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U.S. ENVIRONMENTAL PROTECTION AGENCY

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PUBLIC HEARING ON
NOTICE OF PROPOSED RULEMAKING:
THE 2008 CRITICAL USE

EXEMPTION FROM THE PHASEOUT OF METHYL BROMIDE

Ariel Rios North Building

Room 2530

1200 Pennsylvania Avenue, N.W.

Washington, D.C.

Tuesday, September 11, 2007

2:10 p.m.

The meeting was held on Tuesday, September 11, 2007 at 1200 Pennsylvania Avenue, N.W., commencing at 2:10 p.m., H. Aaron Levy (EPA), presiding.

1 P R O C E E D I N G S

2 (2:10 p.m.)

3 MR. LEVY: I think we'll get started.

4 Welcome, everyone. Good afternoon. Thank you all
5 for coming today.6 This is the Public Hearing on the Methyl
7 Bromide Critical-use Exemption Proposed Rule for
8 2008. Please make sure to use the sign-in sheet
9 here, if you haven't done so already.10 As you can see, this is kind of a small,
11 informal room, so we have a microphone in the middle
12 of the table, and if you're going to speak later, I
13 suppose I'll ask you to -- I think the microphone
14 will pick up everyone in the room, but we could maybe
15 ask you to come to the table, if you're going to give
16 lengthy comments.17 My name is Aaron Levy and I work for the
18 Stratospheric Protection Division at EPA. Our Office
19 is responsible for the phaseout of ozone-depleting
20 substances, including methyl bromide.21 Thanks again for attending on such short
22 notice. I will start with a few general remarks, and

1 the open the floor to commenters.

2 The Proposed Rule for 2008 is the subject
3 of this hearing, and it was published in the Federal
4 Register on August 27th, in Docket Number 2006-1016.

5 The Proposed Rule, as you know, would
6 allocate about 4,818 metric tons of methyl bromide
7 for 2008 critical uses, and that amounts to 18.9
8 percent of the U.S. 1991 consumption baseline.

9 The Rule proposes to allow 12.1 percent
10 of baseline from new production and import, and 6.7
11 percent from existing stocks for critical uses in
12 2008.

13 The purpose of today's hearing, is to
14 allow interested parties to provide verbal comments
15 on the Proposed Rule. EPA will consider these
16 verbal comments in the same way we consider written
17 comments that are provided to us during the comment
18 period, which now ends on October 11th.

19 We plan to have the transcript of this
20 hearing available on the methyl bromide website and
21 on the ozone depletion website in five to seven
22 business days from this hearing, which should be

1 sometime next week, and I can give you the URLs for
2 those sites, if you don't have them.

3 I'll just explain that the purpose of
4 this hearing is really not for EPA to answer
5 individual questions at this time, but for
6 interested parties to provide comments on the
7 proposal.

8 If you are attending today and submitting
9 oral comments and also wish to provide written
10 comments such as the slides that you're showing,
11 that's fine, and you should submit those comments in
12 the same way you would submit other written comments.

13 Instructions for how to submit comments,
14 are provided in the preamble of the Rule proposal
15 and also on our website. I'll remind you again that
16 the deadline for submitting comments is now October
17 11.

18 As you know, the deadline was originally
19 September 26th, but because of this hearing request,
20 we want to provide an opportunity to comment on what
21 is said today, so the deadline has been extended 15
22 days.

1 Okay, so I hope that all of you who are
2 interested in speaking, checked the speaker box on
3 the sign-in sheet. It's not imperative that you do,
4 and you can still comment, and if you'd like to
5 speak, just let us know.

6 I think what we'll do is, we'll start
7 with David McAllister from Chemtura, since they were
8 the ones that requested the hearing, and then after
9 that, we'll just kind of go on a voluntary basis. If
10 there are some conflicts about speaking order, we
11 will work those out.

12 Right now, I'll just say one more time,
13 if you came in late, please use the sign-in sheet at
14 the table here, and I'll let David McAllister have
15 the floor.

16 MR. McALLISTER: I am David McAllister
17 from Chemtura Corporation, and I want to thank EPA
18 and, particularly, Aaron, for setting up this
19 hearing up on short notice in response to our
20 request.

21 As many of you know, Chemtura is one of
22 four suppliers of critical-use methyl bromide in the

1 U.S., and we understand the importance of this
2 critical-use exemption program to growers,
3 processors, and other groups that, in many cases,
4 still lack feasible alternatives to methyl bromide
5 for important parts of their industries.

6 Since the beginning of this methyl
7 bromide phaseout -- and that dates back to 1993,
8 when the first Rule was proposed and in 1994, when
9 it went into effect.

10 It's been a while, but, you know, we've
11 worked closely with EPA in developing the system of
12 control, and have tried to cooperate with our supply
13 chain and with growers, to ensure the proper
14 stewardship and compliance with the regulations that
15 have been put in place.

16 We requested this hearing to give
17 emphasis to what we see as some serious flaws in the
18 framework system for allocating the critical-use
19 allowances and to ensure that stakeholders
20 understand the importance of EPA action in
21 correcting these flaws.

22 As many of you know, the methyl bromide

1 regulatory process already imposes a significant
2 burden on producers, distributors, and users.
3 Critical users have to submit justifications for
4 their critical-use applications, some three years in
5 advance of when that product might be applied, and to
6 substantiate their requests with very extensive
7 documentation.

8 They then must be ready to answer
9 questions about those applications, both from EPA
10 officials and, in some cases, from the international
11 community because of the Montreal Protocol levels.

12 Producers, importers, and distributors
13 also have significant recordkeeping requirements,
14 and are obligated to file periodic reports -- either
15 quarterly or annual reports -- with EPA on sales and
16 use and other things.

17 Given these considerable burdens that are
18 imposed by the system, we think that, indeed, EPA has
19 an obligation to make sure that the final
20 application rule, is applied in an evenhanded and
21 accurate manner, using the best data available.

22 However, what I want to talk about today,

1 are, in particular, two flaws that we see in the
2 current regulatory framework, which makes such
3 treatment all but impossible.

4 Let me go ahead here with the first
5 slide.

6 (Slides.)

7 MR. McALLISTER: I think we can all agree
8 that for the CUE process to be functioning, it really
9 needs to use the best available data; provide an
10 accurate picture of use and need; promote good
11 product stewardship; and ensure that the critical
12 users get the allocations to which they're entitled.

13 However, we think that in several areas,
14 the current framework falls short.

15 We believe that the way this is
16 structured -- and this really has become an issue
17 since the critical-use exemptions became a part of
18 the process a couple of years ago.

19 We think that the way it's been applied,
20 the actual annual carryover of CUE material, is
21 overstated, and, as a consequence of that, the use
22 and future needs are understated.

1 The market is distorted and there is a
2 perpetuation of what really is an illusory
3 carryover.

4 In the end, the people that are hurt
5 most, are in the agricultural community.

6 I might add, too, that I have copies of
7 handouts of the presentation, if any of you want
8 that.

9 I want to cover each one of these
10 shortcomings in a little more detail, first talking
11 about how we believe that the framework overstates
12 the annual carryover.

13 As a part of the reporting process,
14 producers, importers, and distributors are required
15 to report annually, the leftover critical-use methyl
16 bromide that's carried over from one control period
17 or one calendar year, to the next.

18 But despite that, the way EPA calculates
19 the carryover, is sort of an indirect way, and that
20 is by the equation shown here, where you take a sum
21 of production plus imports, subtract from that, the
22 sales that are reported; the difference there equals

1 carryover.

2 In a perfect world, that would work. But
3 what happens here, is, if, for some reason, the
4 sales number is incomplete, due to somebody in the
5 distribution chain not reporting sales, what it
6 leads to, is an artificially high apparent
7 carryover, which EPA has used in the past to adjust
8 the allocations, a year down the line.

9 A further concern here, is that there's
10 no way to independently assess whether there are
11 data gaps in the reporting or not. Now, just as an
12 analogy, whenever you get your paycheck from your
13 employer, your employer is required to report to
14 IRS, the fact that they withheld taxes out of your
15 paycheck.

16 Then, come April 15th, you file your own
17 individual tax return, and the IRS can the compare
18 those returns that it got, to the list of returns it
19 should have received, so there's a cross check
20 there.

21 We don't have this same kind of cross
22 check in this process, because the way reporting is

1 set up, EPA doesn't know who should have filed sales
2 and user reports, so they really don't have a way of
3 checking to see the level of compliance in filing
4 those reports.

5 Furthermore, the distributors and
6 producers and importers in the supply chain, could
7 help here, if the list of people who file sales to
8 end user reports, were made available, but that's
9 not routinely made available.

10 Now, this year, we did -- the Methyl
11 Bromide Industry Panel filed a Freedom of
12 Information request and did receive that list of
13 people that filed sales to end user reports, but
14 that's not something that's routinely supplied, so
15 it leads to this incomplete reporting of sales to
16 end users.

17 Because of this, the framework also
18 understates the use and need; that is, if you
19 assume, as EPA does, that this calculated carryover
20 is a real number, then the implication is that
21 people didn't use all the critical-use product that
22 was produced in a given year, when, in fact, if the

1 shortage is due to under-reporting, they did, in
2 fact, use it.

3 And furthermore, if you look specifically
4 at 2008 in this Proposed Rule, the carryover is
5 stated as something over 539,000 kilos. But this is
6 not really available material, because it's largely
7 an artifact, due to incomplete reporting, so that
8 particular product has actually been used, but it
9 still appears as a part of the carryover, the stated
10 carryover.

11 This, of course, implies that past demand
12 was lower and that future supply is higher than, in
13 actuality, it is.

14 I want to talk just a couple minutes now
15 about how this problem with the framework, really
16 distorts the production allocation, and, in fact,
17 perpetuates the carryover, because the way it works,
18 is that the carryover penalties, that is, when this
19 carryover is subtracted from future allocations, it's
20 subtracted on the basis of the historic production
21 allocation, not on the basis of where the problem
22 with the reporting might have originated.

1 I've got a couple of charts to illustrate
2 that. If you look, just as an example, at the 2006
3 allocation, critical-use allocations for producers X,
4 Y, and Z, you assume that Producer X had a production
5 allocation of this amount, but a relatively small
6 fraction of unreported sales in their supply chain.

7 Producer Y had a smaller production
8 allocation, but had complete reporting of sales in
9 the supply chain.

10 Producer Z had a fairly small allocation
11 of production, but significant absence of reporting
12 in the supply chain.

13 Now, let's look forward, skip forward a
14 couple of years, to see how this is reflected in the
15 Proposed Rule for 2008.

16 If you were to take these red bars and
17 total them up, that would be the total amount of the
18 calculated carryover that is not the actual
19 carryover, but the non-reported.

20 The way this gets allocated or subtracted
21 off the 2008 allocation, is in proportion to the
22 allocation, not in proportion to the supply chains

1 from which it came.

2 It's really a lack of accountability
3 here, and since accountability is not assigned to
4 the point in the supply chain where it originated,
5 it really makes a repeat failure of this likely, and
6 undermines the credibility of the process.

7 Now, we can take kind of a common-sense
8 lesson from this, that, you know, really, the
9 purpose of the CUE program, is to meet the needs of
10 the growers and processors. They're the ones that
11 fill out the applications, who do all of this
12 arduous paperwork of justifying the critical-use
13 methyl bromide that's needed, but yet it appears
14 that at some point, some suppliers in the supply
15 chain, are really undermining this program by
16 failing to comply with the reporting obligation.

17 Others, who might have, you know,
18 invested time and effort into education and
19 compliance assurance, are being penalized by the
20 actions for which they have no responsibility.

21 We believe the framework needs to be
22 revised to be more consistent with its purpose and

1 to reward compliance and penalize noncompliance.

2 Now, you can say this is -- an analogy is that you
3 don't stop people from speeding, by ticketing the
4 cars that are going the speed limit.

5 Another concern about this is that this
6 is not a one-time issue. In fact, comments to the
7 2007 Proposed Rule, raised this as an issue at that
8 time. In the response to comments document, EPA
9 wrote that EPA does not anticipate a significant
10 amount of carryover of methyl bromide in future
11 years.

12 Well, in actuality, that was correct,
13 because we believe there's not a significant amount
14 of actual carryover of unused CUE material from one
15 year to the next. However, there is an assumed
16 carryover, due mostly to these unreported sales.

17 As a result of this, the alleged
18 carryover has increased. You can see that for 2005,
19 the carryover from 05 to 06, which was deducted in
20 2007, 133,000 kilograms, we're living with that this
21 year.

22 The Proposed Rule assumes the carryover

1 from 06 to 07, of 539,000 kilos, which will be
2 deducted from the 2008 allocation. We think that by
3 handling it this way, the framework distorts
4 reality, penalizes compliance and rewards
5 noncompliance, and has to be fixed.

6 A few weeks ago, Chemtura filed a
7 petition with EPA, providing some concrete
8 suggestions on how this situation can be remedied.
9 We've got three points:

10 The first addresses the point of supply
11 chain accountability. You'll want to listen close
12 here, because this is going to be one of the few
13 times you will hear someone from the regulated
14 community, saying we need more regulation.

15 But in this case, we think that EPA
16 should require producers, importers, downstream
17 distributors, to provide the names of the entities
18 to which they sell critical-use methyl bromide.

19 What this would do, would be to provide
20 EPA with a list of people that should be supplying
21 these sales to critical user reports, in just the
22 way the IRS compares and checks to see if the right

1 people are submitting income tax returns. This
2 would allow EPA to see if the right people are
3 submitting sales to end user reports.

4 The next thing they would do, would be to
5 provide for producer accountability. This same list
6 of names, would allow EPA to track where the methyl
7 bromide came from, and if there were non-reporting,
8 to assign that non-reporting to a particular supply
9 chain, so that the deduction could be applied to the
10 supply chain from which it originated.

11 The problem with these two solutions, is
12 that, because of the timing of this, if these were
13 made part of the Rule in 2008, it really wouldn't
14 affect the allocations for two years, that is, until
15 2010.

16 So what do you do in the interim? Well,
17 we have a suggestion there, too, and that is what we
18 call in the petition, and opt-out process. What
19 that would do, is make a provision so that
20 producers, if they provided documentation that any
21 methyl bromide associated with their supply chain,
22 was, indeed sold, all the way down that chain, to

1 the critical user and was not carried over, your
2 producer provided sufficient documentation to EPA,
3 then that portion of the carryover, would not be
4 deducted, if it could be documented that, in fact,
5 it had made it all the way to the end user.

6 So we hope that EPA will take account of
7 this. We'll be repeating these suggestions in our
8 comments on the Proposed Rule. We've encourage you
9 to take a look at a copy of our petition.

10 It's on the docket, and I think we also
11 have copies here today. If you have questions about
12 it, you can certainly feel free to call me about it.
13 I'll be more than happy to talk and explain this kind
14 of involved feature of the program, in some detail.
15 Thank you very much for your attention. I do have
16 copies of the presentation, if anyone would like one.

17 MR. LEVY: Thanks, David. Mr. Haley?

18 MR. HALEY: My name is Dan Haley. I
19 represent the walnut, the prune, and the fig
20 industry, and I mentioned this last week at the
21 State Department, and since it's such a nice,
22 informal meeting, I'm going to mention it again

1 today, that the numbers included in the allocation
2 Rule for 2008, include a false assumption that
3 Profume is an alternative for methyl bromide in
4 dried fruit and walnuts.

5 We've provided information to EPA and
6 others, that it does not kill the eggs, which brings
7 into account, double applications, which brings into
8 account, economics. We have provided information to
9 EPA on that, and we'd ask for a bilateral in the
10 upcoming meeting of the Montreal Protocol.

11 But just a few comments on the allocation
12 CUE process, in general: Quite frankly, it's like a
13 house of cards coming down on the producers that I
14 represent.

15 We all know that we're right now in a
16 national or global allocation, and the reason why
17 we're in that global allocation, is because we all
18 believe there were going to be enough stocks, and if
19 there were enough stocks, there's no sense in
20 breaking things up and reporting and doing things we
21 don't necessarily have to do.

22 This year, in northern California, in the

1 prune industry, in the walnut industry, when they
2 went to get methyl bromide, in some cases, they found
3 that the price of methyl bromide had doubled and more
4 than doubled. In some cases, they found that it was
5 not available, even though their CUEs were approved
6 by the parties.

7 And so they did not get the adequate
8 amount of methyl bromide, so the whole rationale for
9 the global, we thought, would go away in 2008 or
10 2009. We experienced this in 2007.

11 So if you don't have a global, then the
12 next question that arises, is, should you go to a
13 sector-by-sector, meaning that a sector, like
14 walnuts, goes in and makes a justification for a CUE
15 that they get through EPA and get through the
16 parties, and they should get the benefit of that
17 CUE.

18 Well, that's fine, if your sector is
19 fully funded; quote/unquote, fully funded, meaning
20 that they're not getting adverse decisions from
21 false assumptions that Profume, in this case, is
22 acceptable in these industries.

1 And if you are subject to these false
2 assumptions and you're not fully funded in your CUE,
3 then the sector-by-sector's rationale falls apart for
4 you, because why go to a sector-by-sector, if your
5 sector is not going to provide the benefits that you
6 need and that you justified?

7 So, we're struggling with this, as to how
8 to recommend in our comments to EPA, as far as the
9 sector-by-sector analysis.

10 And lastly, I'll just say that the other
11 issue comes up, that if you don't have stocks, you
12 don't have -- you're not fully funded in our CUE,
13 then maybe some people have talked about a regional
14 allocation, meaning -- I know California uses methyl
15 bromide later in the season than Florida, and, quite
16 frankly, I have heard from Florida, that we take
17 their CUE, and I've heard from California, that
18 Florida takes our CUE.

19 Well, I don't know what's right, but
20 maybe if we don't have all the information we need,
21 we can at least break it up regionally. These are
22 things that my industry is struggling with, and,

1 quite frankly, at this point in time, can't
2 recommend sector-by-sector, because we don't know
3 the decisions that are coming.

4 The last thing I'll say -- and it's been
5 said several times, but it hasn't been said enough
6 about the CUE process -- this is an exemption to the
7 Montreal Protocol; it's an exemption that doesn't
8 have limits on it. It doesn't say it's an exemption
9 for two years or five years, or the CUE exemption
10 should go to zero by some certain time.

11 It is an exemption and if an industry
12 comes in and proves their critical need, they should
13 get it from now until forever, as far as I'm
14 concerned.

15 A couple of years back, the prune
16 industry had the worst crop in 87 years. Well,
17 obviously, they weren't going to use their full
18 complement of methyl bromide that year.

19 That shouldn't count against them when
20 their crop comes back to normal on this downward
21 slide that we all seem to just get used to. So I
22 guess, in closing, I'll say, well, there will be

1 celebrations going on in Montreal next week. I
2 assure you that there are some growers in
3 California, that won't be celebrating. Thank you.

4 MR. LEVY: Is there anyone else who would
5 like to speak now? Can you introduce yourself?

6 MR. MCBRIARTY: Jim McBriarty, AmeriBrom,
7 Inc., Regulatory Affairs. I do the methyl bromide
8 regulatory stuff and reporting for AmeriBrom. We are
9 the only, really, importer, large-scale importer in
10 the United States. We do not have manufacturing
11 facilities here; we have them in Israel.

12 The point of difference is, we have two
13 different sides of the coin here, okay? We have one
14 manufacturing facility in the U.S.; we've got one in
15 Israel. The ones in China and Japan really aren't
16 providing that much outside of those regions.

17 The distribution systems between the
18 different companies, are set up in different ways,
19 okay? Our company provides mostly to -- you know,
20 we provide to some large scale distributors, but
21 most of our product goes to small distributors,
22 okay, goes to small end users or direct end users,

1 who might have one farm, might have five farms,
2 okay?

3 A lot of the other stuff of the other
4 manufacturers, are going to -- one has maybe two or
5 three distributors, okay? Another one has more than
6 two or three distributors; they have more than that,
7 and they also sell to LM users through their
8 distribution chains.

9 But, again here, the difference is,
10 again, you see a U.S.-based manufacturer, a foreign-
11 based manufacturer.

12 When we're talking about effects here,
13 when did the critical use quantities come out for
14 2006?

15 MR. LEVY: 2005.

16 MR. MCBRIARTY: The actual numbers came
17 out in February, if I remember right, or just about
18 then. The time it takes me, in the best case, if
19 everything -- everything goes right, okay, it takes
20 me a minimum of 16 weeks, okay, to get material, if
21 I'm ready to order it, ready to know where it goes,
22 in order to get it into the United States, all

1 right?

2 That assumes that, in the logistical, you
3 have cylinders available, you have iso tanks
4 available, okay? There's not -- one of the ports
5 isn't shut down, okay, little things like that.

6 All right, now, when you have a delay of
7 two months, okay, you wind up with your material
8 coming in a lot further down the line. You can only
9 put so much on and your distributors can only take so
10 much at a time, all right?

11 When you're talking about something like
12 this, like, this year, I'm just getting my last
13 shipments in now, that were ordered earlier in the
14 years.

15 That's not because I wanted to. I'd like
16 to have it, you know, by March, but logistics,
17 timing, a lot of things going into that. We do a
18 lot of swapping, as well, for material, with the
19 other manufacturers.

20 We deliver it in Europe, okay, they
21 deliver here. All right, AmeriBrom has no problem
22 with being held accountable for what we don't sell,

1 possible, but there's a problem. I personally
2 reviewed, after we got the list from EPA this year,
3 okay, of sales to end users.

4 I took a look at who reported, all right?
5 Every large distributor reported, a) because they
6 have a big bank roll to protect. If I took a look at
7 the rest of my suppliers, you know, who I supply,
8 too, not necessarily who they supply to, okay?

9 I go down and I take a look and I check
10 the quantity, okay? Make a couple of calls around.
11 Now I find that, okay, of our 539 metric tons
12 carryover, okay, 80 percent of it, approximately,
13 was not reported as sold, even though it was sold.
14 It isn't in the distribution chain; it's in the
15 hands of the end user.

16 It was sold, all right? The problem goes
17 back to, like Dave would have us believe, okay, we
18 can go into a lot more reporting, and I don't even
19 think we have to do that.

20 Right now, your -- the way we set up the
21 certification forms and the way the framework is set
22 up, you have to be a -- I don't know how to best put

1 it -- you have to be the actual one who transfers the
2 material to the end user, in order to report it,
3 okay?

4 That means that if I've got -- I've got
5 to sell it to Joe Blow Farmer, before I can report
6 it, all right? Now, even though the federal
7 certification forms don't even have a space that a
8 distributor can sign -- because it says I will not
9 sell or transfer this material, so we have to write
10 our own certification forms.

11 But if we modify the certification forms
12 and we modify the framework so that if we do
13 something like a drop-ship, okay, where we actually
14 deliver material to an end user, we put -- the
15 distributor supplies the certification, the end user
16 supplies a certification, and we have both of them.

17 And a supplier, either being the
18 distributor or a -- you know, because we act as our
19 distributors in certain cases, or our other
20 distributor has it, and we can pass those up the
21 line, okay, and we can report on it.

22 And we'd gladly report from my

1 distributors, okay, if they could supply the
2 paperwork. Right now, I'm going on what they're
3 saying or what paperwork, you know, they give me, on
4 just the certification that it's sold to them.

5 We've had small users out there that are
6 probably never going to be able to comply with it,
7 because they haven't really got the capability, so
8 we've got to make stuff simple enough, okay, so that
9 we can supply it.

10 If you work towards some system like
11 that, okay, where we can make a simple form so that
12 the -- you know, the employers, suppliers, or large
13 distributors are doing the reporting, then that
14 system should be simpler for you, it should be
15 simpler for the suppliers, as well, okay, and takes
16 the burden off of the end user portion of it, all
17 right?

18 The only other word IU have about it, is
19 on CSAs and the allocations. I saw the ICF and read
20 through that evaluation on quote/unquote, critical
21 reserves. We fully support, okay, the idea of a
22 critical reserve, okay, of material, because there

1 are -- like, for us, there's that lag.

2 Now I usually try to keep, if I can, you
3 know, nine months to a year's worth of material in
4 the U.S., just because I have partners who decided
5 to go on strike, okay, somebody sent some missiles
6 into our New York location, manufacturing location,
7 so, you know, interruptions do happen, all right?

8 But, you know, something in that area is
9 business, good business sense. You have a reserve
10 to meet your needs of some particular material, all
11 right?

12 Now, 15 weeks don't cut it, you know,
13 even in the worst case. Like I said, it takes me 16
14 weeks to get material there, if everything's gone
15 right, all right? You need more time.

16 And as far as that critical reserve goes,
17 let's say that it needs to be in the hands of the
18 manufacturers and the importers, okay, manufacturers
19 and importers.

20 That is not where you critical stock is
21 out in most cases. You have it down in the
22 distribution chains and some of the shortages you're

1 seeing, especially in California, is because the
2 distributors aren't letting it go. They want the
3 price to rise.

4 So that's one thing, too. I have
5 customers that used to be our customers, okay, that
6 can't get material, can't get it. We have CUA
7 allowances for orchard replant, but I can't get any,
8 no matter what the price is.

9 I'd love to be able to sell it to them.
10 However, we haven't got enough material to go
11 around, so we have to pick the sectors we're going
12 to go to, and that's a business decision on somebody
13 else's part, not a regulatory decision, all right?

14 Yes, there are shortages out there, and
15 it's getting worse. I don't like the produce I pick
16 up in the market, because of that, all right?

17 So we go through and we're trying as best
18 we can. Great Lakes has a lot of manpower to it, we
19 put less manpower to it, this is all the manpower,
20 okay?

21 But, you know, we try to do our best to
22 get you the best numbers we can get you. Now,

1 sometimes we fail, all right, but you've got to
2 remember, too, that like I say, there is a lot of
3 difference between the way the markets are set up,
4 okay?

5 If you don't supply the small farmer,
6 okay, or the small businessman, fine, then you don't
7 have a problem, all right? But is that the American
8 way? That's it.

9 MR. LEVY: Thanks. Would anyone else
10 like to speak?

11 MR. TIPTON: Thank you, Mr. Levy. I'm
12 John Tipton. I'm one of the small farmers. We have
13 a small farm in Rouston, Florida. It's been a
14 family farm since 1930.

15 We've been very proactive in looking at
16 alternatives. We have worked for years with the
17 University of Florida on test plots and trials with
18 these alternatives, and in the earlier years, those
19 test plots did not work very well at all.

20 With the advent of new plastics, they're
21 so-so, at best. These test plots that we've had --
22 well, actually, at this point, we're actually using

1 some of the alternatives in production, and we're
2 seeing our production down 15 to 20 percent.

3 Some of the other issues are: Soil
4 conditions have to be absolutely perfect. If it's
5 too wet or too dry, you cannot use the alternatives;
6 you have to wait till you can get the soil conditions
7 just perfect, and in Florida, it will rain every day
8 on you.

9 One other issue is, from what we have
10 seen with the alternatives that are out there right
11 now, at best, you can use them for one to two crops,
12 then you've got to go back to the methyl bromide to
13 clean.

14 Another issue is that you have areas with
15 nut grass, and the alternatives really don't work
16 well at all, period. Basically the only thing right
17 now that you've got out there that will work, is the
18 methyl bromide.

19 As I said, with the new plastics, we have
20 been able to reduce our rate of the methyl bromide,
21 and have some fairly significant success so far, but
22 we still don't know what those long-term effects are

1 going to be.

2 To continue to reduce methyl bromide at
3 this point, without any known alternatives there --
4 and you guys know as well as we do, that the
5 alternatives that are out there right now, just
6 don't work very well.

7 You know, you're just going to put us out
8 of business. That's the bottom line.

9 You know, for us, as a small farmer, it's
10 not -- if methyl bromide goes away, we'll just go to
11 this and we'll produce less. The numbers aren't
12 there.

13 If methyl bromide goes away, we go away.
14 That's where we're at.

15 MR. LEVY: Thank you.

16 MR. TOMLINSON: Thank you for the
17 opportunity to comment on the proposed 2008
18 Allocation Rule. My name is Rick Tomlinson, and
19 I'm the Director of Public Policy for the California
20 Strawberry Commission.

21 We're also members of the California Ag
22 Issues Forum, which includes the California Tree

1 Fruit Farmers and California grape growers, who also
2 have CUEs.

3 Now, as you know, the European Union
4 Methyl Bromide Management Plan indicated that the
5 California strawberry industry has transitioned more
6 acres to alternatives, faster than any other country
7 in the world, so we have some experience.

8 We have spent more money researching
9 alternatives than any other commodity in the world,
10 over \$10 million directly from us, in addition to
11 the \$192 from the U.S. Department of Agriculture,
12 and we are currently engaged in world-leading
13 research on emission reduction.

14 In recognition of our efforts, your
15 Agency graciously presented us with the Ozone
16 Protection Award, and we've gone through the
17 Allocation Rule and we're concerned about some of
18 the perhaps unintended impacts that might result.

19 Now, first, EPA's proposal to eliminate
20 pre-2005 inventory in 2008, by not allowing for the
21 full CUE amount approved by the Montreal Protocol,
22 to be produced, the Proposed Rule recognizes that

1 EPA, the Department of State, and the Montreal
2 Protocol, have all verified that critical-use needs
3 for 2008, are 21 percent of the baseline.

4 We're concerned that the Proposed Rule
5 would limit production to only 12.2 percent of the
6 baseline. This would create a shortage of 40
7 percent for needs that have already been verified by
8 EPA and by the Montreal Protocol, for which there is
9 no technical nor economic alternative.

10 In addition, the Proposed Rule suggests
11 that the remaining shortage would be met by
12 available stocks in the amount of 1,715,438
13 kilograms, however, the Rule also repeatedly states,
14 quote, "EPA is not proposing to add any new
15 restrictions on sales of methyl bromide
16 inventories."

17 Therefore, as you have just heard from
18 previous testimony, it must be recognized that the
19 private companies that own the pre-2005 inventory,
20 have no obligation to sell it to satisfy the
21 shortage that is being created by the Proposed Rule.

22 As other testimony indicated, there are

1 shortages happening around the country, and,
2 specifically in California, we've also seen
3 shortages in the strawberry industry in 2007, some,
4 perhaps, because pre-2005 inventories are not
5 limited to CUE users. There's no limit and the Rule
6 doesn't propose any limit, but just proposes that
7 private companies will just graciously go ahead and
8 fill those orders, and there's nothing there in the
9 Rule that requires that.

10 In 2007, California expects to increase
11 the use of methyl bromide, again along similar lines
12 of what you've already heard. We're experiencing
13 that the alternatives are having long-term efficacy
14 problems, and so as supplies are dwindling, we're
15 anticipating and we're already seeing now in 2007,
16 growers going back in and treating with methyl
17 bromide, to try and clean up all of the pest pressure
18 that's building up under the alternatives.

19 So we expect to see an increase in 2007,
20 so your estimates for the inventories may be off.
21 We also have significant regulatory developments
22 going on with in the state of California. The

1 Department of Pesticide Regulation, is issuing a VOC
2 regulation that currently, it appears, might
3 restrict all fumigants.

4 However, we're not sure of the final
5 outcome. The final outcome may only restrict the
6 alternatives, because, as we know, methyl bromide
7 and MITC generators, are not reactive; they do not
8 cause ground-level ozone. That's the purpose of the
9 DPR regulation. They may end up being excluded from
10 that regulation.

11 We'd also like to comment on regional
12 allocation. The Rule proposes to continue with a
13 lump-sum allocation process, and we recommend that
14 EPA explore the possibility of a hybrid between a
15 regional lump-sum allocation system; more
16 specifically, that EPA consider creating several
17 large regional areas that combine all of the sectors
18 within each region, to create a regional lump sum.

19 For example, the regions could be as
20 basic as east and west of the Mississippi, or they
21 could be a little bit more complex and follow the
22 boundaries of the ten EPA regions, something that is

1 relatively large, but still starts to break it up by
2 region, so that some of the distribution issues are
3 minimized.

4 We would also like to raise attention
5 that the Rule acknowledges that there is a benefit
6 to emission reduction, yet creates no regulatory
7 incentive for it.

8 Current application technologies suggest
9 that 48 percent of methyl bromide escapes, meaning
10 that 52 percent is biodegrading and
11 photosynthesizing. So with all the regulation
12 that's occurring, half of the methyl is not even
13 making it up to the upper level atmosphere; it's
14 degrading naturally.

15 There's other technologies and some are
16 currently in production in some parts of the
17 country; others that are still under research, that
18 could dramatically reduce that down, maybe to even
19 half of that 48 percent and could get it down to
20 even 24 percent, could get it in that range.

21 But there's no regulatory incentive to
22 demand that growers perhaps increase their costs

1 maybe by 50 percent or even maybe more, to implement
2 the emission reduction technologies or conduct the
3 research that's required for the emission reduction
4 technologies, because there's no incentive in the
5 Allocation Rule or on the Montreal Protocol itself.

6 Finally, I'd like to recognize that the
7 systems included in the Proposed Rule, create a very
8 real risk of economic and social harm. For example,
9 when shortages materialize, they will negatively
10 impact small farmers first.

11 One example that you've heard in previous
12 testimony, was, we had directly experienced a small
13 distributor who as not able to get methyl bromide,
14 and it was his clients who were Hispanic growers,
15 small Hispanic growers, who weren't able to get
16 methyl bromide.

17 In California, 60 percent of our
18 strawberry growers are minorities, Hispanic or
19 Hmong. This demonstrates that the majority of those
20 to be impacted, would be minorities.

21 This type of economic harm is juxtaposed
22 with the environmental benefit. According to the

1 2006 Montreal Protocol Scientific Assessment Report,
2 we know that methyl bromide is only three percent of
3 the total ozone-depleting substances, so, in short,
4 when we compare the environmental benefit to the
5 economic harm, that's pretty dramatic, that there is
6 virtually an indistinguishable amount of benefit from
7 what's being proposed by this Rule, versus the
8 economic harm that could be created.

9 So I would ask you to consider those
10 comments in development of the 2008 Allocation Rule.
11 Thank you.

12 MR. LEVY: Thanks. Would anyone else
13 like to speak now?

14 MR. GAYLE: My name is Lynn Gayle. I'm a
15 tomato farmer from the Eastern Shore of Virginia,
16 with Taylor and Fulton. I've been involved in this,
17 actively involved as a farmer from the get-go of the
18 1993 USDA EPA meeting in Crystal City.

19 Again, we heard the refrain, don't worry
20 about a thing, because by the year 2000, we will
21 have a solution. Money was allocated, and, I think,
22 up till now, \$192 million has been spent for

1 alternatives.

2 I also attended the meeting a few years
3 ago at UMES, the University of Maryland at Eastern
4 Shore, which was another national meeting, and I
5 hear exactly the same thing that I'm hearing today,
6 no economical, viable alternative.

7 I have investigated several alternatives,
8 not to my satisfaction, that would work. Other
9 farmers in the area that are in tomato production,
10 have done so also.

11 It has turned into a situation, at least
12 on the Eastern Shore, where it's every farmer for
13 himself, to kind of find out what he can do, what
14 can he try?

15 I had a neighbor farmer try an
16 alternative. Bacterial wilt got into his farm, his
17 farm greened into my tomato farm, and now I've got
18 bacterial wilt.

19 I've gone with -- we were doing pretty
20 good with a third reduction rate and working with
21 companies for recycling the plastic. We had to go
22 to a further reduction, which was two-third of what

1 we used to use, and went to the virtually
2 impermeable film, which is nonrecyclable, and now
3 we're having cumulative problems, as you're hearing
4 time and time again, with increased incidence of
5 disease.

6 Some of it is approaching the point of
7 irreparable harm.

8 So I've heard this over the past 17
9 years, and, you know, we talk about this, and now
10 we're bickering over the rates and we're talking
11 about price increase and everything, and it's to the
12 breaking point where agriculture is not going to be
13 able to stand it, and we're all going to pay the
14 price.

15 MR. LEVY: Thank you. Anyone else?

16 MR. HALL: My name is Charles Hall, from
17 the Georgia Fruit and Vegetable Growers Association.
18 I'll keep my comments limited and we will file
19 written comments prior to the October 11th deadline.

20 I want to thank EPA for holding this
21 hearing. We appreciate the opportunity to make
22 these comments.

1 We produce about \$400 million of plastic-
2 cultured vegetables in Georgia. Ten years ago, 100
3 percent of those vegetables were treated with methyl
4 bromide.

5 We, like other grower groups represented
6 here, have done a lot of work in trying to find
7 alternatives. Research is being conducted by Dr.
8 Stanley Culpepper of the University of Georgia and
9 others, who have determined that there are some
10 alternatives that will provide some help with
11 replacing methyl bromide on Georgia soils.

12 They've developed a three-way alternative
13 that included 1-3-D, and research has proved that to
14 be fairly successful on a limited basis. We've been
15 trying this on a large scale, and, probably in the
16 Spring of 2007, we probably have about 20 to 25
17 percent of our farmers trying this on a large scale.

18 The problem is, as Rick has mentioned, we
19 don't know what the long-term effect is going to be,
20 whether we're going to have to, somewhere down the
21 road, go back to treating this acreage with methyl
22 bromide to take care of the weed pressures that we

1 may see as this moves forward.

2 So we are very troubled by the decrease
3 that the EPA has been recommending in the critical-
4 use exemption process over the past three or four
5 years. At the present time, we've got 21 percent of
6 the baseline that was approved by the parties,
7 however, we continue to reduce the parties'
8 recommendation through the rulemaking process.

9 This has been a very difficult time, and
10 we know that -- we know, from the testimony given
11 today, that there may not be the 6.7 percent of the
12 baseline, in the pipeline, so we may not see growers
13 have available to them, all the methyl bromide that
14 EPA is saying will be available, and certainly much
15 less than what the parties have recommended being
16 available to growers through their critical-use
17 exemption process.

18 We have repeatedly reported to the EPA,
19 through testimony, that stocks are not evenly spread
20 throughout the geographic regions of the United
21 States, and we believe that cutting the inventory to
22 less than one year's supply, is certainly not prudent

1 policy.

2 If we have any kind of major weather or
3 disease problems, that could be very catastrophic to
4 vegetable production, not only in Georgia, but
5 Florida or California, wherever that might be.

6 As we have heard today also, the tracking
7 procedure that's in place for identifying what sales
8 we have, is flawed. We have problems with knowing
9 exactly what is in the pipeline and we recommend very
10 strongly to EPA, that we look at how that is
11 developed and what we can do in the future to know
12 exactly what supplies are out there and available to
13 growers that have gone through the critical-use
14 exemption process.

15 We filed a petition since the 2005 crop
16 year, on behalf of our growers. This is, as anyone
17 who has been involved with the critical-use
18 exemption process knows, this is a very tedious
19 process. It's very time-consuming, and we believe
20 that we should have available to us, if the
21 government and the powers that be, identify what we
22 have filed, is accurate, that amount of methyl

1 bromide should be available to growers to use
2 through the critical-use exemption process. That's
3 what it was for, that's what it was set up for by
4 the treaties, and we should have that available.

5 So we look forward to working with EPA to
6 try to develop some processes that can be more
7 adequately reviewed and would better provide for our
8 growers. Thank you for the opportunity. We
9 appreciate it. Thank you.

10 MR. LEVY: Thank you. Anyone else?

11 MR. McCLURE: My name is D.C. McClure,
12 and I'm with West Coast Tomato. I'm a tomato grower
13 from Florida. And I would like to address the
14 alternative materials.

15 In our experience, we have worked with
16 the Research Department from the University of
17 Florida, from the very beginning, when all this
18 first was talked about, needing alternatives.

19 And I would say that we have found
20 alternatives that work with the 20- to 25-percent
21 yield reduction. That's pretty consistent with our
22 experience over probably a 15-year trial period.

1 know, somebody explain to us, if we're not releasing
2 it into the atmosphere, why it is it a problem?

3 Those are my comments.

4 MR. LEVY: Thank you. Anyone else?

5 MR. CROCKER: For the sake of the clerk,
6 I'll stand here as well. My name is Shawn Crocker.
7 I'm the Executive Director of the Florida Strawberry
8 Growers Association.

9 It's kind of funny and I'd just like to
10 show you; I got caught on a tractor, putting out
11 methyl bromide and laying plastic, when I got the
12 call about this meeting here in Washington, D.C., so
13 I had to change from my jeans and put the sports coat
14 on and move on up here.

15 But I have spent the last seven days with
16 six different farmers, laying plastic and methyl
17 bromide myself and discussing about the issues that
18 we have at hand.

19 I'm going to take more of a 30,000-foot
20 view, if you will. You've heard some details, but,
21 really, what the issues are to a grower, are, they
22 cannot afford a crop failure.

1 When it comes down to applying a product
2 that is known to work and the efficacy is there,
3 that gives them some peace of mind and relief that
4 when they farm their crop -- strawberries, tomatoes,
5 whatever it may be -- I know, in our county alone,
6 there's about 8,000 acres of strawberries, about
7 21,000 acres of vegetables.

8 We have about a \$400 million sales impact
9 in just our county, alone, not counting other
10 impacts. When they put out that methyl bromide,
11 they've got some peace of mind that that product is
12 going to work, and it's going to give them a crop
13 that they need to put in the grocery stores.

14 Really, when it comes to a risk factor,
15 most of the growers in the State of Florida, are all
16 -- because we are kind of the winter basket for
17 fruits and vegetables, we're only about 30 seconds
18 from being very humbled by mother nature.

19 So when it comes to our government and
20 our other regulatory agencies that govern us in the
21 field, and just for some -- to let you know some
22 idea of what it takes for a farmer today, from the

1 local to the federal level, there's 43 agencies that
2 govern us in the field, and the EPA is just one of
3 them.

4 When we have our own government that puts
5 a policy that is more restrictive than agreements
6 that are agreed upon on the international level, that
7 when it comes to a marketplace -- and we truly are a
8 global marketplace; the globe is our next door
9 neighbor -- and when we're providing strawberries
10 around the world, from Mexico, China, even,
11 California, Florida, it's very important that we
12 understand that the world is our next door neighbor
13 and that we are competing against those foreign
14 markets, those foreign markets that have access to
15 chemicals that are simply the same chemicals that we
16 were using, but they're competing against us.

17 We basically taught them how to farm more
18 efficiently, and now they get to continue to use it,
19 while we, the United States, are burdened with the
20 phase out.

21 Our growers are most concerned with not
22 only that extra burden that the EPA gives down on

1 the regulatory body, but also in the Montreal
2 Protocol, about the phaseout being restrictive in a
3 way that really hinders them from not understanding
4 why, especially when there's not a bolt-on
5 alternative.

6 The alternatives that are out there --
7 we've got 40 plots in strawberries alone, of what
8 we're going to do to work on the alternatives,
9 because we recognize that change is coming, but that
10 silver bullet, if you will, is not there.

11 And the fear of not having that peace of
12 mind of a product that will give them protection
13 against a crop failure, is very significant. I'll
14 leave my comments at that, and I thank you very much
15 for having us.

16 MR. LEVY: Thank you. Anyone else?

17 MR. JACKSON: Since nobody else is
18 jumping up, this is going to be a little comic
19 relief, because I'm going to represent the golf
20 industry and turf grass industry, and we know how
21 much weight that carries when we go overseas to meet
22 with these folks.

1 My name is Joel Jackson. I work for the
2 Florida Golf Course Superintendents Association. I
3 was a superintendent for 30 years and I've been
4 involved in various stages in either re-grassing
5 projects or construction projects where we grew in a
6 new stand of grass, and we've always used, for the
7 last three decades, methyl bromide.

8 In talking with my colleagues up here,
9 it's like we kind of all believe in the market
10 system in this country. You know, it's a
11 capitalistic society, and in the marketplace, the
12 preferred products rise to the top.

13 And we've had these alternatives that are
14 supposedly alternatives, available, and yet the
15 number one has always been methyl bromide, because
16 it's economic, it's viable, it works.

17 So, consequently, that's why it's still
18 being pursued and we hope to at least continue.

19 My appeal today is the fact that golf and
20 turf has not even made it yet to the international
21 body yet for consideration. We're deeply concerned
22 about that.

1 as a rich man's game and an elitist sport, but I can
2 tell you that Arnold Palmer was the son of a
3 greenskeeper, and I can tell you my parents took up
4 the game at age 60 as a retirement social thing, and
5 they gathered with other folks their age and played
6 golf for 20 years before my father passed away. So
7 it has value.

8 We were told by members of the EPA last
9 year on our application, that political pressure at
10 the international level, is the main obstacle to
11 overcome in terms of a golf CUE. Essentially, other
12 countries do not see the value in using methyl
13 bromide for golf courses, or for grass, in general.

14 If true, then those pressures and
15 opinions should be dealt with in a proper forum, and
16 not before we even get a chance to come to the
17 table.

18 These opinions are not a part of the
19 Montreal Accord, which does guarantee critical-use
20 exemptions to help support industries, until such
21 time as the viable alternatives, which have been
22 talked about already today, are found.

1 I think anybody will tell you that we're
2 not married to the product; we're married to the
3 product that works, and that, right now, is methyl
4 bromide.

5 By making deeper than necessary cuts to
6 supplies, a small user like golf, will be squeezed,
7 because we've seen and talked about allocation
8 problems right now. Playing golf may be considered
9 a game or a sport, but operating and owning a golf
10 course is a business and deserves consideration.

11 We annually support ongoing research to
12 produce new grasses that use fewer inputs, a true
13 mission of environmental stewardship. By trying to
14 breed, produce, and install these grasses without
15 access to a fair and reasonable amount of methyl
16 bromide to ensure their success, without using
17 increased amounts of conventional pesticides or more
18 questionable alternatives, is counterproductive for
19 the environment and for our industry. Thank you.

20 MR. LEVY: Thanks. Anyone else?

21 MR. BROWN: Yes, I'm Reggie Brown with
22 the Florida Tomato Exchange, and I just want to make

1 a couple very simple comments. Comments will be
2 coming to you prior to the close of the comment
3 period.

4 But the reductions in the Proposed Rule
5 by the EPA, approved by the Montreal Protocol,
6 directly threaten growers' livelihoods, and as a
7 result of factors beyond growers' control, we're
8 caught in the unfortunate situation of being caught
9 into a situation where we're going to be reaping the
10 negative benefits of the potential failure to be able
11 to purchase and use methyl bromide, even though we
12 have CUE approved for that use.

13 You can't take 12 or 13 percent and
14 automatically make it cover 21 percent of the uses
15 approved by the Montreal Protocol for CUE use in
16 this country.

17 The EPA needs to act responsibly.
18 Florida tomato growers and other growers throughout
19 the country have acted responsibly in reducing the
20 use of methyl bromide, in which we've made remarkable
21 progress that should startle the world, rather than
22 aggravate the world.

1 We are currently applying the technology
2 to the state of the art we have, to reduce further,
3 uses of methyl bromide where those applications are
4 applicable and successful.

5 We cannot, as an industry, experience the
6 kinds of potential losses and kinds of potential
7 damage that we may be subjected to with these
8 arbitrary and capricious reductions of CUE.

9 We don't have the alternatives, but we do
10 have the risk of sharing the true financial harm, and
11 it's unfortunate that we have industries in this
12 country that have done phenomenally creative things
13 in reducing methyl bromide use in the last decade.

14 And, for that, we're punished by shorting
15 us what we've actually earned in the international
16 forum.

17 MR. LEVY: Thank you. Anyone else?

18 DR. UNRUH: I'm Bryan Unruh, a scientist
19 from the University of Florida, focused on turf grass
20 and sod production research.

21 I'll make several observations and then
22 follow each with a question that I think deserves a

1 response by the EPA.

2 As far as the CUE process goes, I've been
3 involved at several levels, first and foremost, that
4 of a kind of an information gatherer, both technical
5 as well as economic information.

6 From a scientific information provider,
7 my background is that I'm a primary turf scientist
8 with a focused research program on methyl bromide
9 alternatives. My research publications are the ones
10 that have been cited in the CUEs, and beyond Florida
11 and even in the U.S., I'm the scientist asked for
12 expert opinion on methyl bromide alternatives.

13 A point in case was an early meeting in
14 Barbados that focused on golf course development
15 that required or needed methyl bromide. Phone calls
16 came in from the EPA folks at that meeting, and it
17 resulted in a subsequent, followup meeting by the
18 UNEP in Surinam, back several years ago.

19 It was at that Surinam meeting that a
20 provision for methyl bromide use in the developing
21 countries, primarily Caribbean and Latin American
22 countries, was deemed -- the provision for the use

1 of methyl bromide, was deemed necessary by those
2 countries.

3 So, my question is, if methyl bromide is
4 deemed necessary by UNEP for golf course development
5 in the Caribbean and Latin American countries, does
6 not logic suggest that it is also critical areas with
7 similar pest pressure, i.e., the southeast United
8 States?

9 In this CUE review process and the
10 initial cycle of the CUE review process some years
11 ago, I served as a biological reviewer. The initial
12 CUEs for both golf and sod, at that time, were
13 approved.

14 Subsequent CUEs have been rejected, yet
15 the state of the science has not been changed.
16 There are no new or novel fumigants that have been
17 registered for use in these particular markets, so
18 my question is, whose expert opinion is being used
19 to rule on golf and sod CUEs by the EPA? Mine has
20 not.

21 The research process, it's been
22 recognized by the USDA, as well as the CSREES, the

1 technically and economically feasible alternatives
2 for turf and sod, do not exist. This is evidenced
3 by the fact that they, just in the recent funding
4 cycles, are funding two different projects of mine,
5 one by the CSREES, focused on golf putting green
6 fumigation, and a second is funding through a USDA
7 areawide project that focuses on sod production.

8 In fact, we installed those first rounds
9 of plots last Thursday and Friday. By denying the
10 CUE, the EPA has failed to recognize what the USDA
11 and the CSREES has, and shouldn't governmental
12 agencies be on the same page on something this
13 important?

14 My last couple of comments here: The
15 really only labeled alternative that's really being
16 recognized is Dazamet. At best, I deem Dazamet to be
17 marginally effective in a pre-plant soil-incorporated
18 system; at worst, it poses an environmental hazard,
19 especially as a marine life toxin.

20 If the only labeled alternative has been
21 deemed marginally effective, at best, does it not
22 necessitate access to CUE gas until such a time that

1 we can identify viable alternatives?

2 Some of the other products that are at
3 the present time, still non-labeled, keep kind of
4 get thrown into that picture.

5 Of course, facts are going to limit wide
6 scale adoption on many of these particular products
7 that are at varying stages in the approval process.
8 Environmentally-sensitive sites limit the use of
9 certain alternatives, and, then, finally, the PPE
10 requirements, as I witnessed last week, wearing a
11 respirator for 12 hours in full PPE over a two-day
12 period, pose human health risks, and I can speak to
13 that.

14 (Laughter.)

15 DR. UNRUH: Those are my comments.

16 MR. LEVY: Thank you. Anyone else?

17 MS. ADCOCK: Rebecca Adcock from the
18 American Farm Bureau.

19 I'm not going to reiterate the science or
20 the practicality that the growers here today have
21 spoken about, but I am here to speak about the
22 policies that my organization, on behalf of its

1 members, has observed at both the international and
2 domestic level in the review of the CUE process for
3 methyl bromide.

4 The international process is fatally
5 flawed, both in the scientific review and the
6 transparency and in fairness, that apparently the
7 American CUE package continues to recede, and it's a
8 function -- and EPA is as frustrated by that to some
9 extent, as we are.

10 Unfortunately, it still is an
11 unacceptable circumstance, for all the reasons that
12 you've heard today.

13 The process -- unfortunately, that
14 infection keeps leaching its way back down into EPA.
15 The problems at the UN level, are filtering down. It
16 started out strong here domestically, but they seem
17 to not be continuing on that strong unified front
18 that we used to be and we're seeing that in both the
19 reliance on stocks, most of which we don't know how
20 to measure or where they exist or how they exist.

21 We're giving false hope to the users out
22 there who have not found alternatives and don't have

1 any hope of seeing alternatives come along anytime
2 soon.

3 And at some point, we -- well, at some
4 point, we have begun to see producers, as a
5 combination of factors, methyl bromide being one of
6 those things, going out of business. We are losing
7 domestic production of some of the products that
8 rely on methyl bromide.

9 Methyl bromide is not the only reason,
10 but it is a big part of the mix, and I see it time
11 and time again.

12 The task, the goal, and the mission of
13 EPA, is to protect human health and the environment.
14 I would suggest to EPA that, in their pursuit of
15 protecting the ozone layer, which we all agree needs
16 to be done and we're willing to do our part, the
17 second prong of that is protecting human health, and
18 I would suggest to you that importing our fruits and
19 vegetables and no handling imported and exported
20 products appropriately and making sure they're no
21 inappropriately contaminated, are, in fact, human
22 health issues and things that EPA should weigh much

1 more thoroughly and should fight much harder for at
2 the international level.

3 MR. LEVY: Thank you. Anyone else?

4 (No response.)

5 MR. LEVY: Thank you. We'll wrap up,
6 then. Thank you to everyone who provided comments.
7 We will have the transcript up on the website next
8 week.

9 I can assure you that we will consider
10 all the comments that were given today, and try to
11 respond in the Final Rule or appropriate venue.

12 Let me just say again that I appreciate
13 your attendance. I think you all have my contact
14 information that's in the preamble of the Proposed
15 Ruling. I can give it to you, if you don't have it.
16 Thank you very much. That will wrap things up.

17 (Whereupon, at 3:25 p.m., the public
18 hearing was concluded.)

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