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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “U.S. Agricultural Sector Relief Act of 2012”.

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SEC. 2. ENSURING THE AVAILABILITY OF METHYL BROMIDE FOR CRITICAL USES.

(a) Critical Use Exemptions and Emergency Events.—Subsection (h) of section 604 of the Clean Air Act (42 U.S.C. 7671c(h)) is amended—

(1) by striking “Notwithstanding” and inserting the following:

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

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

“(2) Critical use exemptions and emergency events.—

“(A) Critical use exemptions.—

“(i) IN GENERAL.—For each calendar year, beginning with 2013, the Administrator, pursuant to an application submitted by any person, shall take all appropriate actions within the authority of the Environmental Protection Agency to seek a critical use exemption under the Montreal Protocol in order to allow the production, importation, and consumption of methyl bromide—

“(I) for any use of methyl bromide that—
“(aa) is an approved critical use; and

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

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

“(ii) APPLICATIONS.—The Administrator shall not deny any application referred to in clause (i), or reduce the amount requested under any such application, unless the Administrator—

“(I) has substantial evidence to establish that there is a technically and economically feasible alternative available to the applicant for the use of methyl bromide for which the application was submitted; and

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

“(iii) ALTERNATIVES.—The Administrator, when evaluating the technical and economic feasibility of any alternative pursuant to clause (ii), shall consider—
“(I) cost and commercial availability of the alternative to the applicant;

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

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

“(IV) State or local regulations that may restrict use of the alternative for the applicant’s intended use.

“(B) EMERGENCY EVENTS.—

“(i) IN GENERAL.—For each calendar year, beginning with 2013, the Administrator, pursuant to an application submitted by any person, shall allow the production, importation, and consumption in the United States of methyl bromide—

“(I) for any use described in subparagraph (A)(i)(I) in response to an emergency event; and
“(II) in an amount necessary for such use.

“(ii) Limits on use per emergency event.—The amount of methyl bromide allowed pursuant to clause (i) for use per emergency event at a specific location shall not exceed 20 metric tons.

“(iii) Limit on aggregate amount.—The aggregate amount of methyl bromide allowed pursuant to clause (i) for use in the United States in a calendar year shall not exceed the total amount authorized by the parties to the Montreal Protocol pursuant to the Montreal Protocol process for critical uses in the United States in calendar year 2011.

“(C) International obligations.—The Administrator shall take such actions as may be necessary to carry out this paragraph in accordance with the Montreal Protocol.

“(D) Research.—For each calendar year, beginning with 2013, the Administrator shall take all appropriate actions within the authority of the Environmental Protection Agency to ensure that sufficient quantities of methyl bro-
mide are available for research on methyl bromide alternatives for the agricultural sector.

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

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

“(ii) on the basis of the availability of such alternative, the Administrator denied, or reduced the amount requested under, any application for production, importation, or consumption of methyl bromide for the year covered by such nomination.

“(F) DEFINITIONS.—In this paragraph:

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

“(I) as of January 1, 2005, was an approved critical use in appendix L to subpart A of part 82 of title 40, Code of Federal Regulations; or
“(II) during the period following such date and ending on the date of enactment of this clause, was added as an approved critical use in such appendix.

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

“(I) there are no technically and economically feasible alternatives or substitutes for methyl bromide available that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances involved; and

“(II) the lack of availability of methyl bromide for a particular use would result in significant market disruption.

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

“(I) that occurs at a farm, nursery, food processing facility, or commodities storage facility;

“(II) for which there is no critical use exemption in effect for such
site, or for which there are not sufficient quantities of methyl bromide available under an existing critical use exemption for such site, as described in subparagraph (A); and

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

(b) Regulations.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, acting through the Director of the Office of Pesticide Programs, and in consultation with the Secretary of Agriculture, shall—

(1) issue such final regulations as may be necessary to implement the amendment made by subsection (a); and

(2) include in such regulations—

(A) criteria for identifying an emergency event, as defined in section 604(h)(2)(D)(iii) of the Clean Air Act, as added by such amendment; and
(B) provisions to ensure that each application for use of methyl bromide in response to an emergency event under section 604(h)(2)(B) of the Clean Air Act, as added by such amendment, is approved or disapproved in a timely manner.