Sec. 10011. Petitions to Determine Organism Not a Plant Pest

The Plant Protection Act (7 U.S.C. 7711) is amended to expand the scope and clarify the procedures of the process by which a person may petition the Secretary for a determination that an organism that is subject to regulation by the Secretary as a plant pest is not a plant pest. In reviewing a petition, the Secretary shall conduct a plant pest risk assessment as well as an environmental analysis of any likely adverse effects of such organism on the soil, water, air quality, non-target organisms, and listed threatened and endangered species and the critical habitat of such species for the environment in which such organism is likely to be grown or otherwise used under the conditions in the petition. The Secretary shall issue a determination that an organism is not a plant pest if, based on sound science and the plant pest risk assessment, the Secretary determines that the organism is not likely to be a plant pest. The Secretary shall complete the risk assessment and authorized environmental analysis and issue a determination not later than 1 year after the Secretary determines that a petition is complete. The Secretary may extend the 1 year review period for an additional 180 days if the Secretary determines the additional review is necessary, after written notification to the person submitting the petition. Notwithstanding any other provision of law, if after completing the risk assessment, the Secretary finds there is no reason to believe that an organism is a plant pest and does not grant or deny a petition within the time period required, such organism shall be deemed not to be a plant pest.

If an organism contains a plant-incorporated protectant, a determination made that an organism is not a plant pest or the deeming that an organism is not a plant pest shall not be effective until the registration of the plant-incorporated protectant is approved under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a et seq.). Notwithstanding a determination that an organism is not a plant pest or that such organism has been deemed not to be a plant pest, the Secretary may issue a determination, based on information discovered after the date of such determination or the date on which the organism was so deemed and sound science that an organism is a plant pest.

The Secretary shall publish notice in the Federal Register of a grant or denial of a petition or a deeming that such organism is not a plant pest. The risk assessment and environmental analysis shall be provided to the person who submitted a petition and made available to the public.

Notwithstanding any other provision of law, the environmental analysis required here shall be the only analysis or procedure regarding the effects on the environment of an organism that is the subject of a petition required or authorized by law with respect to reviewing and taking action on such petition. No funds made available by any act shall be obligated, expended or used for any environmental analysis or procedure other than the environmental analysis required here for petitions. The Secretary shall also not require or solicit any financial assistance from a person submitting a petition for any environmental analysis or procedure required here, or for any other analysis or procedure.

1 The following sections are excerpts from Title X of H.R. 6083 (the “Farm Bill”), originally found within the bill text on pages 58-60. ‘Section by Section’ of the Farm Bill found online at http://agriculture.house.gov/sites/republicans.agriculture.house.gov/files/documents/FARRMSSectionbySection.pdf
Notwithstanding any other provision of law, the Secretary shall use data collected under a permit, with respect to an organism, among other relevant data, for the purposes of the review of a petition submitted with respect to such organism, and shall use the analysis or procedures required under the regulations issued under the Federal Plant Pest Act, continued in effect in accordance with section 438(c), as the only analyses or procedures required or authorized by law with respect to reviewing and taking action on an application for a permit.

Notwithstanding any other provision of law, in reviewing an application for a permit that is not currently excluded from environmental review, the Secretary shall conduct the environmental analysis authorized here. Such analysis shall be the only environmental analysis or procedure required or authorized by law with respect to reviewing and taking action on this type of permit.

Notwithstanding any other provision of law, including section 411A of the Plant Protection Act, if the Secretary determined that a petition submitted before the date of enactment of this section was complete before such date, the Secretary shall consider such petition to remain complete and maintain such status.

Notwithstanding any other provision of law, including subsection (c) of section 411 of this Act, if the Secretary determined that a permit application submitted before the date of enactment of this section was complete before such date, the Secretary shall consider such application to remain complete and maintain such status.

Notwithstanding any other provision of law, the Secretary shall use any environmental analysis conducted for purposes of a petition before the date of enactment of this section with respect to an organism to the greatest extent possible to complete the environmental analysis conducted under section 411A of this Act for a petition. Notwithstanding any other provision of law, the Secretary shall use any environmental analysis conducted for purposes of a permit application before the date of enactment of this section with respect to an organism to the greatest extent possible to complete any environmental analysis that may be required for this type of permit after the date of enactment.

The Secretary shall determine the length of the period for the review of petitions that were pending review on the date of the enactment of this section. Notwithstanding any other provision of law, for each covered petition, if the Secretary finds that there is no reason to believe that the subject organism is a plant pest, and the petition is not granted or denied, not later than 90 days after enactment of this section, such organism shall be deemed not to be a plant pest. A covered petition is a petition submitted before the date of enactment of this section for which a plant pest risk assessment and an environmental assessment have been published and a notice and comment period have been completed as of the date of enactment. Not later than 180 days after the date of enactment of this section, the Secretary shall issue such regulations as the Secretary considers necessary to carry out the amendments made by this section.

**Sec.10012. Consolidation of Plant Pest and Disease Management and Disaster Prevention Programs**

Amends the Plant Protection Act to authorize the National Clean Plant Network, as previously authorized in the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 7761). The use of any Commodity Credit Corporation funds under this section to provide technical assistance shall not be considered an allotment or fund transfer from the Corporation for the purposes of the limit on expenditure for technical assistance imposed by the Corporation’s Charter Act (7 U.S.C. 714i). The section makes available $71,500,000 in mandatory funds for fiscal year 2013 and each fiscal year thereafter.
Sec.10013. Authority for Regulation of Plants

Any living stage of a plant, including any nucleic acid or other genetic material as contained in such plant, shall be exclusively subject to regulation under statutes which authorize the Secretary of Agriculture to issue regulations with respect to plants. However, a pesticidal substance that is contained in a plant, subjected to the Plant Protection Act and intended for preventing, destroying, repelling, or mitigating any pest shall be subject to regulation as a plant incorporated protectant under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.). The regulations issued by the Administrator of the Environmental Protection Agency for plant incorporated protectants shall be based on sound science, use the least burdensome requirements, and provide for exemptions from the requirements otherwise applicable to pesticides that are not plant-incorporated protectants.

Sec.10014. Report to Congress on Regulation of Biotechnology

Not later than 1 year after the date of enactment of this section, the Secretary in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall submit to Congress a report on the measures taken and proposed to be taken to provide for balanced and appropriate regulatory oversight of agricultural biotechnology products.