

Recordkeeping and Periodic Reporting of the Production, Import, Recycling, Destruction, Transshipment, and Feedstock Use of Ozone-Depleting Substances (Renewal)

PART A OF THE SUPPORTING STATEMENT

1. Identification of the Information Collection

(a) **Title:** Recordkeeping and Periodic Reporting of the Production, Import, Recycling, Destruction, Transshipment, and Feedstock Use of Ozone-Depleting Substances (Renewal)

OMB Number: 2060-0170  
EPA ICR Number: 1432.29

(b) **Short Characterization**

The international treaty *The Montreal Protocol on Substances that Deplete the Ozone Layer* (Protocol) and Title VI of the Clean Air Act Amendments of 1990 (CAA) established limits on total U.S. production, import, and export of Class I and Class II controlled ozone depleting substances (ODSs). Under its Protocol commitments, the United States has been obligated to cease production and import of Class I controlled substances with exemptions for essential uses, critical uses, previously used material, and material that will be transformed, destroyed, or exported to developing countries. The Protocol also establishes limits and reduction schedules leading to the eventual phaseout of Class II controlled substances with similar exemptions beyond the phaseout. Additionally, the CAA has its own limits on production and consumption of controlled substances that EPA must adhere to and enforce.

To ensure the United States' compliance with the limits and restrictions established by the Protocol and the CAA, the ODS phaseout regulations establish control measures for individual companies. EPA monitors compliance with the limits and restrictions for individual United States companies through the recordkeeping and reporting requirements established in the regulations at 40 CFR part 82, subpart A. To submit required information, regulated entities can download reporting forms from EPA's stratospheric ozone web site (<http://www.epa.gov/ozone/record/index.html>), complete them, and then send them to EPA via U.S. Mail or fax. Upon receipt of the reports, EPA enters and stores the data in the ODS Tracking System. The Tracking System is a secure database that maintains all of the data that is submitted to EPA and allows the Agency to: (1) maintain control over total production and consumption of controlled substances to satisfy conditions of the CAA and fulfill the United States obligations under the Protocol; (2) monitor compliance with limits and restrictions on production, imports, exports, and specific exemptions to the phaseout for individual U.S. companies; and (3) enforce against illegal imports and violations related to the control of Class I and Class II substances. Additionally, reporting on the exemptions allows an entity to retain the benefit of being able to produce or import a controlled Class I ODS beyond the date of complete phaseout.

In 2008, EPA began using an electronic reporting system for Class I (except methyl bromide) producers, importers, and exporters. The electronic reporting system operates through

the Agency's Central Data Exchange (CDX) and allows regulated entities to download, complete, and submit reports electronically. Electronic reporting can reduce time and resources spent fulfilling reporting requirements, reduce the use of paper, and improve the quality of the data.

Pursuant to regulations 40 CFR part 2, subpart B, reporting businesses are entitled to assert a business confidentiality claim covering any part of the submitted business information as defined in 40 CFR 2.201(c).

Detailed burden and costs calculations for respondents and the Agency are presented in Section 6 of this document. The burden and cost estimates for respondents decreased in this ICR because previous estimates for certifications was much higher than the Agency's experience has shown it to be. These certifications are for the quarantine and preshipment (QPS) use of methyl bromide and laboratory use of Class I substances. Increases in the average hourly wage rate for industry caused by normal inflation contributed to higher respondent costs. EPA also refined its estimates based on more recent information from respondents.

The burden and cost estimates for the Agency decreased largely because the regulatory program has been in effect for several years and EPA has already instituted mechanisms to process information submitted. As EPA expands the use of electronic reporting via the Agency's CDX to additional segments of the regulated community, EPA expects burden and costs to further decline. EPA anticipated that when the CDX system becomes fully utilized, all required data will be submitted and tracked electronically, thus reducing and/or eliminating reporting by paper.

## 2. Need For, and Use Of, the Collection

### **(a) Authority for the Collection**

This information collection is authorized under the Section 603(b) of the Clean Air Act and Article 7 of the Protocol. Section 603(b) of the Clean Air Act, "Production, import, and export level reports," mandates that each person who produces, imports, or exports a Class I controlled substance file a report stating the amount of the substance that was produced, imported, and exported by that person during the preceding reporting period. Article 7 of the Protocol, "Reporting of data," requires the United States to provide specific data annually on its production, imports, and exports of each controlled substance.

### **(b) Practical Utility/Users of the Data**

The reporting and recordkeeping requirements for Class I ODS will enable EPA to:

1. Ensure compliance with the restrictions on production, import, and export of ozone-depleting substances;
2. Allow exempted production and import for certain uses and the consequent tracking of that production and import;
3. Address industry and Federal concerns regarding the illegal import of mislabeled used controlled substances;
4. Satisfy the United States' obligations to report data under Article 7 of the Protocol;

5. Fulfill statutory obligations under Section 603(b) of the CAA for reporting and monitoring; and
6. Provide information to report to the U.S. Congress on the production, use, and consumption of Class I controlled substances as statutorily required in Section 603(d) of Title VI of the CAA.

EPA stores and analyzes the reported information to ensure companies do not exceed their allowances. In this regard, the information in the reports is used for compliance monitoring for individual companies and for monitoring U.S. compliance with its obligations under the Protocol.

Information that is collected on the production, import, and export of controlled Class I substances is also used to develop the reports provided to the Ozone Secretariat to meet U.S. international treaty obligations. Requirements to report the data annually are listed in Article 7 of the Protocol.

Industry representatives and many Federal agencies, including EPA, are concerned about claims of fraudulent imports of controlled substances that are mislabeled as used, recycled, or reclaimed. To this end, EPA has established a petition process to provide information for controlling the import of these materials and act as a deterrent to potential fraud. Under 40 CFR 82.13(g)(2), companies that want to import used, recycled, or reclaimed controlled substances must provide detailed information in the form of a petition about the previous use and the future intended use of the substance.

### 3. Non duplication, Consultation, and Other Collection Criteria

#### **(a) Non duplication**

All of the information requested from respondents under this ICR is required by statute (CAA §603(b)) and is not available from other information sources because it is proprietary information submitted by industry sources.

#### **(b) Public Notice Required Prior to ICR submission to OMB**

An request for public comment for the renewal of this ICR was published in the **Federal Register** on May 29, 2008 (73 FR 30917). EPA received one comment generally opposed to the use of ozone depleting substances but without direct relevance to the burden imposed by the renewed information collection request. This second request is being submitted to the Federal Register concurrent with submission of this ICR to the Office of Management and Budget (OMB).

#### **(c) Consultations**

Recordkeeping and reporting requirements were established in the original publication of the CFC phaseout rule. This ICR (number 1432.29) does not add any additional recordkeeping or reporting requirements. To assess the current burden, EPA consulted informally with regulated entities and analyzed historical data.

**(d) Effects of Less Frequent Collection**

Less frequent collection of data would compromise EPA’s ability to meet statutory requirements under Section 603 of the CAA to monitor production, import, and export levels. Further, less frequent collection of information would hinder EPA’s ability to identify regulation violations. Penalties for violations are currently assessed at \$32,500 per kilogram per day, and therefore, frequent information collection is vital to pursue and enforce violations.

Less frequent collection of data would also potentially place the United States in a non-compliance status under the Protocol. Quarterly reporting provides EPA with the necessary time to take action if an individual reporting person or the United States as a whole were to begin to exceed the Protocol’s production, import, or export limits or the limits established in Section 604 of the CAA. Additionally, if the United States were to exceed the limits established in the Protocol it would undermine its ability to effectively negotiate favorable positions in the international forum.

**(e) General Guidelines**

This rule does not exceed any of the OMB guidelines found at 5 CFR 1320.5(d)(2).

**(f) Confidentiality**

EPA informs the respondents that they may assert claims of business confidentiality for any of the information they submit. Information claimed as confidential will be treated in accordance with the procedures for handling information claimed as confidential under 40 CFR part 2, subpart B (“Confidentiality of Business Information”), and will be disclosed only if EPA determines that the information is not entitled to confidential treatment. If no claim of confidentiality is asserted when the information is received by EPA, it may be made available to the public without further notice to the respondents (40 CFR 2.203).

**(g) Sensitive Questions**

This section is not applicable because this ICR does not involve matters of sensitive nature.

4. The Respondents and the Information Request

**(a) Respondents/SIC Codes**

The appropriate North American Industry Classification System (NAICS) for potentially affected entities are listed below in Table I<sup>1</sup>.

**Table I. NAICS Classification of Regulated Entities**

| <b>Category</b>                    | <b>NAICS Code</b>                         |
|------------------------------------|---|
| Chemical Producers, Importers, and | <b>3251-</b> Basic Chemical Manufacturing |

<sup>1</sup> NAICS codes were retrieved from the “2002 NAICS Codes and Titles” provided by the U.S. Census Bureau at, <http://www.census.gov/epcd/naics02/naicod02.htm>.

|   |   |
|---|---|
| Exporters (CFCs)  |   |
| Research and Development (Laboratories)                             | <b>541710-</b> Research and Development in the Physical, Engineering, and Life Sciences |
| MeBr Producers, Importers, Exporters, Distributors, and Applicators | <b>325320-</b> Pesticide and Other Agricultural Chemical Manufacturing                  |

**(b) Information Requested**

(i) Data items, including recordkeeping requirements

Recordkeeping and reporting requirements changed substantially after the phaseout of Class I controlled substances on January 1, 1996 (except methyl bromide which was phased-out in 2005). Prior to the phaseout of Class I controlled substances, EPA administered a system of production and consumption allowances and monitored compliance through quarterly reports. These types of allowances no longer exist due to the phaseout of Class I controlled substances.

For the exempted production and import of Class I controlled substances, EPA issues other allowances (e.g., essential uses, quarantine and preshipment uses, Article 5 production) and requires reporting and recordkeeping. All producers, importers, exporters, distributors, applicators, and others identified in 40 CFR 82.13 must record and/or report the following either on a quarterly or annual basis as applicable (note, a comprehensive listing of recordkeeping and requirements is listed in 40 CFR 82.13):

**I. Producers:**

- production of each controlled substance, including the quantity produced for uses resulting in its transformation and/or destruction by the producer;
- production of each controlled substance under the exemptions for export to Article 5 countries, essential uses, critical uses, and QPS uses;
- the amount of controlled substance sold or transferred during the quarter to a person other than the producer for use in processes resulting in its transformation or eventual destruction;
- for controlled substances provided to another entity for transformation, a copy of an IRS certification or intent to transform the same controlled substance for a particular transformer and a list of additional quantities shipped to that same transformer for the quarter;
- for controlled substances provided to another entity for destruction, a copy of a destruction verification from that entity and a list of quantities shipped to that entity for the quarter;
- a list of U.S. purchasers of controlled substances that exported to an Article 5 country in cases when Article 5 allowances were expended during production;
- a list of the essential-use allowance holders, distributors of laboratory supplies and laboratory customers from whom orders were placed and the quantity of specific essential-use controlled substances requested and produced;
- certifications from essential use allowance holders stating that the controlled substances were purchased solely for specified essential uses and will not be resold or used in any other manufacturing process;

- in the case of laboratory essential uses, certification from distributors of laboratory supplies that controlled substances were purchased for sale to laboratory customers who certify that the substances will only be used for essential laboratory and analytical uses, and will not be resold or used in manufacturing; or, if sales are made directly to laboratories that the controlled substances will only be used for essential laboratory and analytical uses and will not be resold or used in manufacturing;
- written certification that quantities of critical use methyl bromide were purchased by distributors, applicators, or approved critical users to be used or sold only for critical uses;
- for critical use methyl bromide, dated records such as invoices and order forms, and a log of the quantity of controlled substances produced solely for export to satisfy critical uses;
- the amount of methyl bromide sold or transferred during the quarter to a person other than the producer solely for QPS applications;
- for methyl bromide produced for QPS uses, one copy of a certification that the material will be used only for QPS applications from each recipient of the material and a list of additional quantities shipped to that same person for the quarter;
- quantities of methyl bromide exported by the producer and/or other U.S. companies in that control period, solely to satisfy the critical uses authorized by the Parties for that control period.

## **II. Importers:**

- the quantity of each controlled substance imported, either alone or in mixtures, including the percentage of each mixture that consists of a controlled substance;
- the quantity of each controlled substance imported that is used (including recycled or reclaimed) and the information provided in the petition required to import used quantities of Class I controlled substances;
- the quantities of each controlled substance other than transshipments or used, recycled or reclaimed substances imported for use in their transformation or destruction, and the quantity sold for use in processes that result in their destruction or transformation;
- the quantities of controlled substances imported for approved essential or critical uses;
- the amount of controlled substances sold or transferred during the quarter to each person for use in processes resulting in their transformation or eventual destruction;
- for each quantity of a controlled substance imported: the date on which the controlled substance was imported; the port through which it passed; the country from which it was imported; the commodity code for the shipment; the importer number for the shipment; a copy of the bill of lading for the import; the invoice for the import; and the U.S. Customs entry form;
- dated records documenting the sale or transfer of the controlled substance for use in processes resulting in transformation or destruction;

- copies of IRS certifications that the controlled substance will be transformed or destruction verifications that it will be destroyed;
- dated records of the quantity of controlled substances being purchased for essential and laboratory uses or for eventual sale to laboratories that certify that controlled substances are for essential laboratory and analytical uses;
- the amount of controlled substances sold or transferred during the quarter to each person for an essential use;
- certifications from essential-use allowance holders stating that the controlled substances were purchased solely for specified essential uses and will not be resold or used in manufacturing; and the certifications from distributors of laboratory supplies that the controlled substances were purchased solely for eventual sale to laboratories that certify the controlled substances are for essential laboratory and analytical uses, or if sales are made directly to laboratories, verifications from laboratories that the controlled substances will only be used for essential laboratory and analytical uses and will not be resold or used in manufacturing;
- in the case of laboratory essential uses, a certification from distributors of laboratory supplies that controlled substances were purchased for sale to laboratory customers who certify that the substances will only be used for laboratory applications and will not be resold or uses in manufacturing;
- for methyl bromide, dated records of the quantity of controlled substances imported for QPS applications and quantity sold for quarantine and preshipment applications;
- written certifications that quantities of methyl bromide imported solely for QPS applications were purchased by distributors or applicators to be used only for quarantine and preshipment applications;
- written verifications from a U.S. purchaser that methyl bromide imported solely for QPS applications upon receipt of a certification;
- a list of the quantities of methyl bromide exported by the importer and or by other U.S. companies, to a Party to the Protocol that will be used solely for QPS applications;
- in the case of importing a container with a heel, the amount brought into the United States with a certification that the residual amount in each shipment is less than 10 percent of the volume of the container and the fate of the container; a report indicating the final disposition of each shipment must also be submitted;
- in the case of importing a used substance, a copy of the petition submitted, the EPA non-objection notice, and the bill of lading for the import;

### **III. Exporters:**

- names and addresses of the exporter and the recipient of the exports;
- the exporter's Employer Identification Number;
- for each export: the type and quantity of each controlled substance exported and what percentage, if any, of the controlled substance is used, recycled or reclaimed; the date on which, and the port from which, the controlled substances were exported to the United States or its territories; the country to

which the controlled substances were exported; the amount exported to each Article 5 country, and the commodity code of the controlled substance shipped;

- the invoice or sales agreement containing language similar to the Internal Revenue Service Certificate that the purchaser or recipient of imported controlled substances, or destruction verifications that the purchaser or recipient intends to destroy the controlled substances, or the certification that the purchaser or recipient and the eventual applicator will only use the material for QPS applications;
- in cases of export to Article 5 countries (in addition to applicable exporting requirements listed above):
  - the names and telephone number of contact persons for the exporter and for the recipient;
  - a copy of the bill of lading and invoice indicating the net quantity shipped and documenting the sale of the controlled substances to the Article 5 purchaser;
  - a copy of the invoice or sales agreement covering the sale of the controlled substances to the recipient Article 5 country that contains provisions forbidding the re-export of the controlled substance in bulk form and subjecting the recipient or any transferee of the recipient to liquidated damages equal to the resale price of the controlled substances if they are re-exported in bulk form.

**IV. Persons that destroy Class I controlled substances:**

- a one time report stating the destruction unit's efficiency and the methods used to record the volume destroyed and those used to determine destruction efficiency and the name of other relevant federal or state regulations that may apply to the destruction process.

**V. Persons that purchase/receive and subsequently destroy Class I substances that were originally produced without expending allowances:**

- a destruction verification (to the producer or importer) containing the following:
  - the identity and address of the person intending to destroy controlled substances;
  - indications of whether those controlled substances will be completely destroyed, or less than completely destroyed, in which case the destruction efficiency at which such substances will be destroyed must be included;
  - period of time over which the person intends to destroy controlled substances;
  - signature of the verifying person;
- the name and quantities of Class I controlled substances that were destroyed at the end of the control period.

**VI. Persons that transform Class I controlled substances:**



- the name and quantities of Class I controlled substances transformed at the end of the control period;
- in cases where Class I controlled substances are purchased for transformation, the person who transforms the substances is to provide the producer or importer with an IRS certification that the controlled substances are to be used in processes resulting in their transformation.

**VII. Persons that tranship Class I substances:**

- records that indicate that the shipment originated in a foreign country destined for another foreign country, and does not enter interstate commerce with the United States.

**VIII. Persons allocated essential-use allowances:**

- quantities of each controlled substance received from each producer and/or each importer during that quarter and the country from which the controlled substance was imported;
- gross quantities of each controlled substance that was used for the essential use;
- quantities contained in exported products;
- quantity of each controlled substance that was destroyed or recycled;
- quantity held in inventory as of the last day of the control period, that was acquired with essential use allowances in all control periods;
- the quantity of each controlled substance in a stockpile that is owned by the company or is being held on behalf of the company under contract, and was produced or imported through the use of production allowances and consumption allowances;
- for essential use allowances for metered-dose inhalers (MDI) only, the allowance holder must report the total number of marketable units of each specific MDI product manufactured in the control period.

**IX. Distributors of laboratory supplies receiving controlled substances under the global laboratory essential use exemption:**

- quantities received of each controlled substance from each producer or importer;
- quantities of each controlled substance purchased by each laboratory customer whose certification was previously provided to the distributor;
- in cases where the distributor sells the Class I controlled substances as reference standards for calibrating equipment, the distributor must submit the quantity of each controlled substance purchased by each laboratory customer whose certification was previously provided to the distributor.

**X. Persons that distribute quarantine and preshipment methyl bromide:**

- certifications provided to the producer or importer that quantities received that were produced or imported solely for QPS applications under the exemptions will be used only for quarantine applications or preshipment applications;

- certifications from applicators, prior to delivery of the quantity, that the quantity of methyl bromide ordered will be used solely for QPS applications;
- the total quantity delivered to applicators in which certifications were received that state the methyl bromide would be use solely for QPS applications.

**XI. Persons that apply quarantine and preshipment methyl bromide:**

- a document from the commodity owner, shipper or their agent requesting the use of methyl bromide citing the regulatory requirement that justifies its use;
- a copy of the certification (provided to the distributor before a shipment) that the quantity of controlled substances will be used only for QPS applications.

**XII. QPS commodity owner, shipper, or their agent:**

- records for each request, certifying knowledge of the requirements associated with the exemption for QPS applications; the record must include the certifying language listed in the regulation.

**XIII. Trades with another Party to the Protocol:**

- for trades from a Party, a document, from the principal diplomatic representative in that nation's embassy in the United States, containing:
  - the identity and address of the person;
  - the identity of the Party;
  - the names and telephone number of contact persons for the person and for the Party;
  - the chemical type, type of allowance being transferred, and the level of allowances being transferred;
  - the control period(s) to which the transfer applies;
  - for increased production indented for export to the Party from whom the allowances would be received, a signed statement of intent to export to the Party;
  - in the case of transferring essential-use allowances, the transferor must include a signed document from the transferee identifying the CFC MDI products that will be produced using the essential-use allowances;
- for trades to a Party, a transfer request that sets forth the following:
  - the identity and address of the person;
  - the names and telephone numbers of contact persons for the person and for the Party;
  - the chemical type, type of allowances being transferred, and the level of allowances being transferred; and
  - the control period(s) to which the transfer applies.

**XIV. Transfers of allowances for Class I controlled substances:**

- a transfer claim setting forth the following:
  - the identities and addresses of the transferor and transferee;
  - the name and telephone numbers of contact persons for the transferor and the transferee;

- the type of allowances being transferred, including the names of the controlled substances for which allowances are to be transferred;
- the group of controlled substances to which the allowance being transferred pertains;
- the amount of allowances being transferred;
- the control period(s) for which the allowances are being transferred;
- the amount of unexpected allowances of the type and for the control period being transferred that the transferor holds as of the date the claim is submitted to EPA;
- the amount of the one percent offset applied to the unweighted amount trade that will be deducted from the transferor's production or consumption allowances balance; in the case of transferring essential use allowances, the amount of one tenth of one percent of the amount traded will be deducted from the transferor's allowance balance;
- in cases of transfers of essential-use CFCs:
  - the specific MDI products that the transferee plans to produce with the transferred CFCs;
  - the country(ies) where the CFC MDI produced with the transferred essential-use CFCs will be sold if other than in the United States;
  - certification that the essential-use CFCs will be used in the production of essential MDIs; if the MDIs are to be sold in the United States, the certification must state that MDIs produced with the transferred essential-use CFCs are listed as essential and were approved by the Food and Drug Administration before December 31, 2000; if the MDIs produced with the essential-use CFCs are to be sold outside the United States, the transferee must verify that the MDIs produced with the essential-use CFCs are considered essential by the importing country;
  - a letter from the transferor stating that it concurs with the terms of the transfer as requested by the transferee;
  - in cases where the trade is international:
    - a signed document from the principal diplomatic representative in the Party's embassy in the United States stating that the appropriate authority within the nation has approved the transfer of the essential-use CFCs.

**XV. Interpollutant conversions (Article 5 allowances):**

- a conversion claim with the following:
  - the identity and address of the converter;
  - the name and telephone number of a contact person for the converter;
  - the type of allowances or credits being converted, including the names of the controlled substances for which allowances or credits are to be converted;
  - the group of controlled substances to which the allowances or credits being converted pertains;
  - the amount and type of allowances or credits to be converted;

- the amount of allowances or allowances or credits to be subtracted from the converter's unexpended allowances or credits for the first controlled substance, to be equal to 101 percent of the amount of allowances or credits converted;
- the amount of allowance or credits to be added to the converter's unexpended allowances or credits for the second controlled substance, to be equal to the amount of allowances or credits for the first controlled substance being converted multiplied by the quotient of the ozone depletion factor of the first controlled substance divided by the ozone depletion factor of the second controlled substance;
- the control period(s) for which the allowances or credits are being converted;
- the amount of unexpended allowances or credits or the type and for the control period being converted that the converter holds as of the date the claim is submitted to EPA.

**XVI. Persons wanting to import used Class I controlled substance**

- a petition containing:
  - name and quantity in kilograms of the used controlled substance to be imported;
  - name and address of the importer, the importer ID number, the contact person, and the phone number;
  - name, address, contact person, phone number and fax number of all previous source facilities from which the used controlled substance was recovered;
  - a detailed description of the previous use of the controlled substance at each source facility and a best estimate of when the specific controlled substance was put into the equipment at each source facility, and, when possible documents indicating the date the material was put into the equipment;
  - a list of the name, make and model number of the equipment from which the material was recovered at each source facility;
  - name, address, contact person, phone number and fax number of the exporter and of all persons to whom the material was transferred or sold after it was recovered from the source facility;
  - the U.S. port of entry for the import, the expected date of shipment and the vessel transporting the chemical; if at the time of submitting a petition the importer does not know the U.S. port of entry, the expected date of shipment and the vessel transporting the chemical, and the importer receives a non-objection notice for the individual shipment in the petition, the importer is required to notify the Administrator of this information prior to the actual U.S. Customs entry of the individual shipment;
  - a description of the intended of the used controlled substance, and, when, possible, the name, address, contact person, phone number and fax number of the ultimate purchaser in the United States;

- name, address, contact person, phone number and fax number of the U.S. reclamation facility, where applicable; if someone at the source facility recovered the controlled substance from the equipment, the name and phone and fax numbers of that person;
- if the imported controlled substance was reclaimed in a foreign Party, the name, address, contact person and fax number of any or all foreign reclamation facility(ies) responsible for reclaiming the cited shipment;
- an export license from the appropriate government agency in the country of export and, if recovered in another country, the export license from the appropriate government agency in that country;
- if the imported used controlled substance is intended to be sold as a refrigerant in the U.S., the name and address of the U.S. reclaiming party who will bring the material to the standard required under Section 608 of the CAA, if not already reclaimed to those specifications;
- a certification of accuracy of the information submitted in the petition.

In addition, all entities may be required to provide other such information that the Administrator may reasonably require to comply with requests from the Ozone Secretariat seeking information required by decisions taken by the Parties to the Montreal Protocol. All records and reports must comply with requirements for Class I controlled substances in Subpart A of the regulations. Reports and records associated with the reports listed above must be kept for three years. All amounts must be reported in kilograms. These recordkeeping requirements pertain to original documents that are held by companies in the normal course of conducting business such as Customs entry forms, accounts of daily production runs, sales invoices, and bills of lading. Information from these recordkeeping documents is summarized in reports. Recordkeeping requirements are designed to aid EPA in compliance monitoring, site inspection, and enforcement actions.

(ii) Respondent Activities

Persons that produce, import, export, distribute, supply, transform, destroy, and apply controlled Class I ODS are to maintain records and report to EPA or persons involved in transactions on a quarterly, annual, or transactional basis as mandated by applicable sections of the regulations. All records and reports must comply with applicable requirements specified in: §82.9 (“Availability of production allowances in addition to baseline production allowances for Class I controlled substances”), §82.11 (“Exports of Class I controlled substances to Article 5 Parties”), §82.12 (“Transfers of allowances for Class I controlled substances”), §82.13 (“Recordkeeping and reporting requirements for Class I controlled substances.”). These records and copies of reports are to be maintained for three years.

5. The Information Collected - Agency Activities, Collection Methodology, and Information Management

**(a) Agency Activities**

- Enter, maintain, and manage information submitted from companies in the ODS Tracking System;
- Respond to companies submitting tracking/monitored information, such as Article 5 allowances and essential use allowances to confirm transactions and provide allowance balances;
- Review and respond to petitions submitted to import used Class I controlled substances;
- Review information and conduct compliance monitoring activities related to restrictions on production, import, export, transformation, and destruction of Class I controlled substances for individual companies by comparing data with other sources of information;
- Inspect records maintained by producers, importers, exporters, transformers, and destroyers of ODS;
- Review information in the Tracking System to ensure that the United States is not exceeding its obligations under the Montreal Protocol which limits production and consumption of controlled ODS;
- Review information in the Tracking System to ensure exempted production and imports do not exceed limits statutorily set in Section 604 of the CAA;
- Compile reports mandated by United States obligations under the Montreal Protocol and the CAA, including reports to Congress and the Ozone Secretariat.

**(b) Collection Methods**

EPA provides reporting forms for regulated participants to use to report the required information. Reporting forms for Class I controlled substances, as well as guidance on completing the forms, are available on EPA's website at <http://epa.gov/ozone/record/classone.html>. Reporting forms can be sent to EPA in hard copy form or submitted electronically.

The use of the reporting forms is voluntary, but they are generally used by every participant in the regulatory program. The forms facilitate and streamline the submission of required data for respondents. The reporting requirements, first promulgated in the July 30, 1992, final rule, and then simplified and reduced through amendments published in the Federal Register on May 10, 1995, reduced the administrative and reporting burden.

In general, the regulatory program and the reporting requirements are smaller after the phaseout. As of January 1, 1996 (the post-phaseout period), the system of production and consumption allowances was no longer used, simplifying overall tracking and monitoring. New reporting and recordkeeping requirements exist, however, for the exempt uses of Class I substances. The reporting procedures for the post-phaseout period were selected for their administrative feasibility and minimal reporting burden.

**(c) Small Entity Flexibility**

Much of this information collection is required by statute. Additional information collection is undertaken to support the United States' reporting obligations under the Protocol. The information collection is required to 1) ensure allowance holders have access to their allowances, 2) develop these nationally and internationally mandated reports, and 3) maintain compliance with Sections 604 and 606 of the CAA.

The burden on all affected entities, and especially the burden on small entities, has been reduced to every extent possible. Laboratories, the only small entities required to submit information, are required to certify purchases of exempted Class I controlled substances once per year, indicating that they will only be used for laboratory or analytical purposes and not be resold, and identifying the specific use to which the substances will be put. This requirement is to ensure proper use of exempted production and import and to allow the United States to report specific information to the Secretariat to the Protocol regarding the use of ODS for laboratory purposes as required under Annex II of Decision VI/9. All other respondents to the program are large companies.

#### **(d) Collection Schedule**

After the phaseout on January 1, 1996:

- Producers, importers, holders of essential use allowances, laboratory suppliers, and distributors of QPS methyl bromide must report to EPA quarterly (45 days after the end of each quarter);
- Exporters, and persons that destroy and transform Class I controlled substances, are to report to EPA annually (45 days after the end of the control period);
- Persons wanting to trade with another Party to the Protocol, undertake interpollutant conversions, transfer allowances, import used Class I controlled substances (i.e. petition) are to submit reports to EPA on a transactional basis.
- All entities may be required to provide other such information that the Administrator may reasonably require to comply with ad hoc requests from the Ozone Secretariat seeking information required by decisions taken by the Parties to the Montreal Protocol subsequent to the publication of this ICR. The Agency anticipates this, on average, to occur no more than annually per prospective respondent.

### 6. Estimating the Burden and Cost of Collection

#### **(a) Estimating Respondent Burden**

The basis of the analysis is the identification of the principal steps involved in complying with EPA recordkeeping and reporting requirements and the estimated burden associated with each step. EPA identified 18 reporting activities which contain all information mandated by EPA's regulations (see Table II. Respondent Burden for details). EPA estimated the number of respondents per reporting activity based on the quantity of respondents that submitted reports over the last several years. The number of reports submitted per year is either four (quarterly), one (annually), or other (per transaction). EPA estimated the amount of time for data compilation and report preparation by analyzing historical information. The last three collection activities are not submitted to EPA, rather they are provided to another entity, such as a producer or importer, as mandated. This ICR (1432.29) does not add any additional recordkeeping and reporting requirements from the previous ICR.

Table II. Respondent Burden

|  | A                        | B   | C                           | D                              | E                                | F                                 | G                                    |
|--|--------------------------|---|-----------------------------|--------------------------------|----------------------------------|-----------------------------------|--------------------------------------|
| Collection Activity:<br>Recordkeeping and<br>Reporting       | Number of<br>Respondents | Responses per<br>respondent per<br>control period | Total<br>Responses<br>(AxB) | Data<br>Compilation<br>(hours) | Report<br>Preparation<br>(hours) | Hours<br>per<br>Response<br>(D+E) | Total<br>Hours per<br>year<br>(Cx F) |
| Producer's Report  | 8                        | 4   | 32                          | 4                              | 0.5                              | 4.5                               | 144                                  |
| Producer's Report (MeBr)                                     | 2                        | 4   | 8                           | 4                              | 0.5                              | 4.5                               | 36                                   |
| Importer's Report  | 6                        | 4   | 24                          | 4                              | 0.5                              | 4.5                               | 108                                  |
| Importer's Report (MeBr)                                     | 2                        | 4   | 8                           | 4                              | 0.5                              | 4.5                               | 36                                   |
| Exporter's Report  | 10                       | 1   | 10                          | 4                              | 0.5                              | 4.5                               | 45                                   |
| Exporter's Report (MeBr)                                     | 2                        | 4   | 8                           | 4                              | 0.5                              | 4.5                               | 36                                   |
| Destruction and<br>Transformation                            | 4                        | 2   | 8                           | 4                              | 0.5                              | 4.5                               | 36                                   |
| Essential Use Allowance<br>Holders                           | 8                        | 4   | 32                          | 4                              | 0.5                              | 4.5                               | 144                                  |
| Laboratory<br>Supply/Distribution                            | 4                        | 4   | 16                          | 4                              | 0.5                              | 4.5                               | 72                                   |
| Transfers of substances<br>(int'l and domestic)              | 4                        | 5   | 20                          | 4                              | 0.5                              | 4.5                               | 90                                   |
| Transfers of allowances<br>(int'l and domestic)              | 4                        | 3   | 12                          | 4                              | 0.5                              | 4.5                               | 54                                   |
| QPS MeBr Distributor Report                                  | 15                       | 4   | 60                          | 4                              | 0.5                              | 4.5                               | 270                                  |
| Interpollutant Conversions                                   | 1                        | 2   | 2                           | 4                              | 0.5                              | 4.5                               | 9                                    |
| Petitions for used imports                                   | 2                        | 10  | 20                          | 4                              | 0.5                              | 4.5                               | 90                                   |
| Other information requested<br>by Ozone Secretariat          | 20                       | 1   | 20                          | 2                              | 0.5                              | 2.5                               | 50                                   |
| <b>SUBTOTAL FOR<br/>REPORTING TO EPA ONLY</b>                | <b>92</b>                | <b>56</b>   | <b>280</b>                  | <b>58</b>                      | <b>7.5</b>                       | <b>65.5</b>                       | <b>1220</b>                          |
| QPS MeBr Applicator<br>Certification                         | 15                       | 6   | 90                          | 0.5                            | 0.5                              | 1                                 | 90                                   |
| Commodity Owner, Shipper<br>or Agent Recordkeeping<br>(MeBr) | 50                       | 10  | 500                         | 0.5                            | 0.5                              | 1                                 | 500                                  |
| Lab Certification  | 1,000                    | 1   | 1000                        | 0.5                            | 0.5                              | 1                                 | 1000                                 |
| <b>SUBTOTAL FOR<br/>CERTIFICATIONS</b>                       | <b>1,065</b>             | <b>17</b>   | <b>1,590</b>                | <b>2</b>                       | <b>2</b>                         | <b>3</b>                          | <b>1,590</b>                         |
| <b>TOTAL RESPONDENTS &amp;<br/>HOURS</b>                     | <b>1,157</b>             |   | <b>1,870</b>                |                                |                                  |                                   | <b>2,810</b>                         |

## (b) Estimating Respondent Costs

### (i). Estimating Labor Costs

To determine the labor costs associated with recordkeeping and reporting, EPA used an hourly industry wage rate of \$44.68. This is the average hourly wage rate for professional and related persons derived from the Bureau of Labor Statistics Employer Cost and Employee Compensation Table 2 (“Civilian workers, by occupational and industry group”), December 2007. EPA added 110 percent to the hourly industry wage rate to reflect additional costs for overhead and fringe, increasing the wage rate to \$93.83 per hour. The total burden hours per year was estimated to be 2,810 hours, which when multiplied by the hourly industry wage rate of



\$93.83 equals \$263,662 for total yearly costs. To determine yearly costs per respondent, per report, EPA multiplied the burden hours per respondent per report by the average industry wage (\$93.83). See Table III below for details.

**Table III. Yearly Respondent Costs Calculations**

| <b>Industry Wage<br/>(includes overhead<br/>and fringe)</b> | <b>Total Burden Hours</b>                    | <b>Total Yearly Costs</b>                    |
|---|--|--|
| \$93.83   | 2,810  | <b>\$263,662</b>                             |
| <b>Industry Wage<br/>(includes overhead<br/>and fringe)</b> | <b>Total Burden Hours per<br/>Respondent</b> | <b>Total Yearly Costs per<br/>Respondent</b> |
| \$93.83   | 2.4  | <b>\$228</b>                                 |

(ii). Estimating Capital and Operations and Management Costs

Operation and maintenance costs include expenses such as photocopying, packaging, and postage. Although variations may occur based on the quantity of the data submitted to EPA as well as the method in which the respondent submits the data (i.e. regular post or express mail), \$3.00 was estimated to be the cost per respondent per report. To determine the total capital and operations and management costs, 1,860 (total responses) was multiplied by \$3.00 and equaled \$5,580.

(iii). Capital and Start-up Costs

Capital and start-up costs were estimated to be \$0 because new recordkeeping or reporting requirements have not been added to this ICR. Persons that are required to maintain records and report information have participated in the program for several years.

(iv). Annualizing Capital Costs

Capital/start-up costs were estimated to be \$0.

**(c) Estimating Agency Burden and Costs**

To determine agency and burden costs, EPA identified three main activities associated with recordkeeping and reporting: receiving and entering data submitted, reviewing data entries, and preparing and reviewing company data balance statements. EPA then estimated hours per activity, per report received, per Agency staff member. EPA also developed estimates for maintaining the Tracking System and processing reports for the control period. See Table IV below for details.

The hourly wage rates for EPA technical and managerial staff were derived from the 2008 OPM annual base pay table divided by 2,080 to estimate the hourly wage and then multiplied by 1.6, the standard government benefits multiplier. The hourly wage rates are as follows: EPA estimates an average hourly labor cost of \$73.38 (GS-15 level) for managerial costs and \$52.79 (GS-13 level) for technical staff. Each hour of extramural (contractor) time is

valued at \$85.00 per hour including overhead and fringe. The total was estimated to be \$106,057 per year.

**Table IV. Agency Burden and Cost**

| Agency Activity   | Number of Reports/ Year | Managerial Hours<br>\$73.38      | Technical Hours<br>\$52.79         | Extramural Hours<br>\$85.00      | Total Costs (Number of Reports x Labor Costs) |
|---|-------------------------|----------------------------------|------------------------------------|----------------------------------|---|
| 1. Receiving and entering data;                             | 280                     | 0                                | 2<br>\$105.58                      | 0                                | \$29,562                                      |
| 2. Reviewing data entries;                                  | 280                     | 0.5<br>\$36.69                   | 1<br>\$52.79                       | 0                                | \$25,054<br>(\$10,273+\$14,781)               |
| 3. Preparing and reviewing company data balance statements; | 280                     | 0.5<br>\$36.69                   | 1<br>\$52.79                       | 0                                | \$25,054<br>(\$10,273+\$14,781)               |
| 4. Maintaining ODS tracking system and reports              | NA                      | 20<br>(20*\$73.38)<br>\$1,467.60 | 150<br>(150*\$52.79)<br>\$7,918.50 | 200<br>(200*\$85)<br>\$17,000.00 | \$26,386.10                                   |
| Total Annual Burden Hours                                   |                         |                                  |                                    |                                  | 1,352   |
| <b>Grand Total Per Year =</b>                               |                         |                                  |                                    |                                  | <b>\$106,057</b>                              |

**(d) Estimating the Respondent Universe and Total Burden and Costs**

The values for respondent universe and total burden and costs are based on estimates of the number of respondents and hours to compile data and prepare reports. Historical data from reports submitted over the last several years and informal consultations with stakeholders were used to develop estimates. Costs associated with compliance for EPA and respondents are averages and were estimated from publicly available data sources. The total burden hours for respondents decreased in this ICR because it refines the hourly burden estimates for certifying the Quarantine and Preshipment use of methyl bromide and laboratory use of all ozone depleting substances. Increases in the average hourly wage rate for industry caused by normal inflation also contributed to higher respondent costs. Additionally, estimates were refined based on historical information. The total also reflects Agency practice of periodically seeking necessary information from the regulated community through the use of its authority under Section 114 of the Clean Air Act. No new recordkeeping and reporting requirements were added.

**(e) Bottom Line Burden Hours and Cost Tables**

(i) Respondent Tally

To determine bottom line burden hours and costs for respondents, EPA estimated the total number of responses per control period. The total number of responses for all respondents was calculated to be 2,810 hours. Therefore, over the three year span of this ICR, the total hours estimated for compliance for respondents is estimated to be 8,430 hours (2,810 x 3 years).

(ii) The Agency Tally

EPA estimated the amount of time required to complete each of the three main activities associated with the reports. In addition, hours and costs for maintaining the Tracking System and reporting forms were determined. Therefore, over the three year span of this ICR, the total Agency cost is estimated to be \$318,172 (\$106,057 x 3 years).

**(f) Reasons for Change in Burden**

Overall, respondent burden and cost for this ICR were lower than those estimates in the previous ICR due to the decrease in the overall burden for compliance, specifically the hours needed to certify laboratory and QPS uses of ozone depleting substances. In addition, costs and burdens changed because estimates were refined. Agency burden increased due to increases in the average hourly wage rate caused by normal inflation.

Table V. Burden Summary

|  | <b>1432.25</b><br>(Original ICR) | <b>1432.29</b><br>(ICR Renewal) |
|--|----------------------------------|---------------------------------|
| Respondents: Annual burden hours           | 8,370                            | 2,810                           |
| Respondents: Annual labor costs            | \$708,520                        | \$263,662                       |
| Respondents: Annual capital/start-up costs | \$0                              | \$0                             |
| Respondents: O&M costs                     | \$5,580                          | \$5,580                         |
| Agency: Annual burden hours                | 1,350                            | 1,352                           |
| Agency: Annual labor costs                 | \$92,413                         | \$106,057                       |

**(g) Burden Statement**

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR-2008-0264, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West,

Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select “search,” then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. EPA-HQ-OAR-2008-0264 and OMB control number 2060-0170 in any correspondence.

#### PART B OF THE SUPPORTING STATEMENT

EPA did not develop Part B of the supporting statement because this ICR did not involve statistical sampling.