

[DISCUSSION DRAFT]

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

**H. R.** \_\_\_\_\_

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

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**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”.

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

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

6 (1) by striking “Notwithstanding” and insert-  
7 ing the following:

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

9 (2) by adding at the end the following new  
10 paragraphs:

11 “(2) **CRITICAL USE EXEMPTIONS AND EMER-**  
12 **GENCY EVENTS.**—

13 “(A) **CRITICAL USE EXEMPTIONS.**—

14 “(i) **IN GENERAL.**—For each calendar  
15 year, beginning with 2013, the Adminis-  
16 trator, pursuant to an application sub-  
17 mitted by any person, shall take all appro-  
18 priate actions within the authority of the  
19 Environmental Protection Agency to seek a  
20 critical use exemption under the Montreal  
21 Protocol in order to allow the production,  
22 importation, and consumption of methyl  
23 bromide—

24 “(I) for any use of methyl bro-  
25 mide that—

1                   “(aa) is an approved critical  
2                   use; and

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

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

8                   “(ii) APPLICATIONS.—The Adminis-  
9                   trator shall not deny any application re-  
10                  ferred to in clause (i), or reduce the  
11                  amount requested under any such applica-  
12                  tion, unless the Administrator—

13                  “(I) has substantial evidence to  
14                  establish that there is a technically  
15                  and economically feasible alternative  
16                  available to the applicant for the use  
17                  of methyl bromide for which the appli-  
18                  cation was submitted; and

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

21                  “(iii) ALTERNATIVES.—The Adminis-  
22                  trator, when evaluating the technical and  
23                  economic feasibility of any alternative pur-  
24                  suant to clause (ii), shall consider—

1 “(I) cost and commercial avail-  
2 ability of the alternative to the appli-  
3 cant;

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

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

11 “(IV) State or local regulations  
12 that may restrict use of the alter-  
13 native for the applicant’s intended  
14 use.

15 “(B) EMERGENCY EVENTS.—

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

22 “(I) for any use described in sub-  
23 paragraph (A)(i)(I) in response to an  
24 emergency event; and

1                   “(II) in an amount necessary for  
2                   such use.

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

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

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

21                  “(D) DEFINITIONS.—In this paragraph:

22                         “(i) The term ‘approved critical use’  
23                         means a use that was an approved critical  
24                         use in appendix L to subpart A of part 82

1 of title 40, Code of Federal Regulations, as  
2 in effect on January 1, 2005.

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

5 “(I) there are no technically and  
6 economically feasible alternatives or  
7 substitutes for methyl bromide avail-  
8 able that are acceptable from the  
9 standpoint of environment and health  
10 and are suitable to the crops and cir-  
11 cumstances involved; and

12 “(II) the lack of availability of  
13 methyl bromide for a particular use  
14 would result in significant market dis-  
15 ruption.

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

18 “(I) that occurs at a farm, nurs-  
19 ery, food processing facility, or com-  
20 modities storage facility;

21 “(II) for which there is no crit-  
22 ical use exemption in effect for such  
23 site, or for which there are not suffi-  
24 cient quantities of methyl bromide  
25 available under an existing critical use

1 exemption for such site, as described  
2 in subparagraph (A); and

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

9 (b) REGULATIONS.—Not later than 180 days after  
10 the date of enactment of this Act, the Administrator of  
11 the Environmental Protection Agency, acting through the  
12 Director of the Office of Pesticide Programs, and in con-  
13 sultation with the Secretary of Agriculture, shall—

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

17 (2) include in such regulations—

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

22 (B) provisions to ensure that each applica-  
23 tion for use of methyl bromide in response to  
24 an emergency event under section 604(h)(2)(B)  
25 of the Clean Air Act, as added by such amend-

1           ment, is approved or disapproved in a timely  
2           manner.