

105TH CONGRESS
1ST SESSION

H. R. 2609

To make a regulatory correction concerning methyl bromide to meet the obligations of the Montreal Protocol without placing the farmers of the United States at a competitive disadvantage versus foreign growers.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 1997

Mr. MILLER of Florida (for himself, Mr. CONDIT, Mr. POMBO, Mr. THOMAS, Mr. CANADY of Florida, Mr. BISHOP, and Mrs. THURMAN) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make a regulatory correction concerning methyl bromide to meet the obligations of the Montreal Protocol without placing the farmers of the United States at a competitive disadvantage versus foreign growers.

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. FINDINGS.**

4 Congress finds the following:

5 (1) Methyl bromide is a broad spectrum pes-
6 ticide which protects plants and agricultural prod-

1 ucts from a wide range of insects, rodents, viruses,
2 fungi, weeds, and nematodes.

3 (2) American farmers depend on methyl bro-
4 mide to grow, store, ship, process, and trade over
5 100 different crops.

6 (3) The agricultural community has no safe, ef-
7 fective, commercially available alternatives to methyl
8 bromide. Some nonchemical pest control alternatives
9 have proven effective in small scale tests but are
10 largely untested, much less proven, for commercial
11 food production purposes. The Environmental Pro-
12 tection Agency's Office of Prevention, Pesticides,
13 and Toxic Substances reports that few substitutes
14 exist, all of which pose potential human health and
15 environmental risks.

16 (4) In 1992, the Montreal Protocol on Sub-
17 stances Depleting the Ozone Layer was amended to
18 include methyl bromide.

19 (5) According to the 1992 Science Assessment
20 Report to the Montreal Protocol, agricultural use of
21 methyl bromide accounts for less than 3 percent of
22 the threat to the ozone layer, and a similar report
23 issued in 1994 notes that the Earth's ozone layer
24 will return to normal by the middle of the next cen-

1 tury even if methyl bromide remains available to
2 farmers.

3 (6) In 1993, despite the importance of methyl
4 bromide, the lack of alternatives, and many scientific
5 uncertainties, the Environmental Protection Agency,
6 citing the Montreal Protocol, listed methyl bromide
7 as an ozone depleting chemical under the provisions
8 of the Clean Air Act and ordered United States pro-
9 duction frozen at 1991 levels and an end to produc-
10 tion by January 1, 2001.

11 (7) Given current alternatives, analysis at the
12 University of Florida predicts a 43 percent decline
13 in affected vegetable acreage in Florida. A 1993
14 United States Department of Agriculture study finds
15 that the ban will cost as much as \$1,500,000,000 in
16 Florida, Georgia, California, North Carolina, and
17 South Carolina, the 5 States where methyl bromide
18 is most utilized.

19 **SEC. 2. CONTROL OF METHYL BROMIDE.**

20 (a) DEFINITIONS.—For purposes of this section:

21 (1) The term “use as a pesticide” includes
22 farming and post-harvest uses.

23 (2) The term “pesticide” has the same meaning
24 as when used in the Federal Insecticide, Fungicide,
25 and Rodenticide Act.

1 (3) The term “control” means, with respect to
2 any substance, any ban, phase-out, or other restric-
3 tion on the production, importation, export, con-
4 sumption, or use of the substance.

5 (4) The term “Administrator” means the Ad-
6 ministrator of the Environmental Protection Agency.

7 (b) RESTRICTIONS ON EPA AUTHORITY.—Except as
8 provided in subsection (c) or (d), the Administrator may
9 not—

10 (1) control the production, importation, or ex-
11 port of the substance methyl bromide pursuant to
12 title VI of the Clean Air Act (42 U.S.C. section
13 7671–7671q) for consumption or use as a pesticide;

14 (2) control the consumption or use of methyl
15 bromide as a pesticide; or

16 (3) require the labelling of any agricultural
17 product treated with methyl bromide.

18 (c) EXISTENCE OF SUBSTITUTES OR ALTER-
19 NATIVES.—The Administrator may take any action de-
20 scribed in paragraph (1), (2), or (3) of subsection (b), or
21 any combination of such actions, if the Secretary of Agri-
22 culture has certified by rule that there exist viable, cost-
23 effective substitutes or other alternatives to the consump-
24 tion or use of methyl bromide as a pesticide for specified
25 agricultural commodities and products. If the Secretary

1 has made a certification under this paragraph, a control
2 permitted pursuant to such certification shall apply only
3 with respect to those specified applications and to those
4 specified commodities and products for which the certifi-
5 cation is made.

6 (d) MONTREAL PROTOCOL.—The Administrator may
7 take any action described in paragraph (1), (2), or (3)
8 of subsection (b), or any combination of such actions, if
9 the United States is required by the Montreal Protocol
10 to implement a control on the production, importation, or
11 export of methyl bromide for consumption or use as a pes-
12 ticide or a control on the consumption or use of methyl
13 bromide as a pesticide. The applicability, contents and
14 timing of any such control—

15 (1) shall be no more stringent or restrictive
16 than specifically required by the Montreal Protocol,

17 (2) shall be equally required of all parties to the
18 Montreal Protocol; and

19 (3) shall include all exemptions, exceptions, and
20 other flexibility (including exemptions for produc-
21 tion, importation, export, and consumption, for both
22 preshipment and quarantine uses) allowed by the
23 Montreal Protocol.

24 (e) INCONSISTENT EPA ACTIONS.—All rules, stand-
25 ards and other regulatory actions promulgated, published,

1 or otherwise issued by the Administrator of the Environ-
2 mental Protection Agency before the date of enactment
3 of this Act are repealed to the extent they impose a control
4 which is not specifically required by the Montreal Protocol.

5 (f) SAVINGS CLAUSE.—Nothing in this Act shall be
6 construed to affect the provisions of 40 C.F.R. §§ 82.9,
7 82.10, 82.11, and 82.12 (relating to Article 5 parties and
8 transfers), or any other regulatory provisions granting ex-
9 emptions, exceptions, or other flexibility not prohibited by
10 the Montreal Protocol.

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