



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2014-0065; FRL-9911-99-OAR]

RIN 2060-AR80

Protection of Stratospheric Ozone: The 2014 and 2015 Critical Use Exemption from the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is authorizing uses that qualify for the critical use exemption and the amount of methyl bromide that may be produced or imported for those uses for both the 2014 and 2015 control periods. EPA is taking this action under the authority of the Clean Air Act to reflect consensus decisions of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer at the Twenty-Fourth and Twenty-Fifth Meetings of the Parties. EPA is also amending the regulatory framework to remove provisions related to sale of pre-phaseout inventory for critical uses.

DATES: This rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2014-0065. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is

restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For further information about this rule, contact Jeremy Arling by telephone at (202) 343-9055, or by e-mail at arling.jeremy@epa.gov or by mail at U.S. Environmental Protection Agency, Stratospheric Protection Division, Stratospheric Program Implementation Branch (6205J), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460. You may also visit the methyl bromide section of the Ozone Depletion website of EPA's Stratospheric Protection Division at www.epa.gov/ozone/mbr for further information about the methyl bromide critical use exemption, other Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and related topics.

SUPPLEMENTARY INFORMATION: This 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 years 2014 and 2015. Under the Clean Air Act, methyl bromide consumption (consumption is defined under section 601 of the CAA as production plus imports minus exports) and production were phased out on January 1, 2005, apart from allowable exemptions, such as the critical use and the

quarantine and preshipment (QPS) exemptions. With this action, EPA is authorizing uses that qualify for the critical use exemption as well as specific amounts of methyl bromide that may be produced and imported for those uses for the 2014 and 2015 control periods.

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)(1) of the Clean Air Act, which states that the provisions of section 553 through 557 of Title 5 shall not, except as expressly provided in section 307, apply to actions to which section 307(d)(1) applies. 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 **[Insert date of publication in the FEDERAL REGISTER]**. APA section 553(d) allows an effective date less than 30 days after publication for a rule that “that grants or recognizes an exemption or relieves a restriction.” 5 U.S.C. 553(d)(1). Since today’s action can be considered to either grant an exemption for limited critical uses during 2014 and 2015 from the general prohibition on production or import of methyl bromide after the phaseout date of January 1, 2005, or relieve a restriction that would otherwise prevent production or import of methyl bromide or sale of pre-phaseout inventory for critical uses, EPA is making this action effective immediately upon publication.

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I. General Information

Entities and categories of entities potentially regulated by this action include producers, importers, and exporters of methyl bromide; applicators and distributors of methyl bromide; and users of methyl bromide that applied for the 2014 and 2015 critical use exemption including growers of vegetable crops, fruits, and nursery stock, and owners of stored food commodities and structures such as grain mills and processors. This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility, company, business, or organization could be 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 section.

II. What Is the Critical Use Exemption Process?

A. Background of the Process

Article 2H of the Montreal Protocol established the critical use exemption provision. At the Ninth Meeting of the Parties in 1997, the Parties established the criteria for an exemption in Decision IX/6. 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 health and are suitable to the crops and circumstances of the nomination.” EPA promulgated these criteria in the definition of “critical use” at 40 CFR 82.3. In addition, Decision IX/6 provides that production and consumption, if any, of methyl bromide for critical uses should be permitted only if a variety of conditions have been met, including that all technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide, that research programs are in place to develop and deploy alternatives and substitutes, and that methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide.

EPA requested critical use exemption applications through **Federal Register** notices published on June 14, 2011 (76 FR 34700) (for the 2014 control period) and on May 17, 2012 (77 FR 29341) (for the 2015 control period). Applicants submitted data on their use of methyl bromide, the technical and economic feasibility of using alternatives,

ongoing research programs into the use of alternatives in their sector, and efforts to minimize use and emissions of methyl bromide.

EPA 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 a significant market disruption if no exemption were available. In addition, an interagency workgroup reviews other parameters of the exemption applications such as dosage and emissions minimization techniques and applicants' research or transition plans. As required in section 604(d)(6) of the CAA, for each exemption period, EPA consults with the United States Department of Agriculture (USDA).¹ This assessment process culminates in the development of the U.S. critical use nomination (CUN).

Annually since 2003, the U.S. Department of State has submitted a CUN to the United Nations Environment Programme (UNEP) Ozone Secretariat. The Methyl Bromide Technical Options Committee (MBOC) and the Technology and Economic Assessment Panel (TEAP), which are advisory bodies to Parties to the Montreal Protocol, review each Party's CUN and make recommendations to the Parties on the nominations. The Parties then take Decisions on critical use exemptions for particular Parties, including how much methyl bromide may be supplied for the exempted critical uses. EPA then provides an opportunity for public comment on the amounts and specific uses of methyl bromide that the agency is proposing to exempt.

¹ See CAA section 604(d)(6): "To 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"

On January 31, 2012, the United States submitted the tenth *Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America* to the Ozone Secretariat of UNEP. This nomination contained the request for 2014 critical uses. In February 2012, MBTOC sent questions to the United States concerning technical and economic issues in the 2014 nomination. The United States transmitted responses to MBTOC in March, 2012. In May 2012, the MBTOC provided their interim recommendations on the U.S. nomination in the May TEAP Progress Report. In that report, MBTOC posed questions about the U.S. nominations for dried fruit, dried cured ham, and strawberries. The United States responded to those questions in August 2012. These documents, together with reports by the advisory bodies noted above, are in the public docket for this rulemaking. The critical uses and amounts authorized in this rule reflect the analyses contained in those documents.

On January 24, 2013, the United States submitted the eleventh *Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America* to the Ozone Secretariat of UNEP. This nomination contained the request for 2015 critical uses. In February and March 2013, MBTOC sent questions to the United States concerning technical and economic issues in the 2015 nomination. The United States transmitted responses to MBTOC in March, 2013. In May 2013, the MBTOC provided its interim recommendations on the U.S. nomination in the May TEAP Progress Report and posed additional questions about the U.S. nominations. The United States responded to those questions in August 2013. These documents, together with reports by the advisory bodies noted above, are in the public docket for this rulemaking. The critical uses and amounts authorized in this rule reflect the analyses contained in those documents.

B. How Does This Rule Relate to Previous Critical Use Exemption Rules?

The December 23, 2004, Framework Rule established the framework for the critical use exemption program in the United States, including definitions, prohibitions, trading provisions, and recordkeeping and reporting obligations. The preamble to the Framework Rule included EPA's determinations on key issues for the critical use exemption program.

Since publishing the Framework Rule, EPA has annually promulgated regulations to exempt specific quantities of production and import of methyl bromide, to determine the amounts that may be supplied from pre-phaseout inventory, and to indicate which uses meet the criteria for the exemption program for that year. See 71 FR 5985 (February 6, 2006), 71 FR 75386 (December 14, 2006), 72 FR 74118 (December 28, 2007), 74 FR 19878 (April 30, 2009), 75 FR 23167 (May 3, 2010), 76 FR 60737 (September 30, 2011), 77 FR 29218 (May 17, 2012), and 78 FR 43797 (July 22, 2013).

Unlike in previous years, this rule authorizes critical uses for both 2014 and 2015. EPA proposed to do so to expedite the issuance of 2015 allowances. EPA has received repeated comments to previous CUE rules that a failure to issue allowances in a timely fashion places manufacturers and distributors, who need to plan for the upcoming growing season, in a difficult position. For 2013, the final rule was not effective until July 22, 2013, and EPA recognized that this late date could cause difficulties for growers as well as manufacturers and distributors. EPA received one comment supporting the promulgation of CUE rules on a two-year basis. While the commenter urges EPA issue future CUE rules on a two-year basis, the agency is not able to commit to doing so in future and notes that combining two control periods in one rule may result in CUAs being

issued for the first control period later than stakeholders would prefer. Given the timing of action by the Parties to the Montreal Protocol on critical uses, EPA is unlikely to be able to add a second control period to a rule without affecting the rule's schedule.

This action continues the approach established in the 2013 rule for determining the amounts of Critical Use Allowances (CUAs) to be allocated for critical uses. A CUA is the privilege granted through 40 CFR part 82 to produce or import 1 kilogram (kg) of methyl bromide for an approved critical use during the specified control period. A control period is a calendar year. See 40 CFR 82.3. The two control periods at issue in this rule are 2014 and 2015. Each year's allowances expire at the end of that control period and, as explained in the Framework Rule, are not bankable from one year to the next.

The 2013 Rule also removed from the regulatory framework the restriction that limits the sale of inventory for critical uses through allocations of Critical Stock Allowances (CSA). A CSA was the right granted through 40 CFR part 82 to sell 1 kg of methyl bromide from inventory produced or imported prior to the January 1, 2005, phaseout date for an approved critical use during the specified control period. Under the framework, the sale of pre-phaseout inventories for critical uses in excess of the amount of CSAs held by the seller was prohibited. As discussed in the 2013 Rule, EPA removed the requirement for CSAs because the restriction was less relevant as few critical uses remained and because changes in labeling would make remaining inventory practically inaccessible. This rule removes all of the remaining provisions in 40 CFR part 82 related to critical stock allowances.

C. Critical Uses

In Decision XXIV/5, taken in November 2012, the Parties to the Protocol agreed “[t]o permit, for the agreed critical-use categories for 2014 set forth in table A of the annex to the present decision for each party, subject to the conditions set forth in the present decision and in Decision Ex. I/4 to the extent that those conditions are applicable, the levels of production and consumption for 2014 set forth in table B of the annex to the present decision, which are necessary to satisfy critical uses” The following uses are those set forth in table A of the annex to Decision XXIV/5 for the United States:

- Commodities
- Mills and food processing structures
- Cured pork
- Strawberry – field

In Decision XXV/4, taken in October 2013, the Parties to the Protocol agreed “[t]o permit, for the agreed critical-use categories for 2015 set forth in table A of the annex to the present decision for each party, subject to the conditions set forth in the present decision and in Decision Ex. I/4 to the extent that those conditions are applicable, the levels of production and consumption for 2015 set forth in table B of the annex to the present decision, which are necessary to satisfy critical uses” The following uses are those set forth in table A of the annex to Decision XXV/4 for the United States:

- Cured pork
- Strawberry – field

EPA is modifying the table of critical uses and critical users in 40 CFR part 82, subpart A, appendix L based on the amounts permitted in Decision XXIV/5 and Decision XXV/4 and the technical analyses contained in the 2014 and 2015 U.S. nominations that assess data submitted by applicants to the CUE program.

EPA sought comment on the technical analyses contained in the U.S. nominations (available for public review in the docket) and information regarding any changes to the registration (including cancellations or registrations), use, or efficacy of alternatives that have occurred after the nominations were submitted. EPA did not receive comments on the technical analyses. EPA did receive comments related to alternatives, which are discussed in the next section of the preamble. EPA recognizes that as the market for alternatives evolves, the thresholds for what constitutes “significant market disruption” or “technical and economic feasibility” may change. 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 CUE.

EPA is finalizing the lists of approved critical uses and approved critical users as proposed. For 2014, EPA is removing Georgia growers of cucurbits, eggplants, peppers, and tomatoes. These groups did not submit applications for 2014 and therefore were not included in the 2014 U.S. nomination. EPA is removing sectors or users that applied for a critical use in 2014 but that the United States did not nominate for 2014. EPA conducted a thorough technical assessment of each application and considered the effects that the loss of methyl bromide would have for each agricultural sector, and whether significant market disruption would occur as a result. As a result of this technical review, the United States Government (USG) determined that certain sectors or users did not meet the critical use criteria in Decision IX/6 and the United States therefore did not include them in the 2014 Critical Use Nomination. EPA notified these sectors of their status by letters dated February 7, 2012. These sectors are orchard replant for California wine grape

growers and Florida growers of eggplants, peppers, and tomatoes. For each of these uses, EPA found that there are technically and economically feasible alternatives to methyl bromide.

Some sectors that were not included in the 2014 Critical Use Nomination submitted supplemental applications for 2014. These sectors are: the California Association of Nursery and Garden Centers; California stone fruit, table and raisin grape, walnut, and almond growers; ornamental growers in California and Florida; California strawberry nurseries; stored walnuts; and the U.S. Golf Course Superintendents Association. In addition, some sectors that were not on the list of critical uses for 2013 submitted applications for 2014. These sectors are: California sweet potato growers, Florida strawberry growers, Mardel melon growers, Virginia tomato growers, and Turfgrass Producers International. These sectors were not nominated for 2014. The USG came to a decision that the sectors not nominated for 2014 had not provided rigorous and convincing evidence that they meet the criteria laid out in Decision IX/6, and further that no new problem or large yield/quality loss had been demonstrated that warranted seeking a supplemental exemption from the Parties to the Montreal Protocol.

For 2015 EPA is removing California wine grape growers and Florida growers of eggplants, peppers, tomatoes, and strawberries. These groups did not submit applications for 2015 and therefore were not included in the 2015 U.S. nomination. EPA is also removing sectors or users that applied for a critical use in 2015 but that the United States did not nominate for 2015. As described above EPA conducted a thorough technical assessment of each application and the USG determined that certain sectors or users did not meet the critical use criteria. EPA notified these sectors of their status by letters dated

March 26, 2013. These sectors are rice millers, pet food manufacturing facilities, members of the North American Millers Association, and California entities storing walnuts, dried plums, figs, and raisins. For each of these uses, EPA found that there are technically and economically feasible alternatives to methyl bromide. In addition, EPA is removing entities storing dates as a critical use for 2015. While the United States nominated this sector for 2015, MBTOC did not recommend that this sector be a critical use in 2015 and the Parties did not permit this use.

EPA has received supplemental applications for 2015 from sectors that the United States did not nominate for 2015. These sectors are: Michigan cucurbit, eggplant, pepper, and tomato growers; Florida eggplant, pepper, tomato, and strawberry growers; the California Association of Nursery and Garden Centers; California stone fruit, table and raisin grape, walnut, and almond growers; ornamental growers in California and Florida; the U.S. Golf Course Superintendents Association; and stored walnuts, dried plums, figs, and raisins in California. For those sectors the USG came to a decision that the sectors not nominated have not provided rigorous and convincing evidence that they meet the criteria laid out in Decision IX/6, and further that no new problem or large yield/quality loss had been demonstrated that warranted seeking a supplemental exemption from the Parties to the Montreal Protocol.

Finally, EPA is adding information to Column B of appendix L to clarify which critical uses are approved for which control periods. As stated in previous rules, the “local township limits prohibiting 1,3-dichloropropene” are prohibitions on the use of 1,3-dichloropropene products in cases where local township limits on use of this alternative have been reached. In addition, “pet food” under subsection B of Food

Processing refers to food for domesticated dogs and cats. Finally, “rapid fumigation” for commodities refers to instances in which a buyer provides short (two working days or fewer) 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.

D. Critical Use Amounts

Table A of the annex to Decision XXIV/5 lists critical uses and amounts agreed to by the Parties to the Montreal Protocol for 2014. The maximum amount of new production and import for U.S. critical uses in 2014, specified in Table B of Decision XXIV/5, is 442,337 kg, minus available stocks. This figure is equivalent to 1.7% of the U.S. 1991 methyl bromide consumption baseline of 25,528,270 kg.

Similarly, Table A of the annex to Decision XXV/4 lists critical uses and amounts agreed to by the Parties to the Montreal Protocol for 2015. The maximum amount of new production and import for U.S. critical uses in 2015, specified in Table B of Decision XXV/4, is 376,900 kg, minus available stocks. This figure is equivalent to 1.5 % of the U.S. 1991 methyl bromide consumption baseline.

EPA proposed to determine the level of new production and import for 2014 and 2015 according to the framework and as modified by the 2013 Rule. EPA is using this approach for the final rule. Under this approach, the amount of new production for each control period equals the total amount permitted by the Parties to the Montreal Protocol in their Decisions minus any reductions for available stocks, carryover, and the uptake of alternatives. These terms (available stocks, carryover, and the uptake of alternatives) are discussed in detail below. As established in the 2013 Rule, EPA is not allocating critical stock allowances. Applying this approach, EPA is allocating allowances to exempt

442,337 kg of new production and import of methyl bromide for critical uses in 2014 and 376,900 kg of new production and import for 2015. This is the same amount as the Agency proposed.

EPA received three comments related to the proposed amount of allowances. One comment stated that there should be no exemptions for methyl bromide as it was banned in 2005. While the commenter is correct that the phaseout occurred in 2005, the Montreal Protocol and the Clean Air Act provide exemptions for critical uses. EPA is taking this action under the authority of the Clean Air Act to reflect consensus decisions of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer at the Twenty-Fourth and Twenty-Fifth Meetings of the Parties.

A second commenter stated that it is appropriate for EPA to reduce the new production/import allocation to reflect the adoption of methyl bromide alternatives, including specifically dimethyl disulfide. A third commenter supported the proposal to allocate the full amount permitted by the Parties but stated that EPA should allocate more than the amount requested in the CUN to the extent that the nominations were reduced based on the availability of chloropicrin and iodomethane. EPA responds to these comments later in this section under “Uptake of Alternatives.”

In the past, EPA has also made reductions to the CUA amount to account for the amount specifically permitted for research, on the assumption that research amounts would come from inventory. One commenter stated that EPA failed to account for research use of methyl bromide in the proposed rule and should return to the previously established policy and allocate a separate research purpose allocation. EPA responds that the 2014 and 2015 CUNs did not include, and the Parties did not permit, a separate

amount for research, as had been done in prior years. As discussed in more detail in the 2011 CUE final rule (76 FR 60736, 60743, September 30, 2011), EPA views research as part of the nomination for each individual critical use. Therefore, EPA is not making any adjustments for research.

Available Stocks: For 2014 and 2015 the Parties indicated that the United States should use “available stocks,” but did not indicate a minimum amount expected to be taken from stocks. Consistent with EPA’s past practice, EPA considered what amount, if any, of the existing stocks may be available to critical users during 2014 and 2015. When EPA issued the proposed rule, the latest data reported to EPA was from December 31, 2012 and showed there were 627,066 kg of existing stocks. New data as of December 31, 2013, show that existing stocks declined to 356,561 kg.

The Parties to the Protocol recognized in their Decisions that the level of existing stocks may differ from the level of available stocks. Both Decision XXIV/5 and Decision XXV/4 state that “production and consumption of methyl bromide for critical uses should be permitted only if methyl bromide is not available in sufficient quantity and quality from existing stocks....” In addition, the Decisions recognize that “parties operating under critical-use exemptions should take into account the extent to which methyl bromide is available in sufficient quantity and quality from existing stocks....” Earlier Decisions also refer to the use of “quantities of methyl bromide from stocks that the Party has recognized to be available.” Thus, it is clear that individual Parties may determine their level of available stocks. Section 604(d)(6) of the CAA does not require EPA to adjust the amount of new production and import to reflect the availability of stocks;

however, as explained in previous rulemakings, making such an adjustment is a reasonable exercise of EPA's discretion under this provision.

In the 2013 CUE Rule (78 FR 43797, July 22, 2013), EPA established an approach that considered whether a percentage of the existing inventory was available. In that rule, EPA took comment on whether 0% or 5% of the existing stocks was available. The final rule found that 0% was available to be allocated for critical use in 2013 for a number of reasons including: a pattern of significant underestimation of inventory drawdown; the increasing concentration of critical users in California while inventory remained distributed nationwide; and the recognition that the agency cannot compel distributors to sell inventory to critical users. For further discussion, please see the 2013 CUE Rule. EPA believes these circumstances remain true for 2014 and 2015 and proposed to find 0% of the existing inventory available for 2014 and 2015.

EPA received one comment supporting EPA's determination that 0% of the existing stocks are available for the reasons stated in the proposed rule. The commenter also noted that the manner in which stocks are distributed, to existing customers within their geographic areas, further supports a finding that no stocks are available.

As discussed in the proposed rule, last year EPA removed the restriction that critical stock allowances be expended to sell inventory to critical uses. EPA was unable to calculate the effect this change may have on the remaining inventory and noted that it may be difficult to assess the impact of this change simply from updated inventory data given it went into effect in the middle of the 2013 control period. EPA solicited comments on whether, and how, to draw inferences as to the availability of stocks for critical uses based on inventory figures as of December 31, 2013. EPA did not receive

any comments on how to interpret new stocks data in light of the change in policy about CSAs. Therefore, EPA is maintaining its proposed approach and finding that 0% of the existing stocks are available for use by critical users in 2014 and 2015.

Carryover Material: The Parties in paragraph 9 of Decision XXIV/5 “urge parties operating under critical-use exemptions to put in place effective systems to discourage the accumulation of methyl bromide produced under the exemptions[.]” EPA regulations prohibit methyl bromide produced or imported after January 1, 2005, under the critical use exemption from being added to the existing pre-2005 inventory. Quantities of methyl bromide produced, imported, exported, or sold to end-users under the critical use exemption in a control period must be reported to EPA the following year. EPA uses these reports to calculate the amount of methyl bromide produced or imported under the critical use exemption, but not exported or sold to end-users in that year. EPA deducts an amount equivalent to this “carryover” from the total level of allowable new production and import in the year following the year of the data report. So for example, the amount of carryover from 2012 is factored into the determination for 2014. Carryover material (which is produced using critical use allowances) is not included in EPA’s definition of existing inventory (which applies to pre-2005 material) because this would lead to a double-counting of carryover amounts.

All critical use methyl bromide that companies reported to be produced or imported in 2012 was sold to end users. 759 MT of critical use methyl bromide was produced or imported in 2012. Slightly more than the amount produced or imported was actually sold to end-users. This additional amount was from distributors selling material that was carried over from the prior control period. Therefore, EPA proposed to apply a

carryover deduction of 0 kg to the new production amount for 2014, consistent with the method used in previous CUE rules, and with the format in Decision XVI/6 for calculating column L of the U.S. Accounting Framework.

Production, import, and sales data for 2013 was not reported to EPA by the time of the proposed rule so EPA assumed 0 kg of carryover. New data reported to EPA show that 562 MT of critical use methyl bromide was produced or imported in 2013. Again, slightly more than the amount produced or imported was actually sold to end-users. Therefore, EPA is applying a carryover deduction of 0 kg to the new production amount for 2014 and 2015.

All U.S. Accounting Frameworks for critical use methyl bromide, including the one for 2013, are available in the public docket for this rulemaking.

Uptake of Alternatives: EPA considers data on the availability of alternatives that it receives following submission of each nomination to UNEP. In previous rules EPA has reduced the total CUE amount when a new alternative has been registered and increased the new production amount when an alternative is withdrawn, but not above the amount permitted by the Parties. One comment stated that the allocation amounts should not impede the continued adoption and use of methyl bromide alternatives. EPA believes that considering the uptake of alternatives encourages the adoption of alternatives.

EPA received one comment that dimethyl disulfide (DMDS) is registered in twenty-seven states and that EPA should reduce the new production/import allocation to reflect the success that growers in many parts of the country have had in transitioning to alternatives, including DMDS. EPA also received one comment supporting the proposal not to make reductions to the allocation due to DMDS as it is not registered in California.

That commenter stated that even if California were to register DMDS, growers would transition cautiously to ensure it works for their circumstances.

EPA responds that there has been no change in the registration status of DMDS in California, the only state with a pre-plant CUE for 2014 or 2015. Because DMDS is not available in California it would not be appropriate to reduce the allocation amounts. EPA also does not believe that the progress Florida strawberry growers have made in transitioning to alternatives means, as one commenter suggests, that the EPA should reduce the allocation amounts. EPA recognizes that strawberry growers are successfully transitioning to alternatives, and the CUE allocation for strawberries has been declining as that transition has occurred. EPA considered the transition made to date, and the ability of California strawberry growers to further transition, when developing the nomination. Transition rates for alternatives have already been applied for permitted critical use amounts through the nomination and decision process.

One commenter also stated that EPA should allocate more than the amount requested in the CUN to the extent that the nominations were reduced based on the availability of chloropicrin and iodomethane. The commenter states that the removal of iodomethane from the U.S. market has increased demand for methyl bromide. In addition, the proposed restrictions on the use of chloropicrin in California will increase the need for methyl bromide in that state. EPA responds that the CUNs for 2014 and 2015 did not consider iodomethane as an available alternative because it had already been removed from the market by the time the nominations were submitted. Therefore, EPA does not believe it is appropriate to increase the critical use allocations based on the lack of availability of iodomethane.

The proposed rule requested comment on whether proposed control measures from the California Department of Pesticide Regulation on the use of chloropicrin could affect the 2015 control period. EPA did not adjust the allocations for 2014 or 2015 because the changes were only proposed. One commenter stated that EPA should increase the allocation for 2015 above the proposed amount because the need for methyl bromide will increase if California imposes new restrictions. As EPA stated in the proposed rule, EPA views the determination of the total allocation, up to the amount permitted by the Parties, as an appropriate exercise of discretion. The agency will not increase the quantities allocated beyond those permitted by the Parties, but may exercise its discretion to allocate less. In addition, the critical use exemption program has historically only relied on final actions when determining the availability of alternatives. Since EPA proposed to allocate the full amount permitted by the Parties and California's proposed measures are not final, EPA is not increasing the allocation.

One commenter stated that the proposed rule did not take into account the proposed tolerance revocation of sulfuryl fluoride. As EPA has stated in prior rules, the allocation rule is based on the current status of alternatives. Therefore, EPA has not based the allocation amounts for 2014 or 2015 on any anticipated impacts of that proposal on methyl bromide use.

EPA is not making any other modifications to CUE amounts to account for availability of alternatives. Rates of transition to alternatives have already been applied for permitted 2014 and 2015 critical use amounts through the nomination and decision process.

Allocation Amounts: EPA is allocating to the four companies that hold baseline allowances in proportion to their respective critical use allowances for new production or import of methyl bromide equivalent to 442,337 kg in 2014 and 376,900 kg in 2015. Paragraph 3 of Decision XXIV/5 and paragraph 5 of Decision XXV/4 state that “parties shall endeavor to license, permit, authorize or allocate quantities of methyl bromide for critical uses as listed in table A of the annex to the present decision...” This is similar to language in prior Decisions authorizing critical uses. These Decisions call on Parties to endeavor to allocate critical use methyl bromide on a sector basis. The proposed Framework Rule contained several options for allocating critical use allowances, including a sector-by-sector approach. The agency evaluated various options based on their economic, environmental, and practical effects. After receiving comments, EPA determined in the final Framework Rule 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-by-sector approach would pose significant administrative and practical difficulties. For the reasons discussed in the preamble to the 2009 CUE rule (74 FR 19894), and because of the limited number of permitted uses, the agency believes that under the approach adopted in the Framework Rule, the actual critical use will closely follow the sector breakout listed in the Parties’ decisions.

E. Amending the Critical Stock Allowance Framework

The 2013 Rule removed the provisions at § 82.4(p)(ii) and (iii) requiring the use of critical stock allowances for sales of inventory to critical users. In addition, EPA made some necessary conforming changes to 40 CFR part 82, which follow from removing

those restrictions. As a result of the changes in the 2013 CUE Rule, there are no restrictions under the Clean Air Act on the sale of pre-phaseout material to critical users.

EPA took comment in the proposed rule on removing all of the remaining references to critical stock allowances in 40 CFR part 82. EPA believes these provisions are no longer necessary if the agency is not allocating separate critical stock allowances. EPA received one comment in support of removing those provisions, as it would avoid confusion in the future. EPA is finalizing the rule as proposed. Specifically, EPA is removing the definitions of “critical stock allowance,” “critical stock allowance holder,” and “unexpended critical stock allowance” from § 82.3. EPA is removing provisions related to the intercompany transfer of critical stock allowances at § 82.12(a)² and the exchange of critical use allowances for critical stock allowances at § 82.12(e). EPA is also removing the reporting and recordkeeping requirements related to critical stock allowances in § 82.13(f)(3) and (g)(4). EPA notes that the agency is maintaining the requirement to annually report remaining pre-phaseout inventory.

F. Emergency Uses

In 2013 EPA held discussions with USDA and the Department of State on tools that could potentially address immediate and unforeseen needs for methyl bromide including whether emergency situations may arise that warrant the use of methyl bromide consistent with the treaty, recognizing that emergency uses are not intended as a replacement for CUE uses. In August, EPA held a stakeholder meeting to present, among other things, the findings of those discussions and noted that the three agencies had not

² This provision allows any critical stock allowance holder (“transferor”) to transfer critical stock allowances to any critical stock allowance holder or any methyl bromide producer, importer, distributor, or third party applicator (“transferee”).

yet identified any specific situations that could not be addressed by current mechanisms. The mechanisms discussed include, among others: the continuing critical use exemption process, including the supplemental application process which allows for a second opportunity to review applications from growers with a critical need; the pre-phaseout inventory (if remaining); the emergency use exemption under Section 18 of FIFRA; and ongoing targeted research and outreach to develop and implement alternatives to methyl bromide. The U.S. government is committed to using flexibility in the Protocol's existing mechanisms as an avenue to address changes in national circumstances that affect the transition to alternatives.

EPA solicited comments on specific emergency situations that may necessitate the use of methyl bromide, consistent with the requirements of the Montreal Protocol, and which could be difficult to address using current tools and authorities. EPA received one comment which discussed "hand-held probe" treatments for outbreaks of Oak Root Fungus (*Armillaria*) in fruit and nut orchards. The commenter states that the use is limited in scope, methyl bromide is the only treatment proven to have long term efficacy, and the treatment is critical to the viability of infested orchards. The commenter stated that as a threshold matter, there must be clear and objective criteria to establish the existence of an emergency situation and the basis for approval. In addition the process to meet a particular emergency must be efficient so as to enable all stakeholders to meet the need before the emergency has caused significant damage.

Clear and objective criteria would be required to establish the existence of an emergency situation and the basis for approval. Decision IX/7 states that the Secretariat and the TEAP will evaluate the use according to the critical use criteria in IX/6.

Therefore, at a minimum, any potential emergency use must also be able to qualify as a critical use. The example of *Armillaria* raised by the commenter was also included in an application for a critical use exemption in 2016. The U.S. Government did not include this as part of the 2016 U.S. Nomination because the application did not provide data to demonstrate either the efficacy of methyl bromide or that the alternatives are not effective. Nor did it include data showing that the loss of methyl bromide would create a significant market disruption. EPA will continue in interactions with stakeholders and other agencies to receive information on understanding emergency situations that may necessitate the use of methyl bromide.

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

Decision XXIV/5 and Decision XXV/4 call on Parties to apply the conditions set forth in Decision Ex. I/4 (to the extent applicable) and the criteria in Decision IX/6 paragraph 1 to exempted critical uses for the 2014 and 2015 control periods. A discussion of the agency's application of the criteria in paragraph 1 of Decision IX/6 appears in sections II.A., and II.C. of this preamble. EPA solicited comments on the technical and economic basis for determining that the uses listed in this rule meet the criteria of the critical use exemption. The CUNs detail how each critical use meets the criteria in paragraph 1 of Decision IX/6, apart from the criterion located at paragraph (b)(ii), as well as the criteria in paragraphs 5 and 6 of Decision Ex. I/4.

The criterion in Decision IX/6 paragraph (1)(b)(ii), which refers to the use of available stocks of methyl bromide, is addressed in section II.D. of this preamble. The agency has previously provided its interpretation of the criterion in Decision IX/6 paragraph (1)(a)(i) regarding the presence of significant market disruption in the absence

of an exemption. EPA refers readers to the preamble to the 2006 CUE rule (71 FR 5989, February 6, 2006) as well as to the memo in the docket titled “Development of 2003 Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America” for further elaboration. As explained in those documents, EPA’s interpretation of this term has several dimensions, including looking at potential effects on both demand and supply for a commodity, evaluating potential losses at both an individual level and at an aggregate level, and evaluating potential losses in both relative and absolute terms.

The remaining considerations are addressed in the nomination documents 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 paragraphs 5 and 6 that Parties consider and implement MBTOC recommendations, where feasible, on actions a Party may take to reduce the critical uses of methyl bromide and include information on the methodology they use to determine economic feasibility.

Some of these criteria are evaluated in other documents. The United States has considered the adoption of alternatives and research into methyl bromide alternatives (see Decision IX/6 paragraph (1)(b)(iii)) in the development of the National Management Strategy submitted to the Ozone Secretariat in December 2005, updated in October 2009. The National Management Strategy addresses all of the aims specified in Decision Ex. I/4 paragraph 3 to the extent feasible and is available in the docket for this rulemaking.

There continues to be a need for methyl bromide in order to conduct the research required by Decision IX/6. A common example is an outdoor field experiment that

requires methyl bromide as a standard control treatment with which to compare the trial alternatives' results. As discussed in the preamble to the 2010 CUE rule (75 FR 23179, May 3, 2010), research is a key element of the critical use process. Research on the crops shown in the table in Appendix L to subpart A remains a critical use of methyl bromide. While researchers may continue to use newly produced material for field, post-harvest, and emission minimization studies requiring the use of methyl bromide, EPA encourages researchers to use pre-phaseout inventory. EPA also encourages distributors to make inventory available to researchers, to promote the continuing effort to assist growers to transition critical use crops to alternatives.

H. Emissions Minimization

Previous Decisions of the Parties have stated that critical users shall 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. EPA developed a comprehensive strategy for risk mitigation through the 2009 Reregistration Eligibility Decision (RED)³ for methyl bromide, available in the docket to this rulemaking, which is implemented through restrictions on how methyl bromide products can be used. This approach means that methyl bromide labels require that treated sites be tarped, except for California orchard replant where EPA instead requires deep (18 inches or greater) shank applications. The RED also incorporated incentives for applicators to use high-barrier tarps, such as virtually impermeable film, by allowing smaller buffer zones around those sites. In addition to minimizing emissions, use of high-barrier tarps has the benefit of

³ Additional information on risk mitigation measures for soil fumigants is available at http://epa.gov/pesticides/reregistration/soil_fumigants/

providing pest control at lower application rates. The amount of methyl bromide nominated by the United States reflects the lower application rates necessary when using high-barrier tarps, where such tarps are allowed.

EPA will continue to work with the U.S. Department of Agriculture – Agricultural Research Service (USDA-ARS) and the National Institute for Food and Agriculture (USDA-NIFA) to promote emission reduction techniques. The federal government has invested substantial resources into developing and implementing best practices for methyl bromide use, including emission reduction practices. The Cooperative Extension System, which receives some support from USDA-NIFA provides locally appropriate and project-focused outreach education regarding methyl bromide transition best practices. Additional information on USDA research on alternatives and emissions reduction can be found at:

http://www.ars.usda.gov/research/programs/programs.htm?NP_CODE=308 and
<http://www.csrees.usda.gov/fo/methylbromideicgp.cfm>.

Users of methyl bromide should continue to make every effort to minimize overall emissions of methyl bromide. EPA also encourages researchers and users who are using techniques to minimize emissions of methyl bromide to inform EPA of their experiences and to provide information on such techniques with their critical use applications.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this final rule is a “significant regulatory action” because it was deemed to raise novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to interagency recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The application, recordkeeping, and reporting requirements have already been established under previous critical use exemption rulemakings. This rule does remove requirements related to the recordkeeping and reporting of critical stock allowances which would decrease the information collection burden. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 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 2060-0482. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The 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 this rule on small entities, small

entity is defined as: (1) a small business as defined by the Small Business Administration's regulations at 13 CFR 121.201 (see 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	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	\$0.75 million
Storage Uses	115114- Postharvest Crop activities (except Cotton Ginning) 311211- Flour Milling 311212- Rice Milling 493110- General Warehousing and Storage 493130- Farm Product Warehousing and Storage	\$7 million 500 employees 500 employees \$25.5 million \$25.5 million
Distributors and Applicators	115112- Soil Preparation, Planting and Cultivating	\$7 million
Producers and Importers	325320- Pesticide and Other Agricultural Chemical Manufacturing	500 employees

Agricultural producers of minor crops and entities that store agricultural commodities are categories of affected entities that contain small entities. This rule only affects entities that applied to EPA for an exemption to the phaseout of methyl bromide. 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 revised this estimate

in 2011 down to 1,800 end users of critical use methyl bromide. EPA believes that the number continues to decline as growers cease applying for the critical use exemption. 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 this rule on small entities, I certify 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 proposed rule on small entities.” (5 U.S.C. 603-604). 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 a regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Since this rule allows the use of methyl bromide for approved critical uses after the phaseout date of January 1, 2005, this action confers a benefit to users of methyl bromide. EPA estimates in the Regulatory Impact Assessment found in the docket to this rule that the reduced costs resulting from the de-regulatory creation of the exemption are approximately \$22 million to \$31 million on an annual basis (using a 3% or 7% discount rate respectively).

We have therefore concluded that this rule would relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Instead, this action provides an exemption for the manufacture and use of a phased out compound and would not impose any new requirements on any entities. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action 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 rule is expected to affect producers, suppliers, importers, and exporters and users of methyl bromide. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on this action from State and local officials.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule does not significantly or uniquely affect the communities of Indian tribal governments nor does it impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicited additional comment on this action from tribal officials.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This rule affects the level of environmental protection equally for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population.

H. Executive Order 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 rule does not pertain to any segment of the energy production economy nor does it regulate any manner of energy

use. Therefore, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

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. NTTAA directs EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule does not have disproportionately high and adverse human health or environmental effects on minority or low-income populations,

because it affects the level of environmental protection equally for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. Any ozone depletion that results from this rule will impact all affected populations equally because ozone depletion is a global environmental problem with environmental and human effects that are, in general, equally distributed across geographical regions in the United States. Populations that work or live near fields or other application sites may benefit from the reduced amount of methyl bromide applied, as compared to amounts allowed under previous critical use exemption rules.

K. 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 **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

List of Subjects in 40 CFR Part 82

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

Dated: July 18, 2014.

Gina McCarthy,
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.

§82.3 [AMENDED]

2. Amend § 82.3 by removing the definitions of “Critical stock allowance (CSA)”,
“Critical stock allowance (CSA) holder”, and “Unexpended critical stock allowance
(CSA)”.

3. Amend § 82.8 by revising the table in paragraph (c)(1) to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Company	2014 Critical use allowances for pre-plant uses* (kilograms)	2014 Critical use allowances for post-harvest uses* (kilograms)	2015 Critical use allowances for pre-plant uses* (kilograms)	2015 Critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp. A Chemtura Company	252,236	16,572	227,073	1,969
Albemarle Corp.	103,725	6,815	93,378	810
ICL-IP America	57,321	3,766	51,602	447
TriCal, Inc.	1,785	117	1,607	14
<i>Total</i>	<i>415,067</i>	<i>27,270</i>	<i>373,660</i>	<i>3,240</i>

* 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 for the appropriate control period.

* * * * *

4. Amend § 82.12 by revising paragraph (a)(1) introductory text and removing paragraph (e) to read as follows:

§ 82.12 Transfers of allowances for class I controlled substances.

(a) Inter-company transfers. (1) Until January 1, 1996, for all class I controlled substances, except for Group VI, and until January 1, 2005, for Group VI, any person (“transferor”) may transfer to any other person (“transferee”) any amount of the transferor’s consumption allowances or production allowances, and effective January 1, 1995, for all class I controlled substances any person (“transferor”) may transfer to any other person (“transferee”) any amount of the transferor’s Article 5 allowances. After January 1, 2002, any essential-use allowance holder (including those persons that hold essential-use allowances issued by a Party other than the United States) (“transferor”)

may transfer essential-use allowances for CFCs to a metered dose inhaler company solely for the manufacture of essential MDIs. After January 1, 2005, any critical use allowance holder (“transferor”) may transfer critical use allowances to any other person (“transferee”).

* * * * *

5. Amend § 82.13 by:

- a. Revising paragraphs (f)(3)(iv) and (g)(4)(vii); and
- b. Removing and reserving paragraphs (bb)(2)(iv) and (cc)(2)(iv).

The revisions read as follows:

§ 82.13 Recordkeeping and reporting requirements for class I controlled substances.

* * * * *

(f) * * *

(3) * * *

(iv) The producer's total of expended and unexpended production allowances, consumption allowances, Article 5 allowances, critical use allowances (pre-plant), critical use allowances (post-harvest), and amount of essential-use allowances and destruction and transformation credits conferred at the end of that quarter;

* * * * *

(g) * * *

(4) * * *

(vii) The importer's total sum of expended and unexpended consumption allowances by chemical as of the end of that quarter and the total sum of expended and unexpended critical use allowances (pre-plant) and unexpended critical use allowances (post-harvest);

* * * * *

6. Amend subpart A by revising appendix L to read as follows:

**APPENDIX L TO SUBPART A OF PART 82 – APPROVED CRITICAL USES
AND LIMITING CRITICAL CONDITIONS FOR THOSE USES FOR THE 2014
AND 2015 CONTROL PERIODS**

Column A	Column B	Column C
Approved Critical Uses	Approved Critical User, Location of Use, and Control Period	Limiting Critical Conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation:
PRE-PLANT USES		
Strawberry Fruit	California growers. Control periods 2014 and 2015.	Moderate to severe black root rot or crown rot Moderate to severe yellow or purple nutsedge infestation Moderate to severe nematode infestation Local township limits prohibiting 1,3-dichloropropene
POST-HARVEST USES		
Food Processing	(a) Rice millers in the U.S. who are members of the USA Rice Millers' Association. Control period 2014.	Moderate to severe beetle, weevil, or moth infestation Presence of sensitive electronic equipment subject to corrosion
	(b) Pet food manufacturing facilities in the U.S. who are members of the Pet Food Institute. Control period 2014.	Moderate to severe beetle, moth, or cockroach infestation Presence of sensitive electronic equipment subject to corrosion
	(c) Members of the North American Millers' Association in the U.S. Control period 2014.	Moderate to severe beetle infestation Presence of sensitive electronic equipment subject to corrosion
Commodities	California entities storing walnuts, dried plums, figs, raisins, and dates (in Riverside county only) in California. Control period 2014.	Rapid fumigation required to meet a critical market window, such as during the holiday season

Dry Cured Pork Products	Members of the National Country Ham Association and the American Association of Meat Processors, Nahunta Pork Center (North Carolina), and Gwaltney of Smithfield Inc. Control periods 2014 and 2015.	Red legged ham beetle infestation Cheese/ham skipper infestation Dermestid beetle infestation Ham mite infestation
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[FR Doc. 2014-17595 Filed 07/30/2014 at 8:45 am; Publication Date: 07/31/2014]