

112TH CONGRESS
2D SESSION

H. R. 6194

To ensure the viability and competitiveness of the United States agricultural sector.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2012

Mr. GINGREY of Georgia (for himself, Mr. LUCAS, Mr. WHITFIELD, Mr. WALDEN, Mr. TERRY, Mr. SOUTHERLAND, Mr. ROONEY, Mrs. SCHMIDT, Mrs. ELLMERS, Mr. CONAWAY, Mr. COSTA, and Mr. BISHOP of Georgia) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To ensure the viability and competitiveness of the United States agricultural sector.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “U.S. Agricultural Sec-
5 tor Relief Act of 2012”.

1 **SEC. 2. ENSURING THE AVAILABILITY OF METHYL BRO-**
2 **MIDE FOR CRITICAL USES.**

3 (a) **CRITICAL USE EXEMPTIONS AND EMERGENCY**
4 **EVENTS.**—Subsection (h) of section 604 of the Clean Air
5 Act (42 U.S.C. 7671c(h)) is amended—

6 (1) by striking “Notwithstanding” and insert-
7 ing the following:

8 “(1) **IN GENERAL.**—Notwithstanding”; and

9 (2) by adding at the end the following new
10 paragraph:

11 “(2) **CRITICAL USE EXEMPTIONS AND EMER-**
12 **GENCY EVENTS.**—

13 “(A) **CRITICAL USE EXEMPTIONS.**—

14 “(i) **IN GENERAL.**—For each calendar
15 year, beginning with 2013, the Adminis-
16 trator, pursuant to an application sub-
17 mitted by any person, shall take all appro-
18 priate actions within the authority of the
19 Environmental Protection Agency to seek a
20 critical use exemption under the Montreal
21 Protocol in order to allow the production,
22 importation, and consumption of methyl
23 bromide—

24 “(I) for any use of methyl bro-
25 mide that—

1 “(aa) is an approved critical
2 use; and

3 “(bb) is determined by the
4 Administrator to be a critical use
5 for the applicant; and

6 “(II) in the amount necessary for
7 the use described in subclause (I).

8 “(ii) APPLICATIONS.—The Adminis-
9 trator shall not deny any application re-
10 ferred to in clause (i), or reduce the
11 amount requested under any such applica-
12 tion, unless the Administrator—

13 “(I) has substantial evidence to
14 establish that there is a technically
15 and economically feasible alternative
16 available to the applicant for the use
17 of methyl bromide for which the appli-
18 cation was submitted; and

19 “(II) provides such evidence to
20 the applicant in writing.

21 “(iii) ALTERNATIVES.—The Adminis-
22 trator, when evaluating the technical and
23 economic feasibility of any alternative pur-
24 suant to clause (ii), shall consider—

1 “(I) cost and commercial avail-
2 ability of the alternative to the appli-
3 cant;

4 “(II) demonstrated effectiveness
5 of the alternative for the applicant’s
6 specific intended use;

7 “(III) demonstrated effectiveness
8 of the alternative in the geographic
9 region of the applicant’s intended use;
10 and

11 “(IV) State or local regulations
12 that may restrict use of the alter-
13 native for the applicant’s intended
14 use.

15 “(B) EMERGENCY EVENTS.—

16 “(i) IN GENERAL.—For each calendar
17 year, beginning with 2013, the Adminis-
18 trator, pursuant to an application sub-
19 mitted by any person, shall allow the pro-
20 duction, importation, and consumption in
21 the United States of methyl bromide—

22 “(I) for any use described in sub-
23 paragraph (A)(i)(I) in response to an
24 emergency event; and

1 “(II) in an amount necessary for
2 such use.

3 “(ii) LIMITS ON USE PER EMERGENCY
4 EVENT.—The amount of methyl bromide
5 allowed pursuant to clause (i) for use per
6 emergency event at a specific location shall
7 not exceed 20 metric tons.

8 “(iii) LIMIT ON AGGREGATE
9 AMOUNT.—The aggregate amount of meth-
10 yl bromide allowed pursuant to clause (i)
11 for use in the United States in a calendar
12 year shall not exceed the total amount au-
13 thorized by the parties to the Montreal
14 Protocol pursuant to the Montreal Protocol
15 process for critical uses in the United
16 States in calendar year 2011.

17 “(C) INTERNATIONAL OBLIGATIONS.—The
18 Administrator shall take such actions as may be
19 necessary to carry out this paragraph in accord-
20 ance with the Montreal Protocol.

21 “(D) RESEARCH.—For each calendar year,
22 beginning with 2013, the Administrator shall
23 take all appropriate actions within the authority
24 of the Environmental Protection Agency to en-
25 sure that sufficient quantities of methyl bro-

1 mide are available for research on methyl bro-
2 mide alternatives for the agricultural sector.

3 “(E) ADJUSTMENTS TO CRITICAL USE
4 NOMINATIONS.—The Administrator shall review
5 and, as appropriate, take action to adjust any
6 critical use nomination that has been submitted
7 to the Parties to the Montreal Protocol (for
8 production, importation, or consumption of
9 methyl bromide in the United States) if—

10 “(i) a methyl bromide alternative is
11 removed from the United States market;
12 and

13 “(ii) on the basis of the availability of
14 such alternative, the Administrator denied,
15 or reduced the amount requested under,
16 any application for production, importa-
17 tion, or consumption of methyl bromide for
18 the year covered by such nomination.

19 “(F) DEFINITIONS.—In this paragraph:

20 “(i) The term ‘approved critical use’
21 means a use that—

22 “(I) as of January 1, 2005, was
23 an approved critical use in appendix L
24 to subpart A of part 82 of title 40,
25 Code of Federal Regulations; or

1 “(II) during the period following
2 such date and ending on the date of
3 enactment of this clause, was added
4 as an approved critical use in such ap-
5 pendix.

6 “(ii) The term ‘critical use’ means a
7 circumstance in which—

8 “(I) there are no technically and
9 economically feasible alternatives or
10 substitutes for methyl bromide avail-
11 able that are acceptable from the
12 standpoint of environment and health
13 and are suitable to the crops and cir-
14 cumstances involved; and

15 “(II) the lack of availability of
16 methyl bromide for a particular use
17 would result in significant market dis-
18 ruption.

19 “(iii) The term ‘emergency event’
20 means a situation—

21 “(I) that occurs at a farm, nurs-
22 ery, food processing facility, or com-
23 modities storage facility;

24 “(II) for which there is no crit-
25 ical use exemption in effect for such

1 site, or for which there are not suffi-
2 cient quantities of methyl bromide
3 available under an existing critical use
4 exemption for such site, as described
5 in subparagraph (A); and

6 “(III) that requires the use of
7 methyl bromide to control a pest or
8 disease because there is no technically
9 and economically feasible alternative
10 to methyl bromide available for such
11 use.”.

12 (b) REGULATIONS.—Not later than 180 days after
13 the date of enactment of this Act, the Administrator of
14 the Environmental Protection Agency, acting through the
15 Director of the Office of Pesticide Programs, and in con-
16 sultation with the Secretary of Agriculture, shall—

17 (1) issue such final regulations as may be nec-
18 essary to implement the amendment made by sub-
19 section (a); and

20 (2) include in such regulations—

21 (A) criteria for identifying an emergency
22 event, as defined in section 604(h)(2)(D)(iii) of
23 the Clean Air Act, as added by such amend-
24 ment; and

1 (B) provisions to ensure that each applica-
2 tion for use of methyl bromide in response to
3 an emergency event under section 604(h)(2)(B)
4 of the Clean Air Act, as added by such amend-
5 ment, is approved or disapproved in a timely
6 manner.

○