses in an amount equal to either 6.2% or 7.5% of baseline. The Agency is allocating CSAs equal to 7.5% of baseline in this final rule. In section V.G. of this preamble, the Agency describes the reasons for this action. Having chosen the larger CSA amount, the Agency is making a corresponding reduction in the amount of new production and import under the exemption program.

On February 6, 2006, EPA amended the label for 1,3-dichloropropene (1,3-D) regarding karst restrictions. Copies of the amended labels are available in the docket for this action. The previous label states ''Do not apply in areas overlying karst geology'' whereas the new label states ''Do not apply this product within 100 feet of karst topographical features.'' The new label language is more instructive on the use of 1,3-D in areas with karst topography, while still protecting the environment, than the previous label language. EPA's assessment of the amount of methyl bromide that may be displaced by the use of 1,3-D over karst areas in the 2007 technical analysis was already based on the revised label language now in place. Therefore, EPA did not propose to make further reductions to the volumes of pre-plant methyl bromide based on the label change. A more detailed explanation of this matter appears in the responses to the MBTOC, available in the docket for this rulemaking. A copy of the label amendment is available in the docket as well. EPA received one comment on the karst label restriction, which is addressed in the Response to Comments document for this action.

With this final rule, EPA is amending Columns B and C of Appendix L to 40 CFR Part 82, Subpart A to reflect the agreed critical-use categories identified in Decision XVII/9 for the 2007 control period (calendar year). The Agency is amending the table of critical uses based, in part, on the technical analysis contained in the 2007 U.S. nomination that assesses data submitted by applicants to the critical use exemption program as well as public and proprietary data on the use of methyl bromide and its alternatives. EPA sought comment on the aforementioned analysis and, in particular, any information regarding changes to the registration or use of alternatives that may have transpired after the 2007 U.S. nomination was written. Such information has the potential to alter the technical or economic feasibility of an alternative and could thus cause EPA to modify the analysis that underpins EPA's determination as to which uses and what amounts of methyl bromide qualify for the critical use exemption. EPA did not receive any comments regarding changes to the registration of an alternative, but did receive five comments stating that it is inappropriate for EPA to revisit the technical analysis contained in the 2007 nomination at this time because the Parties have already authorized critical use amounts for the 2007 calendar year. While EPA is not revising the technical analysis at this time due to the lack of new information regarding the registration or use of alternatives, EPA will continue to consider such information in future rulemakings. Based on the information described above, EPA is determining that the uses in Table I: Approved Critical Uses, with the limiting critical conditions specified, qualify to obtain and use critical use methyl bromide in 2007.

TABLE I.—APPROVED CRITICAL USES

Column A	Column B	Column C
Approved Critical Uses.	Approved Critical User and Location of Use.	Limiting Critical Conditions that either exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation:

TABLE I.—APPROVED CRITICAL USES—Continued

Column A	Column B	Column C
PRE-PLANT USES		
Cucurbits	(a) Michigan growers	Moderate to severe soilborne fungal disease infestation. Moderate to severe disease infestation. A need for methyl bromide for research purposes.
	(b) Southeastern U.S. limited to growing locations in Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe fungal disease infestation. Moderate to severe root knot nematodes. A need for methyl bromide for research purposes.
	(c) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe fungal disease infestation. Moderate to severe root knot nematodes. A need for methyl bromide for research purposes.
Eggplant	(a) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Moderate to severe disease infestation. Restrictions on alternatives due to karst geology. A need for methyl bromide for research purposes.
	(b) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Moderate to severe pythium root, collar, crown and root rot. Moderate to severe disease infestation. Moderate to severe southern blight infestation. Restrictions on alternatives due to karst geology. A need for methyl bromide for research purposes.
	(c) Michigan growers	Moderate to severe soilborne fungal disease infestation. A need for methyl bromide for research purposes.
Forest Nursery Seedlings.	(a) Members of the Southern Forest Nursery Management Cooperative limited to growing locations in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation.
	(b) International Paper and its subsidiaries limited to growing locations in Alabama, Arkansas, Georgia, South Carolina, and Texas.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation.
	(c) Public (government-owned) seedling nurseries in Illinois, Indiana, Kentucky, Maryland, Missouri, New Jersey, Ohio, Pennsylvania, West Virginia, and Wisconsin.	Moderate to severe weed infestation including purple and yellow nutsedge infestation. Moderate to severe Canada thistle infestation. Moderate to severe nematodes. Moderate to severe fungal disease infestation.
	(d) Weyerhaeuser Company and its subsidiaries limited to growing locations in Alabama, Arkansas, North Carolina, and South Carolina.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation. Moderate to severe nematodes and worms.
	(e) Weyerhaeuser Company and its subsidiaries limited to growing locations in Oregon and Washington.	Moderate to severe yellow nutsedge infestation. Moderate to severe fungal disease infestation.
	(f) Michigan growers	Moderate to severe disease infestation. Moderate to severe Canada thistle infestation. Moderate to severe nutsedge infestation. Moderate to severe nematodes.
	(g) Michigan herbaceous perennials growers.	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Moderate to severe yellow nutsedge and other weed infestation.
Orchard Nursery Seedlings.	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in California and Washington (Driscoll's Raspberries and their contract growers in California and Washington).	Moderate to severe nematode infestation. Presence of medium to heavy clay soils. Prohibition on use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. A need for methyl bromide for research purposes.
	(b) Members of the California Association of Nurserymen—Deciduous Fruit and Nut Tree Growers.	Moderate to severe nematode infestation. Presence of medium to heavy clay soils. Prohibition on use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. A need for methyl bromide for research purposes.

TABLE I.—APPROVED CRITICAL USES—Continued

Column A	Column B	Column C
	(c) California rose nurseries	Moderate to severe nematode infestation. Prohibition on use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. A need for methyl bromide for research purposes.
Strawberry Nurseries	(a) California growers	Moderate to severe disease infestation. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. A need for methyl bromide for research purposes.
	(b) Maryland, North Carolina, and Tennessee growers.	Moderate to severe black root rot. Moderate to severe root-knot nematodes. Moderate to severe yellow and purple nutsedge infestation. A need for methyl bromide for research purposes.
Orchard Replant	(a) California stone fruit growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Presence of medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. A need for methyl bromide for research purposes.
	(b) California table and raisin grape growers.	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(c) California wine grape growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(d) California walnut growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(e) California almond growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
Ornamentals	(a) California growers	Moderate to severe disease infestation. Moderate to severe nematodes. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe weed infestation. Moderate to severe disease infestation. Moderate to severe nematodes. Karst topography. A need for methyl bromide for research purposes.
Peppers	(a) California growers	Moderate to severe disease infestation. Moderate to severe nematodes. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Moderate to severe pythium root, collar, crown and root rots. Presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less. A need for methyl bromide for research purposes.

TABLE I.—APPROVED CRITICAL USES—Continued

Column A	Column B	Column C
	(c) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation. Moderate to severe nematodes. Karst topography. A need for methyl bromide for research purposes.
	(d) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes, or moderate to severe pythium root and collar rots. Moderate to severe southern blight infestation, crown or root rot. A need for methyl bromide for research purposes.
	(e) Michigan growers	Moderate to severe fungal disease infestation. A need for methyl bromide for research purposes.
Strawberry Fruit	(a) California growers	Moderate to severe black root rot or crown rot. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. Time to transition to an alternative. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe yellow or purple nutsedge. Moderate to severe nematodes. Moderate to severe disease infestation. Carolina geranium or cut-leaf evening primrose infestation. Karst topography and to a lesser extent a need for methyl bromide for research purposes.
	(c) Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Maryland, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge. Moderate to severe nematodes. Moderate to severe black root and crown rot. Presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less. A need for methyl bromide for research purposes.
Tomatoes	(a) Michigan growers	Moderate to severe disease infestation. Moderate to severe fungal pathogen infestation. A need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation. Moderate to severe nematodes. Presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less. Karst topography. A need for methyl bromide for research purposes.
Turfgrass	(a) U.S. turfgrass sod nursery producers who are members of Turfgrass Producers International (TPI).	Production of industry certified pure sod. Moderate to severe bermudagrass. Moderate to severe nutsedge. Moderate to severe white grub infestation. Control of off-type perennial grass infestation. A need for methyl bromide for research purposes.
POST-HARVEST USES		
Food Processing	(a) Rice millers in all locations in the U.S. who are members of the USA Rice Millers Association.	Moderate to severe infestation of beetles, weevils or moths. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are active members of the Pet Food Institute (For this rulemaking, "pet food" refers to domestic dog and cat food).	Moderate to severe infestation of beetles, moths, or cockroaches. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
	(c) Kraft Foods in the U.S	Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
	(d) Members of the North American Millers' Association in the U.S.	Moderate to severe beetle infestation. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.

TABLE I.—APPROVED CRITICAL USES—Continued

Column A	Column B	Column C
	(e) Members of the National Pest Management Association treating cocoa beans in storage and associated spaces and equipment and processed food, cheese, dried milk, herbs, and spices and spaces and equipment in associated processing facilities.	Moderate to severe beetle or moth infestation. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
Commodity Storage	(a) California entities storing walnuts, beans, dried plums, figs, raisins, dates (in Riverside county only), and pistachios in California.	Rapid fumigation is required to meet a critical market window, such as during the holiday season, rapid fumigation is required when a buyer provides short (2 working days or less) notification for a purchase or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives. A need for methyl bromide for research purposes.
Dry Cured Pork Products.	(a) Members of the National Country Ham Association.	Moderate to severe red legged ham beetle infestation. Moderate to severe cheese/ham skipper infestation. Moderate to severe dermested beetle infestation. Ham mite infestation.
	(b) Members of the American Association of Meat Processors.	Moderate to severe red legged ham beetle infestation. Moderate to severe cheese/ham skipper infestation. Moderate to severe dermested beetle infestation. Ham mite infestation.
	(c) Nahunta Pork Center (North Carolina).	Moderate to severe red legged ham beetle infestation. Moderate to severe cheese/ham skipper infestation. Moderate to severe dermested beetle infestation. Ham mite infestation.

EPA received five comments on the proposed critical uses for 2007. Four commenters noted that the Southern Forest Nursery Management Cooperative was not listed in the way the consortium had been in previous allocation rules, although the member states were described. In response, EPA agrees with the commenters and is adding ''Southern Forest Nursery Management Cooperative'' to column B under ''Approved Critical Users'' for the Forest Nursery Seedling sector. However, EPA is not adding the State of Kentucky to the consortium description in Column B at this time, which was requested by the commenters, as the corresponding exemption application filed did not list Kentucky as a consortium member. One other commenter requested that the language describing the National Pest Management Association be changed to ''Members of the National Pest Management Association treating cocoa beans in storage and associated spaces and equipment and processed food, cheese, dried milk, herbs and spices and spaces and equipment in associated processing facilities.'' EPA has incorporated this revised language describing the National Pest Management Association because it clarifies that commodities will be fumigated as part of space fumigations, as indicated in the application.

EPA received one set of comments on the pre-plant limiting critical conditions. The commenter requested that karst restriction be removed from the final rule and that the U.S. Government conduct a post-harvest evaluation of the regulatory impact of the 1,3-D label change. However, as stated above, EPA's analysis already took the change in the label language into account when conducting the 2007 analysis, and EPA is not making further reductions in this area. For responses to the remaining pre-plant comments on limiting critical conditions, please see the corresponding Response to Comments document in the docket for this action.

EPA received two comments stating that some post-harvest limiting critical conditions are no longer relevant and should be removed. One commenter also notes that sulfuryl fluoride has superseded phosphine and heat as the preferred alternative in post-harvest use categories. The conditions that the commenter requested be removed are:

- Older structures that cannot be properly sealed
- Presence of sensitive electronic equipment subject to corrosivity
- Rapid fumigation
- Time to transition to an alternative

However, EPA believes these limiting critical conditions are appropriate under certain circumstances. For example, EPA notes that phosphine is a registered alternative and therefore will continue to consider phosphine when conducting future analyses of the post-harvest sector, and the presence of electronic equipment subject to corrosivity is a factor to consider when evaluating this alternative. As per the critical use requirements, EPA will continue to consider heat a non-chemical alternative, as non-chemical alternative information is requested in the application. EPA also notes the sulfuryl fluoride is not registered on beans in California. Additional information on the limiting critical conditions is in the corresponding Response to Comments document for this action.

EPA is finalizing the proposed changes amending the table in 40 CFR part 82, subpart A, Appendix L, as reflected above. Specifically, EPA is adding one reference to column B and deleting seven references. EPA is adding cheese processing facilities to NPMA dry commodities to reflect the authorization of this use in Decision XVII/9 and removing Idaho, Kansas, Nebraska, Oregon, Utah, and Washington from the approved public nursery locations in the Forest Nursery Sector because a 2007 application for these locations was not submitted.

The categories listed in Table I above have been designated critical uses for 2007 in Decision XVII/9 of the Parties. The amount of methyl bromide approved for research purposes is included in the amount of methyl bromide approved by the Parties for the commodities for which ''research'' is indicated as a limiting critical condition in the table above. However, consistent with the approach taken in the 2006 CUE Rule, the Agency is not setting

aside a specific quantity of methyl bromide to be associated with research activities. Methyl bromide is needed for research purposes including experiments that require methyl bromide as a standard control treatment with which to compare the trial alternatives' results. EPA is permitting the following sectors to use critical use methyl bromide for research purposes: cucurbits, dried fruit and nuts, nursery stock, strawberry nurseries, turfgrass, eggplant, peppers, strawberry fruit, tomatoes, and orchard replant. In their applications to EPA, these sectors identified research programs that require the use of methyl bromide.

D. The Criteria in Decisions IX/6 and Ex. I/4

Paragraphs 2 and 5 of Decision XVII/9 request Parties to ensure that the conditions or criteria listed in Decisions Ex. I/4 and IX/6, paragraph 1, are applied to exempted critical uses for the 2007 control period. A discussion of the Agency's application of the criteria in paragraph 1 of Decision IX/6 appears in sections V.A. and V.C. of this preamble. In section V.C. of the original proposal, the Agency solicited comments from the public on the technical basis for determining that the uses listed in this proposed rule meet the criteria of the critical use exemption. The CUNs detail how each proposed critical use meets the criteria listed in paragraph 1 of Decision IX/6, apart from the criterion located at (b)(ii), as well as the criteria in paragraphs 5 and 6 of Decision Ex. I/4. EPA has addressed these comments in the Response to Comments document, available on the docket for this final rule.

The criterion in Decision IX/6(1)(b)(ii), which refers to the use of available stocks of methyl bromide, is addressed in sections V.G. of this preamble. The Agency has previously provided its interpretation of the criterion in Decision IX/6(1)(a)(i) regarding the presence of significant market disruption in the absence of an exemption, and EPA refers readers to the 2006 CUE final rule (71 FR 5989) as well as to the memo on the docket on the CUE process, in addition to Section V.A above, for further elaboration.

The remaining considerations, including the lack of available technically and economically feasible alternatives under the circumstance of the nomination, efforts to minimize use and emissions of methyl bromide where technically and economically feasible, the development of research and transition plans, and the requests in Decision Ex. I/4(5) that Parties consider and implement MBTOC recommendations, where feasible, on reductions in the critical use of methyl bromide and in paragraph 6 for Parties that submit CUNs to include information on the methodology they use to determine economic feasibility are all addressed in the nomination documents.

Some of these criteria are evaluated in other documents as well. For example, the U.S. has further considered matters regarding the adoption of alternatives and research into methyl bromide alternatives, criterion (1)(b)(iii) in Decision IX/6, in the development of the National Management Strategy submitted to the Ozone Secretariat in December 2005 and in on-going consultations with industry. The National Management Strategy addresses all of the aims specified in Decision Ex.I/4(3) to the extent feasible and is available in the docket for this rulemaking.

E. Emissions Minimization

EPA notes for the regulated community the reference to emission minimization techniques in paragraph 6 of Decision XVII/9, which states that Parties shall request critical users to employ ''emission minimization techniques such as virtually impermeable films, barrier film technologies, deep shank injection and/or other techniques that promote environmental protection, whenever technically and economically feasible.'' In addition, EPA understands that research is being conducted on the potential to reduce rates and emissions using newly available high-barrier films and that these studies show promising results. Users of methyl bromide should make every effort to decrease overall emissions of methyl bromide by implementing measures such as the ones listed above, to the extent consistent with state and local laws and regulations. The Agency encouraged researchers and users who are successfully utilizing such techniques to inform EPA of their experiences as part of their comments on the July 6, 2006 proposed rule and to provide such information with their critical use applications. In addition, the Agency welcomed comments on the implementation of emission minimization techniques and whether and how further emission and use minimization could be achieved.

EPA received five comments on emissions minimization. Two commenters stated that EPA should continue to encourage emissions minimization without mandating emissions control technology. EPA strongly encourages emissions minimization techniques, as stated above, and notes that the critical use exemption application contains an emission reduction worksheet.

One commenter suggested that EPA facilitate improvements by communicating beneficial alternatives and publicizing research in a timely manner. EPA agrees with the commenter and will examine ways to improve this communication in the future.

Another commenter asserted that a phaseout of methyl bromide will not contribute to a reduction in ozone depletion, and cited the 2002 World Meteorological Organization's Scientific Assessment of Ozone Depletion. However, the recently published Executive Summary of the Scientific Assessment of Ozone Depletion: 2006 contains the following paragraphs that refute the commenter's conclusions:

''Both the recently observed decline and the 20th Century increase inferred for atmospheric methyl bromide were larger than expected. Although industrial emissions of methyl bromide were thought to account for 20% (range 10–40%) of atmospheric methyl bromide during 1992–1998 (*i.e.*, before production was reduced), observed concentrations are consistent with this fraction having been 30% (range 20–40%). This suggests that fumigation-related emissions could have a stronger influence on atmospheric methyl bromide mixing ratios than estimated in past Assessments, though uncertainties in the variability of natural emission rates and loss, and in the magnitude of methyl bromide banked in recent years, limit our understanding of this sensitivity.

''The percentage reduction in integrated equivalent effective stratospheric chlorine for methyl bromide in Column A is larger than previously reported. This is because of the upward revision of the fraction of anthropogenic emissions relative to total methyl bromide emissions, as well as upward revision in the ozone-depletion effectiveness of bromine atoms compared with chlorine atoms mentioned earlier.

''If critical-use methyl bromide exemptions continue indefinitely at the 2006 level compared to a cessation of these exemptions in 2010 or 2015, midlatitude integrated equivalent effective stratospheric chlorine would increase by 4.7% or 4.0%, respectively.''

Another commenter notes that the main barrier to adoption of emissions controls is the lack of commercial incentives for industry to use emissions control technology for pre-plant, post-harvest, or QPS applications. EPA

believes that by reducing supply through the phaseout will provide an incentive for use minimization and therefore limit emissions. Other points discussed by this commenter can be found in the corresponding Response to Comments document for this action. The Executive Summary is available on the docket for this action, and the full report will be released in December 2006.

F. Critical Use Allowance Allocations

Each critical use allowance (CUA) is equivalent to 1 kg of critical use methyl bromide. These allowances expire at the end of the control period and, as explained in the Framework Rule, are not bankable from one year to the next. This allocation of pre-plant and post-harvest CUAs to the entities listed below is subject to the trading provisions at 40 CFR 82.12, which are discussed in section V.G. of the preamble to the Framework Rule (69 FR 76982).

In the July 6, 2006 proposed rule, EPA proposed that the amount to come from pre-phaseout inventory be either 6.2% of baseline (which is the difference between the agreed U.S. critical use level and the amount of allowable new production and import) or 7.5% of baseline. However, in the proposed rule, both the high and low end of the proposed ranges included an additional amount that had been adjusted to account for the proposed reduced research amount of 21,702 kilograms. As a result, the proposed high end of the CSA range amounted to 1,936,302 kilograms, or 7.6% of baseline. However, EPA is finalizing the CSA amount so that the CSAs reflect exactly 7.5% of baseline, or 1,914,600 kilograms. Similarly, the proposed low end of the range was 1,621,702 kilograms but should have been expressed as 1,600,000 kilograms, which equals 6.2% of baseline. As noted in Section V.C above, the authorized research amount of 21,702 kilograms will be deducted from the amount of newly produced or imported methyl bromide in response to Decision XVII/9. These adjustments do not affect the calculation of the critical use allowances. The calculation spreadsheet is available on Docket ID No. EPA–HQ–OAR–2005–0538. The total critical use exemption amount for 2007 is 6,230,655 kilograms (24.4% of baseline) with 4,316,055 kilograms (16.9% of baseline) of critical use allowances (CUAs) available from new production or import and the remaining amount, 1,914,600 kilograms (7.5% of baseline), available through CSAs. Therefore, the CUAs are allocated as follows:

TABLE II.—ALLOCATION OF CRITICAL USE ALLOWANCES

Company	2007 Critical use allowances for pre-plant uses* (kilograms)	2007 Critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp	2,401,699	221,167
Albemarle Corp	987,633	90,949
Ameribrom, Inc	545,787	50,260
TriCal, Inc	16,994	1,565
Total	3,952,114	363,941

* For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in Appendix L to 40 CFR Part 82.

Paragraph four of Decision XVII/9 states ''that Parties shall endeavor to license, permit, authorize, or allocate quantities of critical use methyl bromide as listed in tables A and C of the annex to the present decision.'' This is similar to language in Decisions Ex. I/3(4) and Ex. II/1(4) regarding 2005 and 2006 critical uses, respectively. The language from these Decisions calls on Parties to endeavor to allocate critical use methyl bromide on a sector basis.

In establishing the critical use exemption program, the Agency endeavored to allocate directly on a sector-by-sector basis by analyzing and proposing this option among others in the August 2004 proposed Framework Rule (69 FR 52366). EPA solicited comment on both universal and sector-based allocation of critical use allowances. The Agency evaluated the various options based on their economic, environmental and practical effects. After receiving comments, EPA determined in the final Framework Rule (69 FR 76989) that a lump-sum, or universal, allocation, modified to include distinct caps for pre-plant and post-harvest uses, was the most efficient and least burdensome approach that would achieve the desired environmental results, and that a sector-specific approach would pose significant administrative and practical difficulties. Although the approach adopted in the Framework Rule does not directly allocate allowances to each category of use, the Agency anticipates that reliance on market mechanisms will achieve similar results indirectly. The TEAP recommendations are based on data submitted by the U.S. which in turn are based on recent historic use data in the current methyl bromide market. In other words, the TEAP recommendations agreed to by the Parties are based on current use and the current use patterns take place in a market where all pre-plant and post-harvest methyl bromide uses compete for a lump sum supply of critical use material. Therefore, the Agency believes that under a system of universal allocations, divided into pre-plant and post-harvest sectors, the actual critical use will closely follow the sector breakout listed by the TEAP. These issues were addressed in the previous rule and EPA is not aware of any factors that would alter the analysis performed during the development of the Framework Rule. EPA did not propose to change the approach adopted in the Framework Rule for the allocation of CUAs but, in an endeavor to address Decision XVII/9(4), EPA considered additional comment on the Agency's allocation of CUAs in the two groupings (pre-plant and post-harvest) that the Agency has employed in the past. A summary of the options analysis conducted by EPA is available in the docket for this rulemaking.

EPA received six comments on the allocation approach. Five commenters believe the current two-group approach is preferable and should be maintained by EPA because it is consistent with the way the market currently operates. One commenter stated that the allocations

should be made directly to each sector, as requested by the Parties, and noted that other countries have established use-specific allocation systems. The commenter also stated that the ''lump sum'' approach delays the transition to alternatives but requested that if EPA does not adopt a use-specific approach, that the current allocation system be maintained. In response, EPA agrees with the majority of the commenters and intends to continue differentiating between ''pre-plant'' and ''post-harvest'' uses as defined in the Framework Rule (69 FR 76982) for the 2007 control period.

G. Critical Stock Allowance Allocations and Inventory of Methyl Bromide

As discussed above and in the December 23, 2004 Framework Rule, an approved critical user may obtain access to exempted production/import of methyl bromide and to limited inventories of pre-phaseout methyl bromide, the combination of which constitute the supply of ''critical use methyl bromide'' intended to meet the needs of agreed critical uses.

In developing this action, the Agency noted that Decision XVII/9 (para. 5) contains the following language: ''that each Party which has an agreed critical use renews its commitment to ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing critical use of methyl bromide and that such procedures take into account available stocks of banked or recycled methyl bromide.'' This language is similar to language in Decision XVI/2 authorizing 2006 critical uses. Language calling on Parties to address stocks also appears in Decision Ex. I/3, which authorized 2005 critical uses.

In the Framework Rule, which established the architecture of the critical use exemption program and set out the exempted levels of critical use for 2005, EPA interpreted paragraph 5 of Decision Ex. I/3 ''as meaning that the U.S. should not authorize critical use exemptions without including provisions addressing drawdown from stocks for critical uses'' (69 FR 76987). The Framework Rule established provisions governing the sale of pre-phaseout inventories for critical uses, including the concept of CSAs and a prohibition on sale of pre-phaseout inventories for critical uses in excess of the amount of CSAs held by the seller. In addition, EPA noted that inventories were further taken into account through the trading provisions that allow critical use allowances to be converted into CSAs. Under this action, no significant changes would be made to those provisions.

In the February 6, 2006 final rule that determined the amount to come from inventory during the 2006 control period, EPA stated that ''bearing in mind the United States' 'renewed commitment' as stated in Decision Ex II/1, and its experience with the 2005 critical use nomination,'' EPA would exercise its discretion to reduce production/import and authorize an additional amount from inventory (71 FR 5998). For the 2006 control period, EPA authorized 1,136,008 kilograms (5% of baseline) to be supplied from pre-phaseout methyl bromide inventories. EPA noted that ''continued drawdown of inventory for critical uses at the level authorized in the Framework Rule for 2005'' (*i.e.*, 5% of baseline) was an appropriate means, for the 2006 control period, ''of continuing the commitment previously made, in light of our understanding of current inventory and our analysis of the current needs of users.'' In addition, EPA responded to stakeholder concerns that taking 5% of baseline from inventory in 2006 and 6.2% in 2007 would result in shortages. EPA reported that the Agency ''has re-examined the available inventory data and has projected multiple scenarios concerning levels of consumption of existing inventory. Based on these efforts, EPA believes that critical users will continue to be able to meet their needs throughout 2006 and 2007 through the anticipated combination of new production and import and inventory drawdown'' (71 FR 6000).

After EPA published the 2006 final rule, it received data on holdings of pre-2005 stocks from methyl bromide suppliers as part of routine reporting under the CUE program. This data enabled EPA to track and project inventory drawdown. For 2007, EPA proposed that the amount to come from stocks be either 6.2% of baseline (which is the difference between the agreed U.S. critical use level and the amount of allowable new production and import) or 7.5% of baseline. Both amounts are larger than the amount of CSAs in the preceding year of the exemption program and take into account Decisions of the Parties including Decision XVII/9(5). EPA also sought comment on whether some other number in this range would be appropriate.

EPA also noted in the proposed rule that an alternative means of addressing stocks appeared in a recent **Federal Register** notice relating to the essential use exemption program (71 FR 18264). In that context, the relevant Decision stated that ''Parties shall take into account * * * stocks of controlled substances * * * such that no more than a one-year operational supply is maintained by that manufacturer.'' This Decision refers to another exemption program, one that is analogous but structured differently from the CUE, and operating for different applications and circumstances. EPA sought comment on whether, in the critical use exemption context, it would be appropriate to adjust the level of new production and import with the goal of maintaining a stockpile of some specified duration and how many months of inventory of methyl bromide would be appropriate to maintain non-disruptive management of this chemical in the supply chain for purposes of determining availability as inventories are reduced over time.

EPA proposed to allocate critical stock allowances (CSAs) to the entities listed below in Table III for the control period of 2007 in the range of between 6.2% of baseline and 7.5% of baseline. EPA is employing the same methodology and baselines for allocating CSAs as in previous critical use rulemakings (69 FR 76982). The Agency sought comment on the amount of critical use methyl bromide to come from inventory.

EPA received fourteen comments expressing concern about the increased reliance on inventory. These commenters stated that the proposed increase in the amount of methyl bromide to come from inventory is beyond the level approved by the Parties and that an adequate emergency inventory must be maintained. Several commenters stated that increased reliance on inventory puts critical users in jeopardy and noted the possibility of increased competition for this inventory with non-critical users. Commenters also noted the reduction in inventory reserves since 2002.

Two commenters stated that inventory should only be for critical use needs and that existing inventory is sufficient to cover both proposed amounts of CSAs.

EPA received 15 comments on the proportion of critical use methyl bromide that would come from pre-phaseout inventories (allocated as CSAs) and the proportion of new production or import (allocated as CUAs). Fourteen commenters were concerned with the option under which a greater amount of critical use material would come from the pre-phaseout inventory than the minimum amount specified in Decision XVII/9 by the Parties to the Protocol. Five of these commenters stated that the increased reliance on the pre-phaseout inventory

''puts critical use sectors in jeopardy'' because it was being proposed at a time when this inventory is decreasing. One commenter supported the concept of applying a ''strategic reserve'' approach to the critical use exemption program in order to mitigate a potential failure at the single methyl bromide production facility in the U.S. and to support unforeseen demand increases. One commenter stated that EPA underestimated the amount of methyl bromide needed to respond in the event of an emergency, stating that at least a nine-month supply would be needed to bring a currently closed methyl bromide factory back online as opposed to EPA's 100-day estimate. Six commenters said that the strategic inventory should at a minimum equal one year of the critical use need. Three commenters noted that the one-year stockpile should be a minimum standard because the time period is based on the standard used in the ''essential use program'' for CFCs and unlike alternatives to other ozone depleting substances, alternatives to methyl bromide are not universally effective in all geographic locations, even on the same crop, because of the large number of variables involved. Two commenters suggested a 24-month stockpile to maintain non-disruptive management in the methyl bromide supply chain. In contrast with concerns from commenters about taking too much of the 2007 authorized amount from pre-phaseout inventory, which they claim would leave too little in the necessary strategic reserve, EPA received two comments that said although reliance on stocks in the proposed rule is increased from previous years, the amount remains too low. These two commenters believed that EPA should preferentially use the existing stockpiles to support CUEs and not allow any new production or importation unless the stocks are not sufficient to meet critical needs.

EPA believes that allocating CSAs at a level of 7.5% of baseline (1,914,600 kg) is a reasonable drawdown from pre-phaseout inventory for critical uses, recognizing that some amount of methyl bromide must remain in the supply chain. This level accounts for past practice in CSA allocations, the range contained in the proposed rule, and Decision XVII/9, especially given the U.S. role as one of the world's largest suppliers to meet global methyl bromide needs.

Since publication of the proposal for 2007 methyl bromide critical use exemptions (71 FR 38325) EPA released information on the pre-phaseout aggregate inventory at the end of 2003, 2004 and 2005, which is available on the docket for this action. The release of the aggregate end-of-year inventory follows resolution of the two court cases blocking disclosure of a smaller aggregate and an EPA determination that the larger aggregates are not entitled to confidential treatment. EPA notes that some of the inventory available at the end of 2004 was exported to meet Article 5 countries' basic domestic needs during 2005, and some of this inventory was exported to meet a non-Article 5 country's critical use needs in 2005. The inventory has decreased significantly over the three years that EPA has collected data. The average annual drawdown of the inventory has been approximately 12% of baseline.

EPA believes the finalized CSAs for 2007 are appropriate given the U.S.'s commitment to the Montreal Protocol and the history of Decisions of the Parties to the Montreal Protocol. In the Decisions for the 2005 control period, the Parties authorized a total of 7.5% of the 1991 baseline for critical uses in the U.S. beyond the allowable level of new production, which was 30% of baseline. While those Decisions have no direct application to other control periods, they do provide some indication that the drawdown in this final rule is reasonable under the Montreal Protocol.

In addition, Decision XVII/9, which directly addresses critical uses for 2007, states: ''each Party which has an agreed critical use renews its commitment to ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing critical use of methyl bromide and that such procedures taken into account available stocks of banked or recycled methyl bromide.'' Decision XVII/9 authorizes a critical use exemption level for the U.S. that is equivalent to 26.4% of baseline, and states that the U.S. may produce or import at a level equivalent to 20.2% of baseline. It also states that the difference between the two levels may be made up ''by using quantities of methyl bromide from stocks that the Party has recognized to be available.'' Therefore, EPA proposed that the total number of CSAs would be at least 6.2% of baseline. EPA is exercising its discretion in setting the total number of CSAs at 7.5% of baseline, or 1,914,600 kilograms. The Agency believes that using an amount of pre-phaseout inventory greater than the amount that appears on the face of the Decision, when feasible, is an appropriate means of implementing the continuing U.S. commitment as reflected in Decision XVII/9. More specifically, EPA has selected 7.5% for 2007 because of the Parties' earlier agreement to this number and because, under the current circumstances, this level of inventory drawdown for critical uses is feasible. The aggregate inventory data as of December 31, 2005, indicate that pre-phaseout inventory amounts to 39% of baseline and therefore EPA does not anticipate a shortage during 2007.

However, EPA notes that the pre-phaseout inventory is decreasing over time and if the Agency is informed of a severe inventory shortage, it may consider various options including, but not limited to, promulgating a final version of the petition process proposed on October 27, 2005 (70 FR 62030), taking into account comments received on that proposal; proposing a different administrative mechanism to serve the same purpose; or authorizing conversion of a limited number of CSAs to CUAs through a rulemaking, bearing in mind the upper limit on U.S. production/import for critical uses.

EPA appreciates the comments received to date on the appropriate level of inventory and intends to continue exploring the issue in future rulemakings. EPA notes that the Parties have not taken a decision on an appropriate amount of inventory for reserve. Nor has EPA reached any conclusion regarding what amount might be appropriate. Given this uncertainty, and the continuing decline in inventory levels, EPA is exercising caution in this year's CSA allocation. EPA will consider various approaches to this issue in the future based on the data received during this notice and comment rulemaking process and other information obtained by the Agency. While EPA believes that 7.5% is an appropriate amount for 2007, the Agency will revisit whether this is the appropriate figure to use in future allocation rules taking into account the feasibility of such drawdowns and other relevant factors and data presented to the Agency.

Two commenters stated that stocks should be only for critical use needs, and that therefore access to pre-phaseout methyl bromide stocks should be denied to non-critical users and restricted for critical users to prevent ''double dipping,'' as per the Montreal Protocol and Decisions. EPA does not believe the language in the Protocol or subsequent Decisions of the Parties indicates that inventory should be reserved for critical users, nor did EPA request comment on this issue. EPA addressed similar comments in its Response to Comments for the Framework Rule, which is included in the docket for this action. EPA believes that some sectors have relied on pre-phaseout inventories of methyl bromide to test, and perform commercial trials on, alternatives to methyl bromide

instead of pursuing critical use exemptions. This is an appropriate strategy that is consistent with the Protocol. The inventory is assisting both critical use sectors and non-critical use sectors during this period of transition in the U.S. to methyl bromide alternatives that are verifiably feasible from a technical and economic standpoint. The inventory has also helped the world's methyl bromide supply chain make the transition to the post-phaseout controls without interruptions to the amount available for export to Article 5 countries and without interruptions to the shipments of CUE material to other CUE countries.

EPA continues to consider the use of pre-phaseout inventories and will revisit the issue again. In addition, EPA received a set of late comments on the proposed rule, after the Parties took Decisions at the 18th Meeting held October 30–November 3, 2006. The comments describe issues related to accelerated inventory drawdown and access to inventories by critical and non-critical users, stating that only critical users should have inventory access. While these comments arrived too late for consideration in this rulemaking, EPA has noted these comments and may explore the merits of the particular points raised by the commenter. These issues were discussed in depth at the 18th Meeting of the Parties as well and the Agency intends to consider the concerns raised by meeting participants.

TABLE III.—ALLOCATION OF CRITICAL STOCK ALLOWANCES

Company	Company
Albemarle	Industrial Fumigation Company.
Ameribrom, Inc	J.C. Ehrlich Co.
Bill Clark Pest Control, Inc.	Pacific Ag.
Blair Soil Fumigation	Pest Fog Sales Corp.
Burnside Services, Inc.	Prosource One.
Cardinal Professional Products.	Reddick Fumigants.
Carolina Eastern, Inc	Royster-Clark, Inc.
Degesch America, Inc	Southern State Cooperative, Inc.
Dodson Bros	Trical Inc.
Great Lakes Chemical Corp.	Trident Agricultural Products.
Harvey Fertilizer & Gas.	UAP Southeast (NC).
Helena Chemical Co	UAP Southeast (SC).
Hendrix & Dail	Univar.
Hy Yield Bromine	Vanguard Fumigation Co.
	Western Fumigation.

Total—1,914,600 kilograms.

Several companies that receive very small amounts of CSAs from EPA have contacted the Agency and requested that they be permitted to permanently retire their allowances. Some companies receive as few as 3 allowances which allow the holder to sell up to 3 kilograms of methyl bromide to critical uses. Due to the small allocation and because they typically do not sell critical use methyl bromide, they find the allocation of CSAs, and associated record-keeping and reporting requirements, to be unduly burdensome. In response to this concern, EPA proposed to allow CSA holders, on a voluntary basis, to permanently relinquish their allowances through written notification to EPA. Such companies would not receive CSA allocations and would be excluded from future allocations. All allowances forfeited by companies through the written notification process would be reallocated to the remaining companies on a pro-rata basis. However, during the comment period, EPA did not receive any notification from CSA holders wishing to relinquish their allowances. Therefore, the CSA holders listed in the July 6, 2006 proposal will continue to be CSA holders during the 2007 calendar year, but EPA may extend the option of relinquishing allowances in future rulemakings.

In sections V.F. and V.G. of the preamble of the proposed rule, EPA sought comment on the amount of critical use methyl bromide to come from stocks compared to new production and import. EPA addressed these comments in Sections V.C and V.F above but will continue to consider other approaches in the future.

VI. Statutory and Executive Order Reviews

A. Executive Order No. 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises novel or legal policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

In addition, EPA prepared an analysis of the potential costs and benefits associated with the CUE process. This analysis is contained in the document titled ''Economic Analysis for Methyl Bromide Allocation in the U.S., and a Regulatory Impact Analysis was also prepared. A copy of the analysis is available in the docket for this action and the analysis is briefly summarized here.

The Economic Impact Analysis (EIA) provided an analysis of the costs of regulating the distribution of critical use exemption (CUE) methyl bromide allocated to the United States by the Parties to the Montreal Protocol. The analysis presented the impacts associated with the proposed continued use of methyl bromide through the implementation of the CUE process under two allocation options (each with two allocation methods) and briefly analyzes a third auction option, and compared these results to a complete phaseout in 2005. The sections provide a brief overview on the background of the methyl bromide phaseout and the regulated community, a description of the baseline phaseout analysis and a comparison to the allocation analysis used for this report, an overview of the allocation options, and a description of the costs and overall cost savings to industry participants for the two options.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The recordkeeping and reporting requirements included in this action are already included in an existing information collection burden and this action does not make any changes that would affect the burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 82, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0564, EPA ICR number 2179.03. A copy of the OMB approved ICR may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.regulations.gov.*

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that is identified by the North American Industry Classification System (NAICS) Code in the Table below; (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.

Category	NAICS code	SIC code	NAICS Small business size standard (in number of employees or millions of dollars)
Agricultural Production	1112—Vegetable and Melon farming. 1113—Fruit and Nut Tree Farming. 1114—Greenhouse, Nursery, and Floriculture Production.	0171—Berry Crops. 0172—Grapes. 0173—Tree Nuts. 0175—Deciduous Tree Fruits (except apple orchards and farms).. 0181—Ornamental Floriculture and Nursery products. 0831—Forest Nurseries and Gathering of Forest Products.	$0.75 million. $6 million.
Storage Uses	115114—Post-harvest crop activities (except Cotton Ginning). 493110—General Warehousing and Storage. 493130—Farm product Warehousing Storage.	4221—Farm Product Warehousing and Storage. 4225—General Warehousing and Storage.	$21.5 million.
Distributors and Applicators	115112—Soil Preparation, Planting, and Cultivating.	0721—Crop Planting, Cultivation, and Protection.	$6 million.
Producers and Importers	325320—Pesticide and Other Agricultural Chemical Manufacturing.	2879—Pesticides and Agricultural Chemicals, NEC.	500 employees.

Agricultural producers of minor crops and entities that store agricultural commodities are categories of affected entities that contain small entities. This rule will only affect entities that applied to EPA for a de-regulatory exemption. In most cases, EPA received aggregated requests for exemptions from industry consortia. On the exemption application, EPA asked consortia to describe the number and size distribution of entities their application covered. EPA estimated that 3,218 entities petitioned EPA for an exemption for the 2005 control period. EPA received requests from a comparable number of entities for the 2006 and 2007 control periods. Since many applicants did not provide information on the distribution of sizes of entities covered in their applications, EPA estimated that, based on the above definition, between one-fourth and one-third of the entities may be small businesses. In addition, other categories of affected entities do not contain small businesses based on the above description.

After considering the economic impacts of today's final rule on small entities, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Since this final rule exempts methyl bromide for approved critical uses after the phaseout date of January 1, 2005, this is a de-regulatory action which will confer a benefit to users of methyl bromide. EPA believes that the estimated de-regulatory value for users of methyl bromide is between $20 million and $30 million annually. We have therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules

with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This action is deregulatory and does not impose any new requirements on any entities. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA. Further, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order No. 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule is expected to primarily affect producers, suppliers, importers, exporters, and users of methyl bromide. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order No. 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. This final rule does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order No. 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order No. 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This final rule does not pertain to any segment of the energy production economy nor does it regulate any manner of energy use. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective December 14, 2006.

List of Subjects in 40 CFR Part 82

Environmental protection, Ozone depletion, Chemicals, Exports, Imports.

Dated: December 11, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. Section 82.8 is amended by revising the table in paragraph (c)(1) and paragraph (c)(2) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

* * * * *

(c) * * *

(1) * * *

Company	2007 Critical use allowances for pre-plant uses* (kilograms)	2007 Critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp	2,401,699	221,167
Albemarle Corp	987,633	90,949
Ameribrom, Inc	545,787	50,260
TriCal, Inc	16,994	1,565
Total	3,952,114	363,941

*For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in appendix L to this subpart.

(2) Allocated critical stock allowances granted for specified control period. The following companies are allocated critical stock allowances for 2007 on a pro-rata basis in relation to the inventory held by each.

Company	Company
Albemarle	Industrial Fumigation Company.
Ameribrom, Inc	J.C. Ehrlich Co.
Bill Clark Pest Control, Inc.	Pacific Ag.
Blair Soil Fumigation	Pest Fog Sales Corp.
Burnside Services, Inc.	Prosource One.
Cardinal Professional Products.	Reddick Fumigants.
Carolina Eastern, Inc.	Royster-Clark, Inc.
Degesch America, Inc	Southern State Cooperative, Inc.
Dodson Bros	Trical Inc.
Great Lakes Chemical Corp.	Trident Agricultural Products.
Harvey Fertilizer & Gas.	UAP Southeast (NC).
Helena Chemical Co.	UAP Southeast (SC).
Hendrix & Dail	Univar.
Hy Yield Bromine	Vanguard Fumigation Co.
	Western Fumigation.

Total—1,914,600 kilograms.

■ 3. Appendix L to part 82, subpart A is revised to read as follows:

Appendix L to Part 82 Subpart A—Approved Critical Uses and Limiting Critical Conditions for Those Uses for the 2007 Control Period

Column A	Column B	Column C
Approved Critical Uses.	Approved Critical User and Location of Use.	Limiting Critical Conditions that either exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation:
PRE-PLANT USES		
Cucurbits	(a) Michigan growers	Moderate to severe soilborne fungal disease infestation. Moderate to severe disease infestation. A need for methyl bromide for research purposes.
	(b) Southeastern U.S. limited to growing locations in Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe fungal disease infestation. Moderate to severe root knot nematodes. A need for methyl bromide for research purposes.
	(c) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe fungal disease infestation. Moderate to severe root knot nematodes. A need for methyl bromide for research purposes.
Eggplant	(a) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Moderate to severe disease infestation. Restrictions on alternatives due to karst geology. A need for methyl bromide for research purposes.
	(b) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Moderate to severe pythium root, collar, crown and root rot. Moderate to severe disease infestation. Moderate to severe southern blight infestation. Restrictions on alternatives due to karst geology. A need for methyl bromide for research purposes.

Column A	Column B	Column C
	(c) Michigan growers	Moderate to severe soilborne fungal disease infestation. A need for methyl bromide for research purposes.
Forest Nursery Seedlings.	(a) Members of the Southern Forest Nursery Management Cooperative limited to growing locations in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation.
	(b) International Paper and its subsidiaries limited to growing locations in Alabama, Arkansas, Georgia, South Carolina, and Texas.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation.
	(c) Public (government-owned) seedling nurseries in Illinois, Indiana, Kentucky, Maryland, Missouri, New Jersey, Ohio, Pennsylvania, West Virginia, and Wisconsin.	Moderate to severe weed infestation including purple and yellow nutsedge infestation. Moderate to severe Canada thistle infestation. Moderate to severe nematodes. Moderate to severe fungal disease infestation.
	(d) Weyerhaeuser Company and its subsidiaries limited to growing locations in Alabama, Arkansas, North Carolina, and South Carolina.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation. Moderate to severe nematodes and worms.
	(e) Weyerhaeuser Company and its subsidiaries limited to growing locations in Oregon and Washington.	Moderate to severe yellow nutsedge infestation. Moderate to severe fungal disease infestation.
	(f) Michigan growers	Moderate to severe disease infestation. Moderate to severe Canada thistle infestation. Moderate to severe nutsedge infestation. Moderate to severe nematodes.
	(g) Michigan herbaceous perennials growers.	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Moderate to severe yellow nutsedge and other weed infestation.
Orchard Nursery Seedlings.	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in California and Washington (Driscoll's Raspberries and their contract growers in California and Washington).	Moderate to severe nematode infestation Presence of medium to heavy clay soils. Prohibition on use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. A need for methyl bromide for research purposes.
	(b) Members of the California Association of Nurserymen—Deciduous Fruit and Nut Tree Growers.	Moderate to severe nematode infestation. Presence of medium to heavy clay soils. Prohibition on use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. A need for methyl bromide for research purposes.
	(c) California rose nurseries	Moderate to severe nematode infestation. Prohibition on use of 1,3-dichloropropene products because local township limits on use of this alternative have been reached. A need for methyl bromide for research purposes.
Strawberry Nurseries	(a) California growers	Moderate to severe disease infestation. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. A need for methyl bromide for research purposes.
	(b) Maryland, North Carolina, and Tennessee growers.	Moderate to severe black root rot. Moderate to severe root-knot nematodes. Moderate to severe yellow and purple nutsedge infestation. A need for methyl bromide for research purposes.
Orchard Replant	(a) California stone fruit growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Presence of medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(b) California table and raisin grape growers.	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.

Column A	Column B	Column C
	(c) California wine grape growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(d) California walnut growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(e) California almond growers	Moderate to severe nematodes. Moderate to severe fungal disease infestation. Replanted (non-virgin) orchard soils to prevent orchard replant disease. Medium to heavy soils. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
Ornamentals	(a) California growers	Moderate to severe disease infestation. Moderate to severe nematodes. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe weed infestation. Moderate to severe disease infestation. Moderate to severe nematodes. Karst topography. A need for methyl bromide for research purposes.
Peppers	(a) California growers	Moderate to severe disease infestation. Moderate to severe nematodes. A prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached. A need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Moderate to severe pythium root, collar, crown and root rots. Presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less. A need for methyl bromide for research purposes.
	(c) Florida growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation. Moderate to severe nematodes. Karst topography. A need for methyl bromide for research purposes.
	(d) Georgia growers	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes, or moderate to severe pythium root and collar rots. Moderate to severe southern blight infestation, crown or root rot. A need for methyl bromide for research purposes.
	(e) Michigan growers	Moderate to severe fungal disease infestation. A need for methyl bromide for research purposes.
Strawberry Fruit	(a) California growers	Moderate to severe black root rot or crown rot. Moderate to severe yellow or purple nutsedge infestation. Moderate to severe nematodes. Prohibition on use of 1,3-dichloropropene products because local township limits for this alternative have been reached. Time to transition to an alternative. A need for methyl bromide for research purposes.
	(b) Florida growers	Moderate to severe yellow or purple nutsedge. Moderate to severe nematodes. Moderate to severe disease infestation. Carolina geranium or cut-leaf evening primrose infestation. Karst topography and to a lesser extent a need for methyl bromide for research purposes.
	(c) Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Maryland, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge. Moderate to severe nematodes. Moderate to severe black root and crown rot. Presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less. A need for methyl bromide for research purposes.

Column A	Column B	Column C
Tomatoes	(a) Michigan growers	Moderate to severe disease infestation. Moderate to severe fungal pathogen infestation. A need for methyl bromide for research purposes.
	(b) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia growers.	Moderate to severe yellow or purple nutsedge infestation. Moderate to severe disease infestation. Moderate to severe nematodes. Presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less. Karst topography. A need for methyl bromide for research purposes.
Turfgrass	(a) U.S. turfgrass sod nursery producers who are members of Turfgrass Producers International (TPI).	Production of industry certified pure sod. Moderate to severe bermudagrass. Moderate to severe nutsedge. Moderate to severe white grub infestation. Control of off-type perennial grass infestation. A need for methyl bromide for research purposes.
POST-HARVEST USES		
Food Processing	(a) Rice millers in all locations in the U.S. who are members of the USA Rice Millers Association.	Moderate to severe infestation of beetles, weevils, or moths. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are active members of the Pet Food Institute (For this final rule, ''pet food'' refers to domestic dog and cat food).	Moderate to severe infestation of beetles, moths, or cockroaches. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
	(c) Kraft Foods in the U.S	Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
	(d) Members of the North American Millers' Association in the U.S.	Moderate to severe beetle infestation. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
	(e) Members of the National Pest Management Association treating cocoa beans in storage and associated spaces and equipment and processed food, cheese, dried milk, herbs, and spices and spaces and equipment in associated processing facilities.	Moderate to severe beetle or moth infestation. Older structures that can not be properly sealed to use an alternative to methyl bromide. Presence of sensitive electronic equipment subject to corrosivity. Time to transition to an alternative.
Commodity Storage	(a) California entities storing walnuts, beans, dried plums, figs, raisins, dates (in Riverside county only), and pistachios in California.	Rapid fumigation is required to meet a critical market window, such as during the holiday season, rapid fumigation is required when a buyer provides short (2 working days or less) notification for a purchase or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives. A need for methyl bromide for research purposes.
Dry Cured Pork Products.	(a) Members of the National Country Ham Association.	Moderate to severe red legged ham beetle infestation. Moderate to severe cheese/ham skipper infestation. Moderate to severe dermested beetle infestation. Ham mite infestation.
	(b) Members of the American Association of Meat Processors.	Moderate to severe red legged ham beetle infestation. Moderate to severe cheese/ham skipper infestation. Moderate to severe dermested beetle infestation. Ham mite infestation.
	(c) Nahunta Pork Center (North Carolina).	Moderate to severe red legged ham beetle infestation. Moderate to severe cheese/ham skipper infestation. Moderate to severe dermested beetle infestation. Ham mite infestation.

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