



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 23 2012

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

Dear Mr. Chairman:

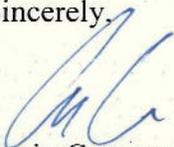
Thank you for your letter of July 6, 2012, co-signed by three of your colleagues, regarding the methyl bromide critical use exemption program under the Montreal Protocol. Your letter requests information on the Environmental Protection Agency's plans for ensuring the availability of methyl bromide for critical uses and the availability of alternatives to methyl bromide. You state a concern that shortages of methyl bromide and viable methyl bromide alternatives will affect growers in California, Florida, the southeastern United States and other parts of the country.

The EPA appreciates the concerns of U.S. growers, and through the critical use exemption program has worked diligently in a multi-agency partnership that includes the Department of Agriculture and the Department of State to assure that sufficient quantities of methyl bromide continue to be available to growers with technically valid critical needs. Along with all other developed countries, in 2005 the United States phased out production and import of methyl bromide under the Montreal Protocol. In every year since then, the United States has forwarded a critical use nomination to the Parties to the Montreal Protocol, which are responsible for authorizing critical use exemptions under the Protocol. The United States has vigorously defended each critical use nomination, with the result that on average, the Parties authorize 90% of each year's request. This is true even though exemptions to allow for continued production of otherwise banned ozone depleting substances in specific cases must make strong technical showings, in light of scientifically proven threats posed by such substances to the ozone layer.

We are proud of the U.S. record to date in defending successful exemption requests that allow growers with critical needs to continue to rely on methyl bromide as they transition to safer alternatives. The enclosure provides detailed responses to the questions presented in your letter.

Again, thank you for your interest in this important subject. If you have questions or concerns, please contact me or your staff may contact Cheryl Mackay on my staff at (202) 564-2023.

Sincerely,


Arvin Ganesan
Associate Administrator

Enclosure

Enclosure – Responses to Question in July 6, 2012, Letter

1. What actions are currently being taken by EPA to ensure that there will be sufficient quantities of methyl bromide available to the U.S. agricultural sector for critical uses in 2013?

Each year since 2005, the United States has submitted to the Parties to the Montreal Protocol a Critical Use Nomination for methyl bromide. The Protocol includes Decision IX/6, which states that:

“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;”

The U.S. government works to ensure the U.S. nomination meets these criteria. In reaching this conclusion for 2013, the interagency partnership of the EPA, the Department of Agriculture (USDA) and the Department of State solicited applications from stakeholders, including growers and grower groups, in 2010. Staff of the EPA Office of Pesticide Programs and the USDA Office of Pest Management Policy reviewed applications and worked with growers to ensure that the U.S. government has the most complete and best available information on critical uses needing methyl bromide. The EPA and USDA actively worked with applicants to identify information gaps in their applications, held multiple conference calls and in-person meetings to discuss specific agronomic conditions and developed supporting information, and provided support to, and attended, the annual Methyl Bromide Alternatives Outreach Conference.

The Department of State submitted the 2013 nomination to the United Nations Environment Program (UNEP) Ozone Secretariat in February 2011. The Methyl Bromide Technical Options Committee (MBTOC) and the Technology and Economic Assessment Panel (TEAP), which are advisory bodies to Parties to the Montreal Protocol, reviewed the nominations. While criteria in Decision IX/6 have not changed, questions from international bodies have evolved over time, as alternatives have been implemented or have faced impediments. The EPA and USDA worked closely with applicants and researchers to obtain the best possible information to allow us to present the most robust support of the 2013 nomination at the international level.

In November 2011, the Parties to the Montreal Protocol took a decision authorizing 88% of the amount nominated by the United States for critical uses for 2013. The EPA is currently undertaking a notice and comment rulemaking that would allow for the production and import of methyl bromide for the authorized critical uses in 2013.

2. What actions are currently being taken by EPA to ensure that there will be sufficient quantities of methyl bromide available to the U.S. agricultural sector for critical uses in 2014?

The EPA, USDA and the Department of State are following the steps described above to develop and defend the 2014 critical use nomination. The 2014 U.S. nomination is currently under review by the MBTOC and TEAP. In April 2012, the EPA, USDA and the Department of State met with applicants

and grower groups to establish a schedule for working together in defense of the 2014 U.S. nomination. Most recently, the EPA, USDA and the Department of State met with the agricultural stakeholders on July 5, 2012, in preparation for the Open Ended Working Group meeting at the end of July. A copy of this schedule can be found on the EPA's website at: <http://www.epa.gov/ozone/mbr/cueinfo.html>. The Parties will take a decision on this nomination in November, at which point the EPA will begin the notice and comment rulemaking to issue allowances for 2014.

3. What are EPA's plans with regard to seeking critical use exemptions for the U.S. agricultural sector for 2015 and beyond? Will EPA continue to seek critical use exemptions for the use of methyl bromide for the U.S. agricultural sector for critical uses?

The schedule referred to above also details how the EPA, USDA and the Department of State will work with applicants to prepare the 2015 nomination. On May 17, 2012, the EPA published a notice in the Federal Register seeking applications for 2015 critical uses. The interagency workgroup will continue to analyze the applications and nominate uses that meet the criteria of the critical use exemption program listed in Decision IX/6. The 2015 U.S. nomination is due January 24, 2013.

4. What assurances can EPA provide that going forward it will increase its critical use nominations under the Montreal Protocol process if methyl bromide alternatives become unavailable, as has occurred with methyl iodide and has been proposed for sulfuryl fluoride?

The EPA will continue to participate in the annual interagency effort with USDA and the Department of State to solicit applications, review technical merits of requests, work with critical users and USDA to enhance technical data where necessary, and develop rigorous nominations for critical uses. All viable and available alternatives will be considered when preparing future nominations. The EPA would not consider iodomethane to be an available alternative given the recent withdrawal of this product by the manufacturer from the U.S. market. The EPA would also incorporate any final decision on sulfuryl fluoride into the U.S. nomination but currently considers that product available for use since no changes to its registration have occurred. Additionally, the proposed tolerance revocation would allow up to three years before any decision would take effect for uses without alternatives. This would allow the United States time to reflect the impacts of the loss of sulfuryl fluoride in the critical use nomination process.

5. What assurances can EPA provide that going forward requests for critical use exemptions needed by the U.S. agricultural sector will be vigorously pursued by the United States pursuant to the Montreal Protocol?

In accordance with U.S. obligations under the Montreal Protocol, the EPA will continue to participate in the annual interagency effort with USDA and the State Department to develop and defend U.S. critical use nominations to secure the Parties' authorization to exempt production of methyl bromide for critical uses.