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115TH CONGRESS
1ST SESSION

H. R. 1891

To amend the Plant Protection Act with respect to authorized uses of methyl bromide, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2017

Mr. LAMALFA (for himself, Mr. COSTA, Mr. CRAWFORD, Mr. BOST, Mr. ROUZER, Mr. YOHO, Mr. THOMAS J. ROONEY of Florida, Mr. MOOLENAAR, Mr. LUCAS, and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To amend the Plant Protection Act with respect to authorized uses of methyl bromide, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Agriculture Production Act of 2017''.

SEC. 2. METHYL BROMIDE.

Section 419 of the Plant Protection Act (7 U.S.C. 7719) is amended to read as follows:

"SEC. 419. METHYL BROMIDE.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), a State, local, or tribal authority may authorize the use of methyl bromide for a qualified use if the authority determines the use is required to respond to an emergency event. The Secretary may authorize such a use if the Secretary determines such a use is required to respond to an emergency event.

"(2) NOTIFICATION.—Not later than 5 days after the date on which a State, local, or tribal authority makes the determination described in paragraph (1), the State, local, or tribal authority intending to authorize the use of methyl bromide for a qualified use shall submit to the Secretary a notification that contains the information described in subsection (b).

"(3) OBJECTION.—A State, local, or tribal authority may not authorize the use of methyl bromide under paragraph (1) if the Secretary objects to such use under subsection (c) within the 5-day period specified in such subsection.

"(b) NOTIFICATION CONTENTS.—A notification submitted under subsection (a)(2) by a State, local, or tribal authority shall contain—

''(1) a certification that the State, local, or tribal authority requires the use of methyl bromide to respond to an emergency event;

''(2) a description of the emergency event and the economic loss that would result from such emergency event;

''(3) the identity and contact information for the responsible individual of the authority; and

''(4) with respect to the qualified use of methyl bromide that is the subject of the notification—

''(A) the specific location in which the methyl bromide is to be used and the total acreage of such location;

''(B) the identity of the pest or pests to be controlled by such use;

''(C) the total volume of methyl bromide to be used; and

''(D) the anticipated date of such use.

''(c) OBJECTION.—

''(1) IN GENERAL.—The Secretary, not later than 5 days after the receipt of a notification submitted under paragraph (2) of subsection (a), may object to the authorization of the use of methyl bromide under such subsection by a State, local, or tribal authority by sending the State, local, or tribal au-

thority a notification in writing of such objection that—

"(A) states the reasons for such objection; and

"(B) specifies any additional information that the Secretary would require to withdraw the objection.

"(2) REASONS FOR OBJECTION.—The Secretary may object to an authorization described in paragraph (1) if the Secretary determines that—

"(A) the notification submitted under subsection (a)(2) does not—

"(i) contain all of the information specified in paragraphs (1) through (4) of subsection (b); or

"(ii) demonstrate the existence of an emergency event; or

"(B) the qualified use specified in the notification does not comply with the limitations specified in subsection (e).

"(3) WITHDRAWAL OF OBJECTION.—The Secretary shall withdraw an objection under this subsection if—

"(A) not later than 14 days after the date on which the Secretary sends the notification

under paragraph (1) to the State, local, or tribal authority involved, the State, local, or tribal authority submits to the Secretary the additional information specified in such notification; and

"(B) such additional information is submitted to the satisfaction of the Secretary.

"(4) EFFECT OF WITHDRAWAL.—Upon the issuance of a withdrawal under paragraph (3), the State, local, or tribal authority involved may authorize the use of methyl bromide for the qualified use specified in the notification submitted under subsection (a)(2).

"(d) USE FOR EMERGENCY EVENTS CONSISTENT WITH FIFRA.—The production, distribution, sale, shipment, application, or use of a pesticide product containing methyl bromide in accordance with an authorization for a use under subsection (a) shall be deemed an authorized production, distribution, sale, shipment, application, or use of such product under the Federal Insecticide, Fungicide, and Rodenticide Act, regardless of whether the intended use is registered and included in the label approved for the product by the Administrator of the Environmental Protection Agency under such Act.

"(e) LIMITATIONS ON USE.—

"(1) LIMITATIONS ON USE PER EMERGENCY EVENT.—The amount of methyl bromide that may be used per emergency event at a specific location shall not exceed 20 metric tons.

"(2) LIMITS ON AGGREGATE AMOUNT.—The aggregate amount of methyl bromide allowed pursuant to this section 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.

"(f) ENSURING ADEQUATE SUPPLY OF METHYL BROMIDE.—Notwithstanding any other provision of law, it shall not be unlawful for any person or entity to produce or import methyl bromide, or otherwise supply methyl bromide from inventories (produced or imported pursuant to the Clean Air Act for other purposes) in response to an emergency event in accordance with subsection (a).

"(g) EXCLUSIVE AUTHORITY OF THE SECRETARY.—The Secretary shall have the exclusive Federal authority with respect to determining which species are considered quarantine pests (as defined in section 319.37–1 of title 7, Code of Federal Regulations, as in effect on the date of the enactment of the Safe Agriculture Production Act of 2017).

''(h) DEFINITIONS.—

''(1) EMERGENCY EVENT.—The term 'emergency event' means a situation—

''(A) that occurs at a location on which a plant or commodity is grown or produced or a facility providing for the storage of, or other services with respect to, a plant or commodity;

''(B) for which the lack of availability of methyl bromide for a particular use would result in significant economic loss to the owner, lessee, or operator of such a location or facility or the owner, grower, or purchaser of such a plant or commodity; and

''(C) that, in light of the specific agricultural, meteorological, or other conditions presented, requires the use of methyl bromide to control a pest or disease in such location or facility because there are no technically or economically feasible alternatives to methyl bromide easily accessible by an entity referred to in subparagraph (B) at the time and location of the event that—

''(i) are registered under the Federal Insecticide, Fungicide, and Rodenticide Act

(7 U.S.C. 136 et seq.) for the intended use or pest to be so controlled; and

''(ii) would adequately control the pest or disease presented at such location or facility.

''(2) PEST.—The term 'pest' has the meaning given such term in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

''(3) QUALIFIED USE.—The term 'qualified use' means, with respect to methyl bromide, a methyl bromide treatment or application in an amount not to exceed the limitations specified in subsection (e) in response to an emergency event.''.

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