

Regulation of Transgenic Crops

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (USDA-APHIS) was given authority to monitor field trials of new GE varieties and also to "deregulate" GE crops for commercial cultivation based on the Federal Plant Pest Act (1957) and the Federal Plant Quarantine Act (1912). In 2000, the Plant Pest Act was superseded by the Plant Protection Act, which also does not specifically address the genetic modification of plants.

There are three components of USDA's process with respect to GE crops: **Notification, Permitting and Deregulation:**

Most new field tests of GE crops only require **notification** of the USDA. The company or researcher seeking to field test a new GE variety files a notice of intent and is obligated to submit summary data to the agency within six months after the field trial is completed. Some 10,000 such notifications have been filed for crop trials at over 40,000 sites since the early 1990s, covering 97 percent of all GMO field trials.⁵ The USDA is required to simply acknowledge these notifications within 30 days.

Where do crops for ethanol production fall in this? Are they regulated identically to food crops? Is Energy Corn even covered under statutes? (The jurisdiction of APHIS is limited to potential plant pests, including noxious weeds.) If not under APHIS oversight where does it fall?

Some experimental GE varieties require a **permit** from the USDA prior to conducting the field trial. (If listed on national registry of noxious weeds, are genetically unstable, contain genes of unknown function, have toxic, infectious, or pharmaceutical properties, contain DNA from an animal or human pathogen, and/or are deemed to pose a risk of creating a new plant virus.) The permit process takes up to 120 days.

Where are we in the permitting process? Does Energy Corn contain any of the listed items requiring a permit?

If and when a GE crop variety is deemed ready to be grown on a commercial scale, the producer applies for **deregulation**. Deregulation means that the particular crop variety is completely removed from further USDA oversight. No follow-up tests of any kind can be requested by the agency. As of April 2006, 70 **transgenic** varieties have been deregulated by USDA and five additional petitions are pending.⁷ Approximately a quarter of deregulatory petitions are withdrawn by the applicant; the vast majority of such petitions have been approved.

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