

# Critical Use Exemption Allocation Rule

Update to the MBAO Conference  
October 31, 2004

# CUE Process Overview

- Call for applications for 2005 exemption published in FR May 2002
- Evaluation of applications
- Critical uses nominated in February 2003
- Parties authorized critical uses March 2004
- EPA published proposed critical use rule August 2003
- EPA to publish final critical use rule
- Exempted material can be consumed

***Last stage of our first time through the process***

# Completion of Final Rule is High Priority

- Published on August 25, 2004
- Hearing held September 20, 2004
- Comment period closed October 21, 2005
- Goal is final rule by January 1, 2005
  - 10 weeks from close of comments to final
  - High level commitment to expeditious process
    - Weekly interagency senior staff meetings
    - Commitment for decision maker meetings on as needed basis
  - Recognize farmers need certainty as soon as possible
  - Best approach to ensure Protocol compliance

# Overview of Comments

- Received about 130 comments on aspects of the proposal
  - Nearly uniform comments in some area; divergent in others
- In addition several mass letter campaigns on creation of the exemption
  - Pesticide and farm worker groups, concerned citizens sent about 15,000 comments
- View comments at [www.epa.gov/edocket](http://www.epa.gov/edocket)
  - Quick search “methyl bromide”
  - Select docket # OAR-2003-0230

# Comment Highlights: CUA Cap

Should there be one cap for approved critical uses or several, more narrow caps (e.g. sector caps, applicants caps...)

- Universal: favored because easier to track, more efficient distribution, works like current market
- Sector: favored because of additional certainty that a certain specific amount
- Applicant: favored for environmental reasons
- Break out post harvest amounts from general cap
- Favor universal if unlimited access to pre-phaseout stocks, otherwise favor sector specific

# Comments Highlights: Stocks

Proposed limits on use of stocks by various types of users (critical, not critical...)

- Nearly uniform comments from users that approved critical users should have unlimited access to stocks, although some favored stricter controls
- Nearly uniform comment that non-critical users should not be restricted from use of stocks
- Wide views of controlling stocks: questions on legal authority to control stocks to view that all stocks must be used before new production

# Comment Highlights: Other Issues

- Limiting critical conditions: split comments
  - Some favor keeping conditions so only those with genuine critical need access critical use methyl bromide
  - Some want deletion of conditions because confusing, difficult to determine
- End user penalties
  - Change to same as FIFRA
  - Change to maximum of \$25,000 per incident
  - No direct comments to restore per kilogram violations
- QPS like approach
  - Nearly uniform support from all types of commenters
  - Simplicity and effectiveness demonstrated already
  - Minimum burden to end users- self certification
  - Some dissenting comment that consortia should have allowances

# Process for Developing Final Rule

- Categorize comments
- Summarize comments
- Evaluate comments
- Make decisions (interagency)
- Respond to comments
  - Responses available on docket when rule is published
- Draft preamble and reg text (interagency review)
- Administrator's signature
- Post on web [www.epa.gov/ozone/mbr](http://www.epa.gov/ozone/mbr)
- Publication in Federal Register

# Questions?

Thank You. Any Questions?

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