

**ENVIRONMENTAL PROTECTION AGENCY****[FRL-7802-2]****Protection of Stratospheric Ozone: Request for Information on Existing and Available Stocks of Methyl Bromide****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Section 114 information request.

**SUMMARY:** With this action, EPA is requiring individuals or legal entities that produce, import, distribute, sell, apply, or buy methyl bromide to provide EPA with data on the amount of methyl bromide material they hold for sale and amounts they hold for transfer to another entity. EPA needs this information to promulgate a rule to allow the continued production, consumption, and use of methyl bromide for proposed critical uses exempted from the January 1, 2005 phaseout of methyl bromide. This exemption for critical uses is allowed under section 604 of the Clean Air Act (CAA) and the Montreal Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol").

Specifically, EPA requires the information specified in today's notice to ensure the Agency has the most recent and complete information on existing stocks of methyl bromide to use as a basis for identifying the amount of stocks available for critical uses. In addition, EPA will use this data to create baselines for the allocation of critical stock allowances to identified inventory holders that wish to sell methyl bromide to the critical use market and to determine how much new production and consumption (defined as production plus imports minus exports) of methyl bromide to authorize for critical uses in 2005. Further details on EPA's proposed action are described in the notice of proposed rulemaking entitled "Protection of Stratospheric Ozone: Process for Exempting Critical Uses from the Phaseout of Methyl Bromide" published elsewhere in today's **Federal Register**.

EPA is authorized to obtain this information under section 114 of the Clean Air Act.

**FOR FURTHER INFORMATION CONTACT:** For further information about this information request, contact Hodayah Finman by telephone at (202) 343-9246, or by e-mail at [finman.hodayah@epa.gov](mailto:finman.hodayah@epa.gov), or by mail at Hodayah Finman, U.S. Environmental Protection Agency, Stratospheric Protection Division, Stratospheric

Program Implementation Branch (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Overnight or courier deliveries should be sent to 1310 L Street, NW., Washington, DC 20005 att: Hodayah Finman at 343-9410. You may also visit the Ozone Depletion Web site of EPA's Stratospheric Protection Division at <http://www.epa.gov/ozone> for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

**SUPPLEMENTARY INFORMATION:****I. Background**

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). Information on methyl bromide can also be found at the following sites of the World Wide Web: <http://www.epa.gov/ozone/mbr> and <http://teap.org> 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 and by states under their own statutes and regulatory authority. Under FIFRA, methyl bromide is a restricted use pesticide. Because of this status, a restricted use pesticide is subject to certain federal and state requirements governing its sale, distribution, and use. Nothing in this notice 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.

Under the Clean Air Act, methyl bromide consumption and production will be completely phased out on January 1, 2005, apart from allowable exemptions, namely the critical use exemption and the quarantine and pre-shipment exemption. Elsewhere in today's **Federal Register**, EPA is proposing a rule containing the

framework for how the critical use exemption will operate as well as an allocation of allowances for the amounts of methyl bromide that may be produced, imported, and sold for proposed critical uses in 2005.

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 of the Montreal Protocol. The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 21, 1988. Congress then enacted, and President Bush signed into law, the Clean Air Act Amendments of 1990 that included Title VI on Stratospheric Ozone Protection to ensure that the United States could satisfy its obligations under the Protocol. EPA has made several amendments to the regulations since that time.

Methyl bromide was added to the Protocol as an ozone depleting substance in 1992 through the Copenhagen Amendment to the Protocol. The Parties to the Protocol established a freeze in the level of methyl bromide production and consumption for industrialized countries at the 1992 Meeting in Copenhagen. The Parties agreed that each industrialized country's level of methyl bromide production and consumption in 1991 should be the baseline for establishing the freeze. EPA published a final rule in the **Federal Register** on December 10, 1993 (58 FR 69235), listing methyl bromide as a class I, Group VI controlled substance, freezing U.S. production and consumption at this 1991 level, and, in § 82.7 of the rule, setting forth the percentage of baseline allowances for methyl bromide granted to companies in each control period (each calendar year) until the year 2001 (58 FR 65018). This phaseout date was consistent with requirements under section 602(d) of the CAA for newly listed class I ozone-depleting substances that "no extension 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." Therefore, the 1993 regulation established a United States phaseout for methyl bromide in 2001.

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 this time, the U.S. continued to have a 2001 phaseout date in accordance with the Clean Air Act 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. In October 1998, the U.S. Congress amended subchapter VI of the CAA to prohibit the termination of production of methyl bromide prior to January 1, 2005, to bring the U.S. phaseout of methyl bromide in line with the global requirements specified under the Protocol and to provide for the exemptions under the Protocol. These amendments were contained in Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105–277, October 21, 1998) and were codified in section 604 of the CAA. 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).

Elsewhere in today's **Federal Register**, EPA is proposing to further amend 40 CFR part 82 to implement an exemption to the 2005 phaseout of methyl bromide that allows continued production and consumption of methyl bromide for critical uses. Section 604(d)(6) of the Clean Air Act 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.” 42 U.S.C. 7671c(d)(6). Article 2H(5) of the Montreal Protocol 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.”

Both sections 604(d)(6) and 614(b) of the CAA address the relationship between the Montreal Protocol and actions taken under subchapter VI of CAA. Section 604(d)(6) addresses critical uses specifically, while section 614(b) is more general in scope. Section 604(d)(6) states that “to the extent consistent with the Montreal Protocol,” the Administrator may exempt methyl

bromide for critical uses. Section 614(b) states that Subchapter VI “shall be construed, interpreted, and applied as a supplement to the terms and conditions of the Montreal Protocol, as provided in Article 2, paragraph 11 thereof, and shall not be construed, interpreted, or applied to abrogate the responsibilities or obligations of the United States to implement fully the provisions of the Montreal Protocol. In case of a conflict between any provision of this subchapter and any provision of the Montreal Protocol, the more stringent provision shall govern.”

EPA must take into account not only the text of Article 2H but also the related Decisions of the Protocol Parties that interpret that text. Under customary international law, as codified in the 1969 Vienna Convention on the Law of Treaties (8 International Legal Materials 679 (1969)) both the treaty text and the practice of the parties in interpreting that text form the basis for its interpretation. Although the United States is not a party to the 1969 Convention, the United States has regarded it since 1971 as “the authoritative guide to current treaty law and practice.” See Secretary of State William D. Rodgers to President Richard Nixon, October 18, 1971, 92d Cong., 1st Sess., Exec. L (November 22, 1971). Specifically, Article 31(1) of the Vienna Convention provides that “[a] treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose.” Article 31(3) goes on to provide that “[t]here shall be taken into account, together with the context: (a) Any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions.” In the current circumstances Decisions of the Parties can be construed as subsequent consensus agreements among the Parties to the Montreal Protocol, including the United States, regarding the interpretation and application of the Protocol.

In accordance with Article 2H(5), the Parties have issued several Decisions pertaining to the critical use exemption. At their Ninth Meeting in 1997, the Parties issued Decision IX/6 which established criteria applicable to the critical use exemption. In paragraph 1 of Decision IX/6, the Parties agreed as follows:

- (a) 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;

- (b) That production and consumption, if any, of methyl bromide for critical uses should be permitted only if:

- (i) All technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide;

- (ii) Methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide, also bearing in mind the developing countries' need for methyl bromide;

- (iii) It is demonstrated that an appropriate effort is being made to evaluate, commercialize and secure national regulatory approval of alternatives and substitutes, taking into account the circumstances of the nomination \* \* \* Non-Article V [Developed country] parties must demonstrate that research programmes are in place to develop and deploy alternatives and substitutes \* \* \*

The Parties also agreed in Decision IX/6 that the technical panel that reviews nominations and makes recommendations to the Parties regarding approval of critical use exemptions, would base its review and recommendations on the criteria in paragraphs (a)(ii) and (b). The criterion in paragraph (a)(i) was not subject to review by this technical panel.

The procedural requirements for the critical use exemption are also delineated in Decision IX/6 of the Parties to the Protocol. As applied in the United States, users of methyl bromide who believe they may meet the criteria to qualify for a critical use exemption may make an application to EPA for inclusion in the U.S. nomination of critical uses. Starting in 2002, EPA began notifying applicants as to the availability of the application, and the deadline to apply, with a notice in the **Federal Register** (68 FR 24737) and an announcement on the methyl bromide Web site at <http://www.epa.gov/ozone/mbr>. Applicants for the critical use exemption must provide information demonstrating to the U.S. government that the specific use of methyl bromide is critical because (1) the lack of availability of methyl bromide for that use would result in significant market disruption, and (2) the applicants have no technically and economically feasible alternatives or substitutes to methyl bromide available to them that are acceptable from the standpoint of environment and health and are suitable to the crops of circumstances of use.

Applicants for the exemption must also submit information on their use of methyl bromide, on research into the use of alternatives to methyl bromide, on efforts to minimize use of methyl bromide and to reduce emissions and on the specific technical and economic results of testing alternatives to methyl bromide. Applicants 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 which establish a critical need for methyl bromide).

The U.S. government reviews applications and creates a package for submission to the Ozone Secretariat of the Protocol for uses nominated as having a critical need for methyl bromide beyond the phaseout. Each Party must justify such a request by determining that (1) the specific use is critical because the lack of availability of methyl bromide for that use would result in significant market disruption; and (2) there are no technically and economically feasible alternatives or substitutes available that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances of the nomination. Based on the recommendations of a technical panel of the Ozone Secretariat, the Parties to the Protocol, at their annual meetings, take decisions to authorize critical use exemptions.

At the First Extraordinary Meeting of the Parties in March of 2004, the Parties issued several decisions that address the agreed critical uses, the allowable levels of new production and consumption for critical uses, the conditions for granting critical use exemptions, and reporting obligations. Decision Ex. I/3 covers the agreed critical uses and allowable levels of new production and consumption for the year 2005. This Decision includes the following terms:

1. For the agreed critical uses set forth in annex II A to the report of the First Extraordinary Meeting of the Parties to the Montreal Protocol for each Party, to permit, subject to the conditions set forth in decision Ex. I/4, the levels of production and consumption set forth in annex II B to the present report which are necessary to satisfy critical uses, with the understanding that additional levels and categories of uses may be approved by the Sixteenth Meeting of the Parties in accordance with decision IX/6;

2. That a Party with a critical-use exemption level in excess of permitted levels of production and consumption for critical uses is to make up any such difference between those levels by using quantities of methyl bromide from

stocks that the Party has recognized to be available;

3. That a Party using stocks under paragraph 2 above shall prohibit the use of stocks in the categories set forth in annex II A to the report of the First Extraordinary Meeting of the Parties to the Montreal Protocol when amounts from stocks combined with allowable production and consumption for critical uses exceed the total level for that Party set forth in annex II A to the present report;

4. That Parties should endeavor to allocate the quantities of methyl bromide recommended by the Technology and Economic Assessment Panel as listed in annex II A to the report of the First Extraordinary Meeting of the Parties;

5. That each Party which has an agreed critical use should ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing the use of methyl bromide and that such procedures take into account available stocks. Each Party is requested to report on the implementation of the present paragraph to the Ozone Secretariat;

The agreed critical uses and allowable levels of production and consumption are set forth in annexes to the Parties' report. Decision Ex I/4 addresses the conditions for granting and reporting critical-use exemption for methyl bromide.

Decisions IX/6, Ex. I/3, and Ex. I/4 are subsequent consensus agreements of the Parties that address the interpretation and application of the critical use provision in Article 2H(5) of the Protocol. For example, Decision Ex. I/3 reflects a decision called for by the text of Article 2H(5) where the parties are directed to "decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses." EPA intends to follow the terms of Decisions IX/6, Ex. I/3, and Ex. I/4. This would ensure consistency with the Montreal Protocol and satisfy the requirements of section 604(d)(6) and Section 614(b) of the CAA.

Decision Ex. I/3 recognizes that article 2H(5) of the Protocol contemplates that the Parties will make two separate determinations when establishing the critical use exemption. First, the Parties agree on the total amount and categories of uses that are deemed critical under the criteria established in Decision IX/6. Second, the Parties determine the maximum level of new production and consumption that should be permitted because it is necessary to satisfy those critical uses. Under paragraph 1 of Decision Ex. I/3, the first of these

determinations (the "agreed critical uses") is reflected in annex II A to the report of the First Extraordinary Meeting of the Parties. For the United States, the Parties agreed to 16 critical uses for methyl bromide and authorized use of 8,942 metric tons of methyl bromide for these critical uses. The second of these determinations is set forth in annex II B which allows the United States 7,659 metric tons of production and consumption of methyl bromide to satisfy critical uses. Where the level of agreed critical uses exceeds the level of new production and consumption determined by the Parties to be necessary to satisfy those uses, a Party is to utilize available stocks of methyl bromide to fill the gap. Decision Ex. I/3, para. 2. Parties are to ensure that the total use of methyl bromide material supplied from existing stocks and new production and consumption does not exceed the overall level of use agreed to be critical. Decisions Ex. I/3, para. 3. Thus, Decision Ex. I/3 establishes two caps with respect to methyl bromide for 2005—one on the level of new production and consumption for critical uses and one on the total usage of methyl bromide in the agreed critical use categories.

Under Decision Ex I/3, the United States is allowed to use a total of 8,942 metric tons of methyl bromide in 2005 to satisfy critical uses. In accordance with Decision Ex I/3, the quantity of new production and consumption in combination with the amount of stocks determined to be available for the specified critical uses cannot exceed for 2005 the amount of 8,942 metric tons. Because of the cap on the amount of methyl bromide available for the specified critical uses, EPA will not authorize new production and consumption that, when combined with use of available stocks, would exceed the agreed critical use level of 8,942 metric tons. The methyl bromide to satisfy those uses may be derived from available stocks of material or new production and consumption. The upper limit on the amount of new production and consumption for the specified critical uses is 7,659 metric tons. However, this level of new production and consumption was authorized by the Parties subject to compliance with the conditions set forth in Decisions Ex. I/3 and Ex. I/4. One of these conditions, in paragraph 5 of Decision Ex. I/3, provides that "each Party which has an agreed critical use should ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing the use of methyl bromide

and that such procedures take into account available stocks.” Thus, in deciding the level of new production and consumption allowed in the United States, EPA is proposing to consider the amount of methyl bromide from stocks recognized by EPA to be “available” for critical uses.

In addition, to prevent the total use levels of methyl bromide from exceeding the critical use cap, Paragraph 3 of Decision Ex I/3 requires that Parties prohibit the use of stocks of methyl bromide under certain circumstances. This provision states “that a Party using stocks under paragraph 2 above shall prohibit the use of stocks in the categories set forth in annex II A to the report of the First Extraordinary Meeting of the Parties to the Montreal Protocol when amounts from stocks combined with allowable production and consumption exceed the total level for that Party set forth in annex II A to the present report.” This restriction applies in countries where methyl bromide material necessary to meet the agreed critical uses is derived from a combination of available stocks and new production or imports. In this situation, a Party may not allow the total amount of material supplied from stocks and new production and consumption to exceed the level of use for categories determined by the Parties to be critical. This restriction is necessary to ensure that a Party’s total level of use in critical use categories does not exceed the level which formed the basis for the Parties’ decision to authorize new production and consumption at particular levels. This limitation was deemed to be a necessary condition applicable to Parties authorized under the critical use exemption to produce or import a dedicated supply of methyl bromide to meet critical needs after the 2005 phaseout of methyl bromide.

Thus, in accordance with Decision Ex. I/3, if EPA authorizes new production and consumption to supplement available stocks, EPA will restrict the use of existing stocks of methyl bromide in cases where use of stocks combined with the authorized level of new production and consumption could exceed the critical use cap. In light of the Parties’ agreement in Decision Ex. I/3 that such a restriction is needed to implement Article 2H(5) of the Protocol, EPA is authorized under sections 604(b)(6) and 614(b) of the Clean Air Act to regulate the use of existing stocks of methyl bromide. EPA’s power under section 604(b)(6) to exempt new production, importation, and consumption of methyl bromide for critical uses exists “to the extent consistent with the Montreal Protocol.”

42 U.S.C. 7671c(b)(6). Because the Parties have interpreted the Protocol to impose such a use restriction as a condition for the authorization of new production and consumption for critical uses, EPA will adhere to the same restriction in its domestic implementation of the critical use exemption. This adherence is consistent with section 614(b) of the Clean Air Act. 42 U.S.C. 7671m(b).

## II. Basis for Information Request

In this document, EPA is seeking recent and complete information on existing stocks of methyl bromide. EPA is requesting the data described in today’s action to (a) determine the amount of total existing and available stocks in the U.S., (b) identify all parties that hold stocks and are entitled to receive critical stock allowances and (c) to develop baselines for the allocation of critical stock allowances to pre-phaseout inventory holders.

Under EPA’s proposed rule to implement the critical use exemption published elsewhere in today’s **Federal Register**, to sell methyl bromide that was legally produced or imported before January 1, 2005 (pre-phaseout inventories), to the critical use market a seller must hold and expend a critical stock allowance. EPA is further proposing to distribute critical stock allowances to persons who respond to this action on a *pro rata* basis relative to the amounts of the total inventory held by each respondent.

## III. Statutory Authority

The Agency requests this information under section 114 of the Clean Air Act, which authorizes EPA to obtain information, even confidential business information, needed to carry out the provisions of the Act.

## IV. Information Requested

### A. Affected Entities

EPA is requiring that individuals or legal entities that are holding stocks of methyl bromide for sale or for transfer, provide EPA with the data specified in section IV.C. of this notice. Sale refers to stocks of methyl bromide, or fumigation services with stocks of methyl bromide, that the holder may have chose to provide to another entity in exchange for monetary or other compensation. Transfer refers to stocks of methyl bromide that have already been sold but not yet delivered to the purchaser, or fumigation services with stocks of methyl bromide that have been contracted for but not yet applied/fumigated, and therefore are held in physical possession by one entity or

individual on behalf of another. Individuals or entities that may hold stocks for sale or transfer include entities that produce, import, distribute, sell, apply or buy methyl bromide. If an individual or entity is not in physical possession of stocks for sale or stocks for transfer, no response to EPA is required.

To avoid double counting existing inventories, EPA is requesting data only from entities that are in physical possession of stocks that are for sale or for transfer. For example, end users of methyl bromide who contract with an applicator or other distributor for fumigation with methyl bromide as described in the following paragraph are not affected by this notice because they are not holding the physical stocks. In this example, the applicator or distributor would provide information to EPA on the amount of methyl bromide he is holding for transfer to the end user and the end user would not have any reporting obligation to EPA.

In addition to stocks held for sale, EPA is seeking data on the quantities of methyl bromide that are being held for transfer so that the Agency may have a complete understanding of how much methyl bromide is in the existing national inventory. Stocks held for transfer may be a significant part of national methyl bromide inventories because of the prevalence of forward contracting in this industry. End users typically contract for a specified number of fumigations and/or amount of methyl bromide months or more in advance of the actual fumigation. Therefore, there may be sizable quantities of methyl bromide in national inventories as of the date of today’s notice that are part of the existing inventory. Failure by EPA to fully account for the total existing stock could result in an underestimate of available stocks and the issuance of too few critical stock allowances.

### B. Methyl Bromide

For purposes of this request, methyl bromide means the active ingredient methyl bromide (CH<sub>3</sub>Br) that is contained in a pesticide product (either end use or manufacturing use) or intended for use in a pesticide product. For purposes of calculating the amounts of methyl bromide, the respondent shall not include other inert or active ingredients that may be mixed with methyl bromide in a pesticide product.

### C. Data Required

EPA is requiring that each affected entity (as defined in section IV.A.) provide the following data:

- i. The total quantity of methyl bromide (in kilograms) that was in your

possession or held by you (regardless of whether held for your benefit or on behalf of another person) as of December 31, 2003;

ii. The total quantity of methyl bromide (in kilograms) that was in your possession or held by you (regardless of whether held for your benefit or on behalf of another person) as of the date of this notice;

iii. The total quantity of methyl bromide (in kilograms) identified in response to paragraphs i and ii. above that is designated as having been produced for use in accordance with the exemption for quarantine and preshipment applications (QPS),

iv. The total quantity of methyl bromide (in kilograms) identified in response to paragraph i. and ii. above that is designated as having been produced with expended Article 5 allowances explicitly for export to developing countries.

#### D. Confidential Business Information

Anyone submitting information must assert a claim of confidentiality for any data it wishes to have treated as confidential business information (CBI) under 40 CFR part 2, subpart B. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2, subpart B. Failure to assert a claim of confidentiality at the time of submission may result in disclosure of the information by the Agency without further notice. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI).

Under section 157(b) of the Clean Air Act, ICF Consulting is hereby designated as an Authorized Representative of the Administrator of the United States Environmental Protection Agency for the purpose of assisting EPA in the development and implementation of national regulations for protection of stratospheric ozone, including the development of critical stock allowance baselines and allocations.

The Authorized Representative, under EPA contract 68-W-02-028, may have access to any information received by the EPA to aid the Agency in analytical tasks associated with the critical use exemption to the phaseout of methyl bromide including, but not limited to,

analyzing baselines, verifying data, and cross referencing information. Access to confidential business information is necessary so that ICF Consulting may carry out work required by the contract.

Authorized representatives of the Administrator are subject to the provisions of 42 U.S.C. 7414(c) respecting confidential business information as implemented by 40 CFR 2.301(h).

#### E. Submission of Data

The data required under this request must be submitted to EPA by September 23, 2004. All responsive information must be sent to the address listed under the **FOR FURTHER INFORMATION CONTACT** section of this action.

Your response must be signed by a responsible officer of your company who shall make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

#### V. Additional Information

##### Paperwork Reduction Act

The information collection requirements in this request have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has been assigned OMB control number 2060-0557.

The information collection under this notice and the accompanying proposed rule is authorized under sections 114, 603(b), 603(d), and 614 of the Clean Air Act (CAA).

EPA estimates that the total burden associated with the response to this notice is 135 hours. This estimate is based on EPA's understanding that there are approximately 54 potential respondents to today's action and the Agency's estimate that the average response will be 2.5 hours per entity.

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; process and maintain information; disclose and provide 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for the proposed rule published elsewhere in today's **Federal Register**, which includes this ICR, under Electronic Docket ID number OAR-2003-0230. Submit any comments related to the rule ICR for this notice to EPA and OMB. See **ADDRESSES** Section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington D.C. 20503 attn: Desk Officer for EPA. Include the EPA ICR number (2157.01) in correspondence related to this ICR.

As noted above, respondents may assert claims of business confidentiality for any of the information they submit. Information claimed confidential will be treated in accordance with the procedures for handling information claimed as confidential under 40 CFR part 2, subpart B, and will be disclosed only to the extent, and by means of the procedures, set forth in that subpart. If no claim of confidentiality is asserted when the information is received by EPA, it may be made available to the public without further notice to the respondents (40 CFR 2.203).

Dated: August 11, 2004.

**Jeffrey R. Holmstead,**

*Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 04-18932 Filed 8-24-04; 8:45 am]

**BILLING CODE 6560-50-P**