

ABSTRACT

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Mutating Nemo: Assessing the Environmental Risks and Proposing the Regulation of the Transgenic Glowfish™

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Abstract by Andrew Guhr

With the growing use of genetic engineering in the production of plants and animals, Rehka Rao offers a timely look at the regulatory scheme surrounding genetically modified fish. Much of the worry about transgenic animals concerns the likelihood that these animals will find their way into the wild—possibly leading to a dramatic impact on the natural population of fish. The FDA currently regulates genetically-engineered animals grown for consumption. However, the FDA opted not to regulate transgenic animals, so long as they are grown strictly for “ornamental” purposes. In leaving that gap open, argues the author, the federal government is ignoring a serious risk to the environment.

Rao suggests that three federal agencies—FDA, USDA, and EPA—currently possess statutory authority to regulate genetically-modified animals. However, FDA and USDA authority extends only to production of such fish for consumption. As a result, the author argues that the EPA is best positioned to regulate transgenic fish under its authority over “chemical substances.” To do so, the agency must make two preliminary findings. First, the EPA must determine that life forms, such as fish, are not excluded from the definition of “chemical substance.” The agency is currently split on that issue. Second, the EPA must conclude that transgenic fish pose an unreasonable risk to the environment. The author advises that this second finding is currently difficult, given the lack of scientific studies on the consequences of releasing genetically-modified fish into the wild.