

thus, exempted from the reduction steps and phaseout of methyl bromide. EPA subtracts these quantities for transformation and for destruction from the gross quantity reported to obtain the company's net production or import. The interim final rule required producers and importers to include the quantities of methyl bromide specifically designated for quarantine and preshipment applications on these same quarterly reports. Quantities of methyl bromide used for quarantine and preshipment applications are also subtracted from the gross quantity of production or import because of their exempted status and, thus, are not counted against a company's production and consumption allowances.

In addition to the reporting requirements outlined above, the interim final rule established the following recordkeeping requirements for producers and importers. Domestic purchasers (distributors or customers) must provide producers and importers with certifications that a designated quantity is being purchased solely for quarantine and preshipment applications (discussion of requirements for foreign purchasers appears below in part VII.D.) Certifications from distributors will attest that the material will be sold only for quarantine and preshipment applications, and certifications from applicators purchasing directly from a producer or importer will attest that the material will be used only for quarantine and preshipment applications.

While EPA received no comments on the specific recordkeeping and reporting procedures described in the interim final rule, several commenters submitted general feedback. All comments on this topic focused on the burden of recordkeeping and reporting and suggested that the creation of a FIFRA label specific to quarantine and preshipment would help to ease that burden. EPA recognizes the potential utility of a quarantine and preshipment specific FIFRA label (see full discussion below in part VII.E.). However, until such a label can be established, EPA must rely on another means of obtaining the information it needs to meet the U.S.'s reporting obligations under the Montreal Protocol and to ensure domestic compliance with the phasedown and phaseout schedule for production and import. The requirements created by the interim final rule were discussed with many industry representatives and represent one of the least burdensome options available. Thus, with this final action EPA is continuing the recordkeeping and reporting requirements for

producers and importers established by the interim final rule and described in the above text.

B. Are Methyl Bromide Applicators Required To Report?

Today's action includes a certification requirement for purchases of methyl bromide by applicators. Applicators must submit a certification to the seller of the methyl bromide when they want to purchase a specific quantity of methyl bromide explicitly for quarantine and preshipment applications. The applicator will certify that the quantity purchased will be used solely for quarantine and preshipment applications. The applicator must send the certification to the company selling the methyl bromide before the seller ships the cylinders of methyl bromide (*i.e.*, certification before shipment).

The applicator can obtain the certification form at EPA's Web site at <http://www.epa.gov/ozone/mbr> or from their methyl bromide distributor. The applicator must check the box indicating that the particular quantity being ordered is solely for quarantine and preshipment applications as defined on the form (see the definition above in Part VI) and will neither be sold nor used for any other purpose. The applicator must sign the form certifying, under penalty of law, that the quantity of methyl bromide purchased will be used solely for quarantine and preshipment applications in accordance with the definitions. The applicator must return the completed and signed form to the distributor. The distributor retains the certification form in order to compile data that they will submit to EPA on the quantity of methyl bromide sold under the exemption for quarantine and preshipment applications. The certification form ensures that quantities of methyl bromide produced or imported under the exemption for quarantine and preshipment applications are used only in accordance with the strict requirements of the exemption. It is important to note that the applicator will also be able to purchase non-exempt methyl bromide until the phaseout date for methyl bromide.

For quarantine applications, the applicator must collect documentation citing the regulatory requirement or other official requirement that justifies the use of exempted methyl bromide. Acceptable documentation for a quarantine application includes the forms provided directly to the applicator by an official from a national plant, animal, environmental protection or health authority (*e.g.* USDA/APHIS) requesting the treatment of commodities

to control quarantine pests. In the absence of official documentation from a plant, animal, environmental protection or health authority, the commodity owner, shipper or their agent must provide a letter to the methyl bromide applicator requesting the use of methyl bromide that explicitly cites the regulation requiring a quarantine treatment or quarantine official control. Likewise, the applicator must collect documentation citing the official requirement calling for a preshipment application. The commodity owner, shipper or their agent must provide a letter to the methyl bromide applicator requesting the use of methyl bromide that explicitly cites the official requirement for a preshipment application. The letter that the commodity owner, shipper or their agent presents to the applicator must include the following statement: "I certify knowledge of the requirements associated with the exempted quarantine and preshipment applications published in 40 CFR part 82, including the requirement that this letter cite the treatments or official controls for quarantine applications or the official requirements for preshipment requirements." Both the commodity owner, shipper or their agent and the applicator must maintain this letter for three years in accordance with current recordkeeping requirements in 40 CFR part 82, subpart A. Neither the applicator nor the commodity owner, shipper or their agents are required to submit the letter to EPA.

The requirements established by today's final action exactly match the requirements of the interim final rule. EPA received one comment related to these reporting requirements. The commenter raised the concern that requiring distributors to send and recover Certification Forms prior to every sale could cause supply delays and backlog of commodities needing fumigation at ports. EPA does not believe that the above requirements will cause such a backlog if efficiently managed. While the above protocol explicitly requires that distributors must receive completed Certification Forms prior to distributing the order of methyl bromide, there is flexibility regarding when distributors must provide the blank forms to their customers. In fact, a distributor may send a blank Certification Form to every applicator with instructions to make many copies of the blank form, so each applicator is ready to place immediate, "rush" orders for methyl bromide for quarantine and preshipment applications. However, in