

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2230

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.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. MILLER of Florida (for himself, Mr. DELAY, Mr. FAZIO of California, Mr. ARCHER, Mr. BURR, Mr. CANADY of Florida, Mr. CONDIT, Mr. HERGER, Mr. OXLEY, Mr. ROSE, Mr. STENHOLM, Mr. THOMAS, and Mr. DOOLEY) 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

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## 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:

1           (1) Methyl bromide is a broad spectrum pes-  
2           ticide which protects plants and agricultural prod-  
3           ucts from a wide range of insects, rodents, viruses,  
4           fungi, weeds, and nematodes.

5           (2) American farmers depend on methyl bro-  
6           mide to grow, store, ship, process, and trade over  
7           100 different crops.

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

18          (4) In 1992, the Montreal Protocol on Sub-  
19          stances Depleting the Ozone Layer was amended to  
20          include methyl bromide. Subsequent peer-reviewed  
21          research indicates that most methyl bromide is natu-  
22          rally occurring, that a significant percentage never  
23          reaches the ozone layer, and that methyl bromide  
24          clearly does not pose the threat initially believed.

1 Scientists agree that much is yet to be learned about  
2 methyl bromide's effect on stratospheric ozone.

3 (5) According to the 1992 Science Assessment  
4 Report to the Montreal Protocol, agricultural use of  
5 methyl bromide accounts for less than 3 percent of  
6 the threat to the ozone layer, and a similar report  
7 issued in 1994 notes that the Earth's ozone layer  
8 will return to normal by the middle of the next cen-  
9 tury even if methyl bromide remains available to  
10 farmers.

11 (6) In 1993, despite the importance of methyl  
12 bromide, the lack of alternatives, and many scientific  
13 uncertainties, the Environmental Protection Agency,  
14 citing the Montreal Protocol, listed methyl bromide  
15 as an ozone depleting chemical under the provisions  
16 of the Clean Air Act and ordered United States pro-  
17 duction frozen at 1991 levels and an end to produc-  
18 tion by January 1, 2001.

19 (7) Given current alternatives, analysis at the  
20 University of Florida predicts a 43 percent decline  
21 in affected vegetable acreage in Florida. A 1993  
22 United States Department of Agriculture study finds  
23 that the ban will cost as much as \$1,500,000,000 in  
24 Florida, Georgia, California, North Carolina, and

1 South Carolina, the 5 States where methyl bromide  
2 is most utilized.

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

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

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

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

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

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

16 (b) RESTRICTIONS ON EPA AUTHORITY.—Except as  
17 provided in subsection (c) or (d), the Administrator may  
18 not—

19 (1) control the production, importation, or ex-  
20 port of the substance methyl bromide pursuant to  
21 title VI of the Clean Air Act (42 U.S.C. section  
22 7671–7671q) for consumption or use as a pesticide;

23 (2) control the consumption or use of methyl  
24 bromide as a pesticide; or

1           (3) require the labelling of any agricultural  
2           product treated with methyl bromide.

3           (c) EXISTENCE OF SUBSTITUTES OR ALTER-  
4           NATIVES.—The Administrator may take any action de-  
5           scribed in paragraph (1), (2), or (3) of subsection (b), or  
6           any combination of such actions, if the Secretary of Agri-  
7           culture has certified by rule that there exist viable, cost-  
8           effective substitutes or other alternatives to the consump-  
9           tion or use of methyl bromide as a pesticide for specified  
10          agricultural commodities and products. If the Secretary  
11          has made a certification under this paragraph, a control  
12          permitted pursuant to such certification shall apply only  
13          with respect to those specified applications and to those  
14          specified commodities and products for which the certifi-  
15          cation is made.

16          (d) MONTREAL PROTOCOL.—The Administrator may  
17          take any action described in paragraph (1), (2), or (3)  
18          of subsection (b), or any combination of such actions, if  
19          the United States is required by the Montreal Protocol  
20          to implement a control on the production, importation, or  
21          export of methyl bromide for consumption or use as a pes-  
22          ticide or a control on the consumption or use of methyl  
23          bromide as a pesticide. The applicability, contents and  
24          timing of any such control—

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

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

5           (3) shall include all exemptions, exceptions, and  
6 other flexibility (including exemptions for produc-  
7 tion, importation, export, and consumption, for both  
8 preshipment and quarantine uses) allowed by the  
9 Montreal Protocol.

10       (e) INCONSISTENT EPA ACTIONS.—All rules, stand-  
11 ards and other regulatory actions promulgated, published,  
12 or otherwise issued by the Administrator of the Environ-  
13 mental Protection Agency before the date of enactment  
14 of this Act are repealed to the extent they impose a control  
15 which is not specifically required by the Montreal Protocol.

16       (f) SAVINGS CLAUSE.—Nothing in this Act shall be  
17 construed to affect the provisions of 40 C.F.R. §§82.9,  
18 82.10, 82.11, and 82.12 (relating to Article 5 parties and  
19 transfers), or any other regulatory provisions granting ex-  
20 emptions, exceptions, or other flexibility not prohibited by  
21 the Montreal Protocol.

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