



**Great Lakes Chemical Corporation**

# **FUMIGATION FAX**

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## **EPA QPS Final Rule Published**

The Environmental Protection Agency (EPA) published the Final Rule for the “Process for Exempting Quarantine and Preshipment Applications of Methyl bromide” on January 2, 2003 (*Federal Register*, January 2, 2003, pages 237-254). There are very few changes between the July 19, 2001 Interim Rule and the January 2, 2003 Final Rule. A summary of requirements, effective January 1, 2003, is as follows:

### **1. Exemptions**

#### Quarantine Uses

? Quarantine uses are defined as:

“ . . . treatments to prevent the introduction, establishment and/or spread of quarantine pests (including diseases), or to ensure their official control, where: (i) Official control is that performed by, or authorized by, a national plant, animal or environmental protection or health authority; (ii) quarantine pests are pests of potential importance to the areas endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.”

- ? Quarantine use doesn't have to be for a specific pest, but can also be for a “broad performance-based quarantine requirement.”
- ? Quarantine uses required by intra-state and intra-county regulations will be exempt.
- ? Exemptions will not apply to non-quarantine export applications, even if the US exporter must obtain a phytosanitary certificate for the export of the commodity. To qualify for an exemption, these applications must meet the definition of preshipment use.
- ? Fumigation of soil for growing propagative material will qualify for an exemption. **However, EPA has clarified the definition of propagative materials in the Final Rule.** Propagative material is defined as “plants for planting”, which means the plant must have rootstock attached. This exemption applies to methyl bromide used on soil for growing propagative material, if the propagative material, such as strawberry rhizomes or tree seedlings, must meet official quarantine requirements of the destination to which the material will be shipped. The commodity owner must provide evidence of the official quarantine requirement to the applicator for each application.

#### Preshipment Uses

? Preshipment uses are defined as:

“ . . . those non-quarantine applications [applied] within 21 days prior to export to meet the official requirements of the importing country or existing official requirements of the exporting country. Official requirements are those which are performed by, or authorized by, a national plant, animal, environmental, health or stored product authority.”

- ? Applications to meet food sanitation requirements of the US or importing country are exempt as long as these applications are performed within 21 days prior to export. Food sanitation applications not performed in conjunction with export are not exempt.

Other

- ? Provisions for obtaining exemptions for methyl bromide exported for QPS uses are included.

**2. Non-Exempt Applications**

- ? Exemptions will not apply to preventative treatments to meet food sanitation standards. After January 1, 2005, these uses may qualify for critical use exemptions (CUE). However, the CUEs submitted to EPA on September 9, 2002 are currently in the review/nomination process and have not yet been approved. Therefore, to qualify as an exempt use now, the application must meet the preshipment definition.

**3. Record Keeping and Reporting Requirements**

- ? Record keeping and reporting requirements for methyl bromide producers, applicators, and commodity owners remain the same as in the Interim Rule.
- ? **CHANGE: Distributors will be required to file quarterly reports with EPA starting with the first quarter of 2003 instead of an annual report.** A distributor must reports within 45 days after the end of the quarter, the total quantity of methyl bromide delivered to end-use applicators for which the distributor received a QPS Certification that the material will be used solely for QPS applications.
- ? Applicators and commodity owners must maintain records to document the official requirement that justifies and clearly identifies the use of exempt methyl bromide.

After reading the summary, you may still have questions. Please contact us for additional information or clarification on how this rule directly affects you.

Copies of the QPS Final Rule can be obtained from Great Lakes or by visiting the Federal Register website at [www.access.gpo.gov/nara/](http://www.access.gpo.gov/nara/).

**ALWAYS READ AND FOLLOW LABEL DIRECTIONS**



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