

## SUPPLEMENTAL PERMIT CONDITIONS

### For Release of *Nicotiana* sp.

Please note that the regulated article must be shipped in containers as specified in 7 CFR 340.8 and should be handled as specified by the regulation 7 CFR 340.7 and/or the conditions described in the permit application unless a variance request has been reviewed and approved by APHIS-BRS.

- (2) Please note that transportation of all test and plant materials to and from the field test site must be done in accordance with APHIS/USDA regulations outlined in "Container requirements for the movement of regulated articles", 7CFR340.8(b)(I & ii) unless a shipping container variance has been approved by APHIS-BRS
- (3) BRS should be notified in writing of any proposed changes to the permit application (or approved permit) including for example confinement protocols, transgenic lines or constructs, release sites, acreage, etc. Changes usually require amendments to the permit and must be pre-approved by BRS. Requests should be directed to Regulatory Permit Specialist, USDA APHIS BRS, Biotechnology Permit Services, 4700 River Road, Unit 91, Riverdale, Maryland 20737.
- (4) Any regulated article introduced not in compliance with the requirements of 7 Code of Federal Regulation Part 340 or any standard or supplemental permit conditions, shall be subject to the immediate application of such remedial measures or safeguards as an inspector determines necessary, to prevent the introduction of such plant pests. The responsible party may be subject to fines or penalties as authorized by the Plant Protection Act (7 U.S.C. 7701-7772).
- (5) This Permit does not eliminate the permittee's legal responsibility to obtain all necessary Federal and State approvals, including for the use of: (A) any non-genetically engineered plant pest or pathogens as challenge inoculum; (B) plants, plant parts or seeds which are under existing Federal or State quarantine or restricted use; (C) experimental use of unregistered chemicals; and (D) food, feed, pharmacological, biologic, or industrial use of regulated articles or their products and co-mingled plant material. In the latter case, depending on the use, reviews by APHIS, the U.S. Food and Drug Administration, or the U.S. Environmental Protection Agency may be necessary.
- (6) The procedures, processes, and safeguards used to prevent escape, dissemination, and persistence of the regulated article as described in the permit application, in APHIS-approved Standard Operating Procedures (SOPs) and, in the supplemental permit conditions must be strictly followed. The permittee must maintain records sufficient to verify compliance with these procedures, including information regarding who performed the activity. Persons performing such activities shall have received training as described in a training program submitted to and approved by APHIS. These records are subject to examination by APHIS. APHIS, BRS must be notified of any proposed changes to the protocol referenced in the permit application.
- (7) Inspections:

APHIS/BRS and/or an APHIS/PPQ personnel may conduct inspections of the test site, facilities, and/or records at any time.

APHIS may invite the EPA or State Regulatory Officials to participate in these inspections.

Inspections will likely correspond to the beginning of the field test, mid-season or during flowering, at and/or following harvest, and during the post-harvest monitoring period.

Inspections will include examination of records that verify compliance with regulations and SOPs.

Permit Number: 08-337-105r

THIS PERMIT HAS BEEN APPROVED ELECTRONICALLY BY THE FOLLOWING BRS OFFICIAL VIA EPERMITTS	
<b>SIGNATURE OF BRS OFFICIAL</b>  Steven M. Bennett	<b>DATE</b>  March 24, 2009

(8) Reporting an Unauthorized or Accidental Release

1. According to the regulation in 7 CFR § 340.4(f)(10)(i), APHIS shall be notified orally immediately upon discovery and notified in writing within 24 hours in the event of any accidental or unauthorized release of the regulated article.

- For immediate verbal notification, contact APHIS BRS Compliance Staff at (301) 734-5690 and ask to speak to a Compliance and Inspection staff member. Leave a verbal report on voicemail if the phone is not answered by a Compliance Officer.

- In addition, in the event of an emergency in which you need to speak immediately to APHIS personnel regarding the situation, you may call:

The APHIS/BRS Regional Biotechnologist assigned in the region where the field test occurs:  
For Western Region, contact the Western Region Biotechnologist at (970) 494-7513  
or e-mail: [BRSWRBT@aphis.usda.gov](mailto:BRSWRBT@aphis.usda.gov)  
For Eastern Region, contact the Eastern Region Biotechnologist at (919) 855-7622 or e-mail:  
[BRSERBT@aphis.usda.gov](mailto:BRSERBT@aphis.usda.gov)

Or

The APHIS State Plant Health Director for the state where the unauthorized release occurred. The list of APHIS State Plant Health Directors is available at:

[http://www.aphis.usda.gov/services/report\\_pest\\_disease/report\\_pest\\_disease.shtml](http://www.aphis.usda.gov/services/report_pest_disease/report_pest_disease.shtml).

or

<http://pest.ceris.purdue.edu/stateselect.html>

2. Written notification should be sent by one of the following means:

By e-mail:

[BRSCompliance@aphis.usda.gov](mailto:BRSCompliance@aphis.usda.gov)

By mail:

Biotechnology Regulatory Services (BRS)  
Compliance and Inspection Branch  
USDA/APHIS  
4700 River Rd. Unit 91  
Riverdale, MD 20737

3. Additional instructions for reporting compliance incidents may be found at

[http://www.aphis.usda.gov/biotechnology/compliance\\_incident.shtml](http://www.aphis.usda.gov/biotechnology/compliance_incident.shtml)

(9) Reporting Unintended Effects:

According to the regulation in 7 CFR § 340.4(f)(10)(ii), APHIS shall be notified in writing as soon as possible but within 5 working days if the regulated article or associated host organism is found to have characteristics substantially different from those listed in the permit application or suffers any unusual occurrence (excessive mortality or morbidity, or unanticipated effect on non-target organisms).

Written notification should be sent by one of the following means:

By e-mail:

[BRSCompliance@aphis.usda.gov](mailto:BRSCompliance@aphis.usda.gov)

By mail:

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Biotechnology Regulatory Services (BRS)  
Compliance and Inspection Branch  
USDA/APHIS  
4700 River Rd. Unit 91  
Riverdale, MD 20737

(10) Perimeter Fallow Zone:

To ensure that transgenic plants are not inadvertently commingled with plants to be used for food or feed, a perimeter fallow zone of at least 50 ft. (unless a variance is granted by APHIS) must be maintained around the transgenic test site in which no crops are grown to be harvested or used for food or feed.

The perimeter fallow zone shall be managed in a way that allows detection and destruction of volunteer plants that are the same as, or sexually compatible with, the transgenic plants.

(11) Dedicated Planting and Harvesting:

APHIS has determined that transplanters used for moving tobacco seedlings from a contained facility to the field are considered non-dedicated use equipment. They are still subject to cleaning by approved procedures.

APHIS has approved a variance (08-012) to allow the use of harvesters on non-regulated, research tobacco following cleaning according to APHIS approved SOP (07.2) after harvesting of regulated tobacco. APHIS must be notified 21 days prior to the first harvest of regulated tobacco (21 day pre-harvest notification). Additional harvests may proceed without notifying APHIS 21 days in advance. Movement of harvesting equipment between field sites of other research tobacco on the same research farm will not require a 21 day notification, however harvesting equipment cannot be moved OFF the research farm without a 21 day advance notification to APHIS to permit a thorough inspection at APHIS discretion.

After harvest, you will not be required to obtain APHIS authorization to use this equipment on APHIS -permitted sites (same sites or different sites) planted with same transgenic crop, with the target protein(s) authorized under this permit, in subsequent growing seasons under an extension of this permit or a different permit.

Authorization is required from APHIS before this harvesting equipment can be used on sites planted to crops other than research tobacco. The permittee must notify APHIS/BRS and the State Regulatory Official at least 21 calendar days in advance of cleaning this equipment for this purpose so that APHIS may schedule an inspection to ensure that the equipment has been cleaned appropriately.

(12) Cleaning of Equipment:

To minimize the risk of seed movement and commingling, equipment used for planting and harvesting, as well as other field equipment (e.g. tractors and tillage attachments, such as disks, plows, harrows, and subsoilers) used at any time from the time of planting through the post-harvest monitoring period must be cleaned in accordance with procedures submitted to and approved by APHIS before they are moved off of the test site.

Equipment used to transport seeds or harvested material must be cleaned prior to loading and after transportation to the authorized site in accordance with procedures submitted to and approved by APHIS.

(13) Use of Dedicated Storage Facilities:

Dedicated facilities (locked or secured buildings, bins, or areas, posted as restricted to authorized personnel only) must be used for storage of equipment and regulated articles for the duration of the field test.

Before returning these facilities to general use, they must be cleaned in accordance with procedures submitted to

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and approved by APHIS. The permittee must notify APHIS/BRS and the State Regulatory Official at least 21 calendar days in advance to allow for APHIS to schedule an inspection to ensure that the facilities have been cleaned appropriately. APHIS authorization should be received before facilities are returned to general use.

(14) Post Harvest Monitoring:

The field test site including the perimeter fallow zone must be monitored for the presence of volunteer tobacco plants for one year after termination of the field test. Viable plant material should not remain at the test site following termination.

(15) Post Harvest Land Use Restrictions:

Production of food and feed crops at the field test site and the perimeter fallow zone is restricted during the growing season that follows harvest or termination of the field test.

Permission must be obtained from APHIS/BRS prior to planting any food or feed crop at the field test site and perimeter fallow zone during the post-harvest monitoring period. Requests for such permission are not encouraged and will not be granted in cases where there is a reasonable potential for plant material derived from, or originating from, the regulated articles to become mixed with the proposed food or feed crop during harvesting.

(16) Reports and Notices:

Send notices and all reports (CBI and CBI-deleted or non-CBI copies) to BRS by e-mail, mail, or fax.

BRS E-mail:  
BRSCompliance@aphis.usda.gov

BRS Mail:  
Biotechnology Regulatory Services (BRS)  
Compliance and Inspection Branch  
USDA/APHIS  
4700 River Rd. Unit 91  
Riverdale, MD 20737

BRS Fax:  
Compliance and Inspection Branch  
(301) 734-8669

In addition, fax the CBI deleted or non CBI version of the pre-planting and pre-harvest (termination) notices to the State Regulatory Official(s)

Contact information for State Officials  
<http://www.nationalplantboard.org/member/index.html>

a. Pre-Planting Notice

At least 7 calendar days before planting, submit a Pre-Planting notice that includes the following information for each field test site:

- i. Provide APHIS with the contact information for each field test site.
- ii. Indicate if planting and harvesting equipment will be moved between authorized field test sites.
- iii. A map that clearly identifies the site location to facilitate any inspections by USDA personnel.
- iv. The planned number of acres for each gene construct.
- v. The planned planting date

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**b. Planting Report**

Within 28 calendar days after planting, submit a planting report that includes the following information for each field test site:

- i. A map of the site, with sufficient information to locate it, that includes: the state, county, address, GPS coordinates for each corner of the plot (inclusive of the border rows of any sexually compatible plants);
- ii. The location and the approximate number and/or acres of transgenic plants which were actually planted at the test site for each of the target proteins;
- iii. List of all constructs and specific transformed lines (event) planted;
- iv. The total acreage of the test;
- v. The distance from the genetically engineered plants to the nearest plants of the same crop which will be used for food, feed, or seed production. A survey should be done within the distance specified in the permit;
- vi. A list of the specific confinement option(s) selected at each site if your permit allows different confinement options (e.g. bagging flowers, or isolation distance);
- vii. The actual planting date.

**c. Pre-Harvest/ Termination Notice**

At least 21 calendar days prior to the anticipated harvest or termination, submit a Notice indicating the planned date of harvest or termination and the contact information for each field test site. For multiple harvests, submit the notice prior to the initial harvest.

**d. Field Test Report**

Within 6 months after the expiration date of the permit, the permittee is required to submit a Field Test Report. Field Test Reports provide the final status and observations at each location and shall include:

- i. The number and/or acres of transgenic plants which were actually planted at the test site for each of the target proteins;
- ii. List of all constructs and specific transformed lines (event) planted;
- iii. The total acreage of the test;
- iv. Planting and harvest dates;
- v. The methods of observation;
- vi. The resulting data and analysis regarding all deleterious effects on plants, non-target organisms, or the environment. This should include, but not be limited to, data on insect damage, disease susceptibility, gross morphology and any indications of weediness;
- vii. A final disposition table with the following information for each line and gene released:

Site name (or GPS), crop, gene(s), harvest date(s), and disposition of harvested material. Date(s) of harvest, removal, and/or termination; a formal record of how the regulated material was removed from the environment; what material and how much was harvested or removed and where it was transported, stored and further processed up to the time it was taken to a contained facility; and what was done to devitalize residual and/or harvested material at the location. APHIS must be notified if any regulated article is stored on a production site. In these cases the storage location, crop, event, and quantity of each regulated article should be included in the disposition table.

**e. Monitoring Report**

Within 3 months after the end of the monitoring period, submit a volunteer monitoring report. The report must include:

- i. Dates when the field site and perimeter fallow zone were inspected for volunteers.
- ii. Number of volunteers observed.

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III. Any actions taken to remove or destroy volunteers.

f. Storage Report

In cases where a regulated article is stored on a production site, a report must be filed with APHIS each year the regulated article remains in storage at the production site. The report, which must include the permit number, storage location, crop, event, and quantity of each regulated article, must be filed prior to the anniversary of the expiration date of the permit under which the regulated article was produced.

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