

# Union Calendar No. 491

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6194

[Report No. 112-679]

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

SEPTEMBER 19, 2012

Additional sponsors: Mrs. HARTZLER and Mr. KINGSTON

SEPTEMBER 19, 2012

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **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”.

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

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

11            (1) by striking “Notwithstanding” and insert-  
12 ing the following:

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

14            (2) by adding at the end the following new  
15 paragraph:

16            “(2) **CRITICAL USE EXEMPTIONS AND EMER-**  
17 **GENCY EVENTS.**—

18            “(A) **CRITICAL USE EXEMPTIONS.**—

19            “(i) **IN GENERAL.**—For each calendar  
20 year, beginning with 2013, the Adminis-  
21 trator, pursuant to an application sub-  
22 mitted by any person, shall take all appro-  
23 priate actions within the authority of the  
24 Environmental Protection Agency to seek a  
25 critical use exemption under the Montreal

1 Protocol in order to allow the production,  
2 importation, and consumption of methyl  
3 bromide—

4 “(I) for any use of methyl bro-  
5 mide that—

6 “(aa) is an approved critical  
7 use; and

8 “(bb) is determined by the  
9 Administrator to be a critical use  
10 for the applicant; and

11 “(II) in the amount necessary for  
12 the use described in subclause (I).

13 “(ii) APPLICATIONS.—The Adminis-  
14 trator shall not deny any application re-  
15 ferred to in clause (i), or reduce the  
16 amount requested under any such applica-  
17 tion, unless the Administrator—

18 “(I) has substantial evidence to  
19 establish that there is a technically  
20 and economically feasible alternative  
21 available to the applicant for the use  
22 of methyl bromide for which the appli-  
23 cation was submitted; and

24 “(II) provides such evidence to  
25 the applicant in writing.

1           “(iii) ALTERNATIVES.—The Adminis-  
2           trator, when evaluating the technical and  
3           economic feasibility of any alternative pur-  
4           suant to clause (ii), shall consider—

5                   “(I) cost and commercial avail-  
6                   ability of the alternative to the appli-  
7                   cant;

8                   “(II) demonstrated effectiveness  
9                   of the alternative for the applicant’s  
10                  specific intended use;

11                  “(III) demonstrated effectiveness  
12                  of the alternative in the geographic  
13                  region of the applicant’s intended use;  
14                  and

15                  “(IV) State or local regulations  
16                  that may restrict use of the alter-  
17                  native for the applicant’s intended  
18                  use.

19           “(B) EMERGENCY EVENTS.—

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

1                   “(I) for any use described in sub-  
2                   paragraph (A)(i)(I) in response to an  
3                   emergency event; and

4                   “(II) in an amount necessary for  
5                   such use.

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

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

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

24                  “(D) RESEARCH.—For each calendar year,  
25                  beginning with 2013, the Administrator shall

1 take all appropriate actions within the authority  
2 of the Environmental Protection Agency to en-  
3 sure that sufficient quantities of methyl bro-  
4 mide are available for research on methyl bro-  
5 mide alternatives for the agricultural sector.

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

13 “(i) a methyl bromide alternative is  
14 removed from the United States market;  
15 and

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

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

23 “(i) The term ‘approved critical use’  
24 means a use that—

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

5           “(II) during the period following  
6           such date and ending on the date of  
7           enactment of this clause, was added  
8           as an approved critical use in such ap-  
9           pendix.

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

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

19                 “(II) the lack of availability of  
20                 methyl bromide for a particular use  
21                 would result in significant market dis-  
22                 ruption.

23          “(iii) The term ‘emergency event’  
24          means a situation—



1                   “(I) that occurs at a farm, nurs-  
2                   ery, food processing facility, or com-  
3                   modities storage facility;

4                   “(II) for which there is no crit-  
5                   ical use exemption in effect for such  
6                   site, or for which there are not suffi-  
7                   cient quantities of methyl bromide  
8                   available under an existing critical use  
9                   exemption for such site, as described  
10                  in subparagraph (A); and

11                  “(III) that requires the use of  
12                  methyl bromide to control a pest or  
13                  disease because there is no technically  
14                  and economically feasible alternative  
15                  to methyl bromide available for such  
16                  use.”.

17                  (b) REGULATIONS.—Not later than 180 days after  
18                  the date of enactment of this Act, the Administrator of  
19                  the Environmental Protection Agency, acting through the  
20                  Director of the Office of Pesticide Programs, and in con-  
21                  sultation with the Secretary of Agriculture, shall—

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

25                         (2) include in such regulations—

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

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



Union Calendar No. 491

112<sup>TH</sup> CONGRESS  
2D Session

**H. R. 6194**

[Report No. 112-679]

---

---

## **A BILL**

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

---

---

SEPTEMBER 19, 2012

Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed