



**DEPARTMENT OF THE ENVIRONMENT**  
*CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999*

*Notice to Anyone Engaged in the Use of Methyl Bromide*

The Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer* have agreed to phase out the production and consumption of methyl bromide. The Ninth Meeting of the Parties decided to allow for possible exemptions to the production and consumption phase-out dates in order to meet the marketplace demand for critical uses.

The Parties have established criteria and a procedure to assess nominations for critical use exemptions. Canada, as a Party to the Montreal Protocol, is expected to ensure that the requirements of this international treaty are implemented in Canada.

This notice is made pursuant to subparagraphs 68(a)(ix) and 68(a)(xiii) of the *Canadian Environmental Protection Act, 1999*. The annex of this notice describes the criteria, process and schedule that the Department of the Environment will use to review applications it receives from persons seeking an exemption for a critical use of methyl bromide under the Montreal Protocol.

Under the Montreal Protocol, a Party to the Protocol may submit a nomination to seek an exemption to the production and consumption phase-out dates for methyl bromide. A Party makes such a nomination based upon applications it receives from persons seeking to use methyl bromide within its borders. If such a nomination is accepted by a decision of the Parties to the Protocol, the Party that is being granted the exemption may authorise domestic applicants to manufacture, import and use the methyl bromide after the phase-out date according to the terms of the decision. The decision is implemented through the domestic legislation of the Party.

Persons seeking to engage in the use of methyl bromide in Canada are hereby invited to submit to Environment Canada, before July 29, 2012 and through the process described in the annex to this notice, their application towards Canada making a nomination under the Montreal Protocol for a critical use exemption for the years 2014 and 2015. The use of methyl bromide present in Canada before the phase-out date or the use of recycled or reclaimed methyl bromide does not require such an application.

Bernard Madé  
Chemical Production Division  
On behalf of the Minister of the Environment

## Annex

### **I. Introduction**

The Fourth Meeting of the Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer* agreed to add methyl bromide to the list of ozone-depleting substances subject to control under the Montreal Protocol. The Seventh Meeting of the Parties agreed to phase out the production and consumption<sup>1</sup> of methyl bromide by January 1, 2010. The Ninth Meeting of the Parties revised the phase-out date to January 1, 2005 and established interim reduction steps.

The Ninth Meeting of the Parties agreed to allow possible exemptions to this production and consumption phase-out date in order to meet the marketplace demand for uses that are considered critical. The Parties established (Decision IX/6) criteria to assess nominations for critical use exemptions. The Parties also agreed (Decision IX/7) to allow the use of up to 20 tonnes of methyl bromide, in case of emergency.

Canada, as a Party to the Montreal Protocol, is expected to ensure that the requirements of this international treaty are implemented within its borders. Canada has developed a domestic control program to do so. In 1995, Canada's Ozone Layer Protection Program was revised and it was decided to phase out methyl bromide by January 1, 2001.

In 1998, Canada's major trading partners changed their position regarding their domestic phase-out dates. Following this, Canada also changed its position and decided to adopt the international phase-out schedule.

### **II. Criteria for "critical" use**

For the implementation in Canada of the requirements under the Montreal Protocol, a use of methyl bromide may qualify as critical only if the following conditions are met:

(1) the specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption<sup>2</sup>; and

(2) there are no technically and economically feasible alternatives or substitutes available<sup>3</sup> to the user that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances of the nomination.

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<sup>1</sup> Under the Montreal Protocol, "consumption" means production plus imports minus exports of controlled substances.

<sup>2</sup> For critical uses, significant market disruption would mean the loss of an industry sector or production sector (e.g. one crop), not just the loss of one company or facility, unless a single company represents a large portion of the market.

<sup>3</sup> The onus is on industry to demonstrate that there are no alternatives or substitutes available.

Furthermore, any consumption, of methyl bromide for critical uses after the phase-out date may be permitted only if all of the following conditions are met:

- (1) all technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide;
- (2) the methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide;
- (3) it is demonstrated that an appropriate effort is being made to evaluate, commercialize and secure national regulatory approval of alternatives and substitutes. It must be demonstrated<sup>4</sup> that research programs are in place to develop and deploy alternatives and substitutes.

### **III. Process**

The process that leads to decisions on critical use exemptions consists of a domestic process and an international process.

The domestic process is as follows:

(01) An applicant (person/organisation) seeking to engage in the production or consumption of methyl bromide in Canada submits an application to Environment Canada for Canada to nominate an exemption for a critical use of methyl bromide under the Montreal Protocol. This application must fulfil the information requirements identified in section V of the present document.

#### *Contact Information*

Applications must be received at the following address by July 29, 2012:

Head, Ozone Protection Programs  
Chemical Production Division  
Environment Canada  
200 Sacré-Coeur Blvd, 3<sup>rd</sup> Floor  
Gatineau, Quebec K1A 0H3  
[OzoneProtectionPrograms@ec.gc.ca](mailto:OzoneProtectionPrograms@ec.gc.ca)

(02) Environment Canada sends the application to the Methyl Bromide Critical Use Advisory Committee. The Advisory Committee consists of independent experts who are knowledgeable on the alternatives available and pest problems faced by the sector for which the exemption is requested.

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<sup>4</sup> The onus is on industry to demonstrate that research programmes are in place.

*Advisory Committee*

The Advisory Committee will, at a minimum, consist of representatives from:

Environment Canada - Chair  
Agricultural Expert  
Structural Expert  
Environmental Non-Governmental Organization  
Industry Representative  
Industry Representative  
Agro-economist

The purpose of the Advisory Committee is to evaluate applications and forward its recommendations to Environment Canada.

(03) The Advisory Committee submits its recommendation to Environment Canada, including conditions on how the substance should be used.

(04) Environment Canada makes a decision, in consultation with Agriculture and Agri-Food Canada when an agricultural sector is implicated, and informs the applicant.

(05) The applicant can appeal to the Minister of the Environment, to the attention of the Director, Chemical Production Division, if the applicant is not satisfied with the decision.

The international process is as follows:

(06) Nomination: Canada submits its critical use nomination to the Ozone Secretariat of the United Nations Environment Programme (UNEP) by January 24 of the year in which a decision is required; earlier submissions are encouraged<sup>5</sup>. The nomination would be valid for the period specified in the decision.

(07) Assignment: The Ozone Secretariat forwards the nominations to the Technology and Economic Assessment Panel (TEAP) of the Montreal Protocol.

(08) Review: The TEAP reviews the nomination to determine if it meets the criteria for a critical use established by Decision IX/6 and either recommends the nomination to the Open-Ended Working Group (OEWG) of the Parties to the Montreal Protocol or reports

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<sup>5</sup> It is possible to present exemption nominations two years in advance of the year the exemption is required in order to get a decision one year in advance of the year during which the methyl bromide is needed.

that it is unable to recommend the nomination. The TEAP report to the OEWG is due by mid-May of the year of decision.

(09) Evaluation: The OEWG reviews the TEAP report and recommends a decision for consideration by the Parties.

(10) Decision: The Meeting of the Parties decides whether to allow production or consumption for critical use in accordance with the Montreal Protocol. The Parties may attach conditions to their approval.

(11) National decision: The Party in possession of a critical use exemption authorises the applicant to proceed with the production or consumption of the methyl bromide according to the terms of the decision by the Meeting of the Parties.

(12) Execution of authorization: The applicant exercises its authorization to import and use methyl bromide, according to the terms of the decision.

Note: The Montreal Protocol authorizes but does not require production; each applicant must locate a willing supplier and negotiate supply.

#### **IV. Timetable**

The domestic timetable for the submission of applications for Canada to nominate an exemption for a critical use of methyl bromide under the Montreal Protocol is as follows:

Action	Deadline
Applicant submits application towards Canada making a nomination for an exemption	July 29
Environment Canada provides information to Advisory Committee	August 31
Advisory Committee submits recommendation	September 30
Environment Canada makes decision in consultation with Agriculture and Agri-Food Canada	October 29
Possible appeal to Minister of the Environment, to the attention of the Director, Chemical Production Division *	November 30

\* The length of time required to obtain a decision can vary.

The international timetable for the submission by a Party to the Montreal Protocol of nominations for critical use exemptions is as follows:

January 24	Deadline for submissions of nominations to the Ozone Secretariat. Nominations received after January 24 will be considered for the next year.
Mid-May	The TEAP publishes its evaluation and the Ozone Secretariat mails it to the Parties.
June-July	The OEWG meets and recommends whether or not the nomination should be approved. The OEWG drafts the decision, if applicable.
October-November-December	The Parties meet and decide whether or not to grant the exemption for critical use.

## **V. Information requirements**

The forms recommended for applications for Canada to nominate an exemption for a critical use of methyl bromide under the Montreal Protocol can be obtained by contacting:

Head, Ozone Protection Programs  
Chemical Production Division  
Environment Canada  
200 Sacré-Coeur Blvd., 3<sup>rd</sup> Floor  
Gatineau, Quebec K1A 0H3  
Telephone: 819-997-1640  
Email: [OzoneProtectionPrograms@ec.gc.ca](mailto:OzoneProtectionPrograms@ec.gc.ca)

The forms call for information in the following areas:

- market significance of use;
- alternatives/substitutes to use;
- steps to minimize use;
- steps to minimize emissions;
- recycling and stockpiling;
- research efforts;
- historical use;
- requested quantity per year.

Note that:

- A separate application should be submitted for each commodity and use for which the applicant is seeking that a nomination be made by Canada.
- The TEAP recommended to the Parties that nominations that were granted multi-year exemptions would be reviewed annually for quantities required and biennially for essentiality.

## **VI. Canadian assessment of nominations**

Only the Government of Canada, as a Party to the Protocol, may nominate critical use exemptions for Canada. Organizations and/or individuals interested to engage in the consumption of methyl bromide after 2004 are hereby invited to submit to Environment Canada applications for Canada to nominate under the Montreal Protocol for a critical use exemption.

The Department of the Environment will evaluate all applications received and will decide whether or not to nominate using the following process and schedule.

- (1) An application towards a Canadian nomination for a critical use exemption must demonstrate that all elements of the critical use criteria described above have been met. Applications must contain all the information elements.
- (2) Applications will be rigorously evaluated in consultation with independently recognized experts, other government departments, and non-government organisations that will have complete access to all submitted information.
- (3) The final decision to accept any application or to make a nomination rests with the Government of Canada.