

The Critical Use Exemption

Allocation Framework Rule Update

MBAO Conference

November 3, 2003



Timeline for Rulemaking

- Spring 2003
 - EPA develops initial options
- Summer 2003:
 - Stakeholder comments on initial options
 - Begin analysis of options
- Fall 2003:
 - Internal option selection and development of proposed rule
- Late December 2003
 - Proposed rule sent to OMB
 - **90 days** for OMB Review & Interagency Clearance
- Late March 2004
 - Proposed rule published in Federal Register
 - **60 day** comment period
- Summer 2004
 - Reconcile comments between Late May and June
 - **90 days** for OMB Review & Interagency Clearance
- January 1, 2005
 - Phaseout begins

What Else Should I Know?

- EPA will describe many options for the framework of the CUE (how) but point to one as the proposed option
- There is a second rulemaking underway that will provide a notice and comment opportunity on the amounts and uses available for CUE (what)
 - This rulemaking to occur annually similar to essential uses
 - Likely to be linked with framework allocation rule for final promulgation

What are the Issues in this Rule?

- Who holds allowances/reporting to EPA?
- What type of “cap” is there?
- Who is an allowable user?
- Redeemable production or upfront?
- What happens to carryover and material in inventory?
- How long are allowances good for?



All Options Involve Trade-offs

Who Holds Allowances?

- ***Producers and Importers*** (upstream system)
 - Similar to existing phaseout regulations
 - Users certify at time of purchase (like QPS)
 - P/I report to EPA, record keeping
- ***End Users*** (downstream system)
 - Could be hybrid with upstream system or could be redeemable system
 - Users certify at time of purchase (like QPS), report annually to EPA
 - P/I report to EPA, record keeping
 - May provide users with “surplus” to help in transition to alternatives but also more regulatory burden. Amount of surplus captured is unclear.



Regulatory benefit vs. administrative and transaction costs

What Type of Cap?

- ***Universal***

- One amount of methyl bromide that all users compete for
- All end users can trade with each other thereby lowering cost of compliance overall

- ***Sector Specific***

- Compete for methyl bromide within sector or even geo-sector
- All end users within defined group can trade with each other



Cost Effectiveness vs. Perceptions of Equity

Who are Allowable Users?

- Only those explicitly covered in application
 - Limited to actual entities or consortia members that applied either by self certification or limited distribution list
- Those with circumstances like those covered in application
 - Didn't apply but are same end use and same circumstances
- Note: Only those circumstances authorized



Competing Definitions of Fairness

How will CUE Supply be Created?

- Upfront at discretion of producer or importer
 - Allows for uninterrupted supply management
- Redeemable at time of transaction (purchase/contract/permit)
 - May limit amounts produced and imported to only those likely to be used



Supply Chain Fluidity vs. Possible Environmental Benefit

What Happens to Inventory?

- EPA subtracts from allowable cap the following year
- EPA reports to Parties



Who makes the decisions?

How Long are CUEs Good For?

- One Year
 - Little new research on year to year basis; transition takes time
 - Level of effort in applying for CUE
- Multiple Year
 - May discourage deployment of alternatives



May be decided by Parties

Conclusions

- EPA is flexible- looking at broad range of options
- All options involve trade-offs
- Seeking input from you now and later

Questions, Comments?

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