CONSTELLA GROUP℠

Enhancing Human Health

Procedures to Follow Upon the Identification of a Select Agent or Toxin from Clinical / Diagnostic Specimens

Centers For Disease Control Select Agent Rule (42 CFR Parts 72 and 73)

California Code of Regulations (Title 17)

Outline

- Historical Background
- Select Agents and Toxins (List)
- Select Agent Regulations - Impact Upon Clinical/Diagnostic Laboratories
- Immediate Notification Requirements for Certain Select Agents – Select Agent Regulations and California Code of Regulations (Title 17)
- *Security Requirements and Records Keeping*
- APHIS/CDC FORMS and Suggestions for Completion
- Penalties for Non-Compliance
- Resource Information

Federal Agencies
Select Agent Regulations

42 CFR Parts 72 and 73
Final Rule

7 CFR Part 331 and
9 CFR Part 121
Final Rule

Historical Background

Antiterrorism and Effective Death Penalty Act of 1996

42 CFR Part 72.6

Mandated to devise a list of biological agents that have the potential to pose a severe threat to public health and safety.

Established procedures for the **transfer** of the listed biological agents, including measures to ensure:

- Proper training and appropriate skills to handle agents.
- Proper laboratory facilities to contain and dispose of agents.

USA PATRIOT Act

(Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001)

- Public Law 107-56 Signed: 10/23/2001
- Sec. 175b. Possession by Restricted Persons
  - No restricted person shall ship, possess, or receive a Select Agent

42 CFR 73.10 Access Restriction

Access approval may be denied or revoked if the individual has been (see18 U.S.C. 175b);

- Indicted for a crime punishable by imprisonment for a term exceeding 1 year
- Convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year
- A fugitive from justice
- An unlawful user of any controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)
- An alien illegally or unlawfully in United States
- Adjudicated as a mental defective or has been committed to any mental institution

42 CFR 73.10 Access Restriction

- An alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2780(d)), has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism.
- Discharged from the Armed Services of the United States under dishonorable conditions

Public Health Security and Bioterrorism Preparedness and Response Act of 2002

- Signed June 12, 2002
- 42 CFR 73 Interim Final Rule
- Significantly changed the regulatory authorities of HHS under Sec. 511 of the “Antiterrorism and Effective Death Penalty Act of 1996.”
- Granted comparable regulatory authorities to USDA for biological agents and toxins that present a severe threat to plant or animal health, or animal or plant products
- Required coordination between USDA and HHS on select agents and toxins regulated by both agencies – “overlap” agents

Public Health Security and Bioterrorism Preparedness and Response Act of 2002

- 42 CFR 73 Interim Final Rule
- Registration for possession, use, and transfer
- Establish requirements for safety & security
- Electronic database check by DOJ (Security Risk Assessment = SRA)
  - Entity and individual
  - Restricted persons (USA Patriot Act)
- Specifies exemptions
- Additional criminal penalties
- Notification of theft, loss, or release
- Immediate one-time notification of specific agents

Regulatory Authority and Responsibility for Select Agents and Toxins

HHS-only Agents (HHS has sole authority and responsibility to regulate)

- Select agents and toxins that may affect public health and safety

USDA-only Agents (USDA has sole authority and responsibility to regulate)

- Select agents and toxins that may affect animal and plant health and animal and plant products

Overlap Agents

- Select agents and toxins subject to regulation by both agencies

Select Agents and Toxins

Select Agents and Toxins
Health and Human Services (HHS)

Cercopithecine herpes virus 1 (Herpes B)

Coccidioides posadasii

Conotoxins

Crimean-Congo hemorrhagic fever virus

Diacetoxyscirpenol

Ebola viruses

Lassa fever virus Fever viruses

Marburg virus

Monkeypox virus

Ricin

Rickettsia prowazekii

Rickettsia rickettsii

Saxitoxin

Shiga-like ribosome inactivating proteins

South American Hemorrhagic Fever virus

Tetrodotoxin

Tick-borne encephalitis complex (flavi)

Variola major virus (Smallpox)

Variola minor virus (Alastrim)

Yersinia pestis

Select Agents
United States Department of Agriculture (USDA)

Livestock

African horse sickness virus

African swine fever virus

Akabane virus

Avian influenza virus

Bluetongue virus (exotic)

Bovine spongiform encephalopathy agent

Camel pox virus

Classical swine fever virus

Cowdria ruminantium (Heart water)

Foot-and-mouth disease virus

Goat pox virus

Japanese encephalitis virus

Lumpy skin disease virus

Malignant catarrhal fever virus (exotic)

Menangle virus

Mycoplasma capricolum

Mycoplasma F38/M. mycoides capri

Mycoplasma mycoides mycoides

Newcastle disease virus (velogenic)

Peste des petits ruminants virus

Rinderpest virus

Sheep pox virus

Swine vesicular disease virus

Vesicular stomatitis virus

Select Agents
United States Department of Agriculture (USDA)

Plant

Liberobacter africanus

Liberobacter asiaticus

Peronosclerospora philippinesis

Ralstonia solanacearum (race 3 and biovar 2)

Sclerophthora rayssiae

Synchytrium endobioticum

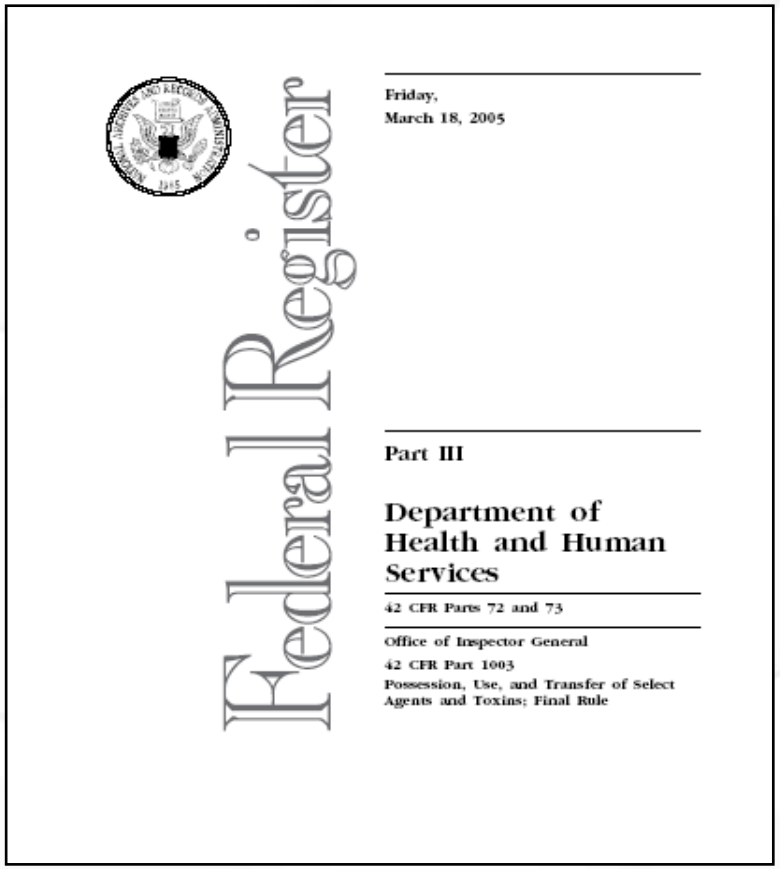
Xanthomaonas oryzae

Xylella fastidiosa (citrus variegated chlorosis strain)

Select Agents and Toxins
Overlap (HHS and USDA)

Bacillus anthracis	*Eastern equine encephalitis virus*
Clostridium botulinum	*Francisella tularensis*
Brucella abortus	*Hendra virus*
Brucella suis	*Nipah virus*
Burkholderia mallei	*Rift Valley Fever virus*
Burkholderia pseudomallei	*Shigatoxin*
Clostridium perfringens (ε toxin)	*Staphylococcal enterotoxins*
Coccidioides immitis	*T-2 toxin*
Coxiella burnettii	*Venezuelan equine encephalitis virus*

Final Rule:
Possession, Use, and Transfer of Select Agents and Toxins
42 C.F.R. Part 73, 9 C.F.R. Part 121, and 7 C.F.R. Part 331


Federal Register

Friday,
March 18, 2005

Part III

Department of Health and Human Services

42 CFR Parts 72 and 73

Office of Inspector General

42 CFR Part 1003

Possession, Use, and Transfer of Select Agents and Toxins; Final Rule

Publication date: March 18, 2005
Effective date: April 18, 2005

Purpose of Final Rule

Affirm the provisions of the Interim Final Rule (IFR) with changes:

- To address 111 public comments received on interim final rule
- To make clarifications based on CDC and APHIS experience in implementing the IFR

Select Agent Regulations Impact Upon Clinical / Diagnostic Laboratories

Exemptions

Clinical / Diagnostic

- Clinical or diagnostic laboratories and other entities that possess, use, or transfer a select agent or toxin contained in a specimen presented for diagnosis or verification, or proficiency testing, will be exempt from the requirements, provided that certain conditions are met.

Definitions

Definitions for diagnosis, verification, and proficiency testing may be found in 42 CFR 73, §73.1

Note the definition for “specimen” includes:

- Samples from humans, animals, plants or the environment
- Isolates or cultures from such samples

Clinical / Diagnostic Exemption

What conditions must be met to qualify?

Select agent or toxin must be:

- Within 7 calendar days of identification diagnosis/verification) or within 90 calendar days of receipt (proficiency testing):
  - Transferred (according to the provisions of §73.16) or
  - Destroyed on-site by a recognized sterilization or inactivation process
  - Retained if the laboratory is **registered for the select agent or toxin to be retained**

Clinical / Diagnostic Exemption

What additional conditions must be met to qualify for a clinical/diagnostic exemption?

Select agent or toxin must also be:

- **Secured against theft, loss, or release from the time it is identified to the time it is transferred or destroyed, and reported for any theft, loss, or release**

Identification must be reported to:

- CDC or APHIS and
- Other appropriate authorities as required by Federal, State, or local law. For example, California Code of Regulations Title 17 requirements

Exemptions During Public Health Emergency 42 CFR 73.5 (e) and 73.6

The HHS Secretary may temporarily exempt an individual or entity from the requirements of this part [Exemptions for HHS select agents and toxins] based on a determination that the exemption is necessary to provide for the timely participation of the individual or entity in response to a domestic or foreign public health emergency.

With respect to the emergency involved, the exemption may not exceed 30 calendar days, except that one extension of an additional 30 calendar days may be granted (agricultural emergencies).

To apply for an exemption Form 5 must be submitted to APHIS and/or CDC for approval.

The process to receive an exemption applies to both HHS and Overlap select agents and toxins

Identification of Certain Select Agents Require Immediate Notification

Immediate Notification Requirements HHS Select Agents

Identification of Category A select agents requires immediate notification to APHIS or CDC via facsimile, e-mail, or telephone:

- Ebola viruses
- Lassa fever virus
- Marburg virus
- South American Haemorrhagic Fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito)
- Variola major virus (Smallpox virus)
- Variola minor (Alastrim)
- Yersinia pestis

Immediate Notification Requirements Overlap Select Agents & Toxins

CDC and APHIS have combined their immediate notification list for overlap select agents and toxins. Report to APHIS or CDC via facsimile, e-mail, or telephone:

- Bacillus anthracis
- Botulinum neurotoxins
- Brucella melitensis
- Francisella tularensis
- Hendra virus
- Nipah virus
- Rift Valley fever virus
- Venezuelan equine encephalitis virus

California Code of Regulations Title 17 Reporting Requirements

California Code of Regulations

CCR Title 17 Section 2505

Title 17 Section 2505

Reportable conditions: Notification by laboratories

Purpose:

To mandate that ALL California laboratories report testing results suggestive of or positive for any of the diseases (listed in CCR Title 17 Section 2505 (e)(1) of public health importance to the local health department in which the health care provider who first submitted the specimen is located.

All California laboratories should have procedures implemented to report to the health officer of the local health jurisdiction specified above within one hour of notifying either: (1) The health care provider or other person authorized to receive the report. (2) The laboratory that referred the specimen.

After the initial one hour notification (via telephone) to the local health officer, the laboratory also must send a fax or electronic mail transmission to the local health officer within the jurisdiction of the health care provider that reported the initial results.

All specimens received by a California laboratory from an out-of-state source are subject to the regulations listed in CCR Title 17

CCR Title 17 Section 2505

List (e)(1)

- Anthrax
- Brucellosis
- Plague
- Smallpox
- Tularemia
- Viral Hemmorrhagic Fever

CCR Title 17 Section 2505

Additional Reporting Requirements:

Anthrax, Botulism, Brucellosis, Plague, Smallpox, Tularemia, and Viral Hemorrhagic Fevers

- Whenever a laboratory **receives a specimen** for the laboratory diagnosis of a **suspected** human case of one of these diseases, such laboratory shall **communicate immediately by telephone** with the Microbial Diseases Laboratory (or for Smallpox or Viral Hemorrhagic Fevers with the Viral and Rickettsial Diseases Laboratory) of the Department of Health Services for instruction.

Security and Records Keeping

42 CFR 73.11 Security

Access

- "An individual will be deemed to have access at any point in time if the individual has possession of a select agent or toxin (e.g., ability to carry, use, or manipulate) or the ability to gain possession of a select agent or toxin."

Restricting access

- Physical barriers
  - Locks on doors and storage containers
  - Card or key pads

Records Keeping 42 CFR 73 § 73.17

- The name and characteristics (e.g., strain designation, GenBank Accession number, etc.)
- The quantity acquired from another individual or entity (e.g., containers, vials, tubes, etc.), date of acquisition, and the source
- Where stored (e.g., building, room, and freezer)
- When moved from storage and by whom and when returned to storage and by whom
- The select agent used and purpose of use
- A written explanation of any discrepancies
- All records created under this part must be maintained for three years
  and promptly produced upon request.

Further Reporting Requirements for Clinical / Diagnostic Exemptions

- For all select agents or toxins, Identification of Select Agent Form (now APHIS/CDC Form 4) must be submitted within 7 calendar days of identification (diagnosis/verification) or within 90 calendar days of receipt (proficiency testing).
- Less stringent reporting may be allowed during extraordinary circumstances, such as a widespread outbreak.

APHIS / CDC Forms

APHIS / CDC Forms

CDC Form # Interim Final Rule	APHIS Form # Interim Final Rule	Title of Form	APHIS/CDC FORM # FINAL RULES
0.1319	2040	Application for Laboratory Registration	1
EA-101	2041	Transfer	2
0.1316	2043	Report of Theft, Loss, or Release	3
0.1318	2044	Report of Identification	4
0.1317	2042	Request for Exemption	5

APHIS / CDC Forms Web Links

Title of Form	APHIS/CDC FORM #	WWW Links
Application for Laboratory Registration	1	http://www.cdc.gov/od/sap/forms/APHIS-CDC-Form1.pdf
Transfer	2	http://www.cdc.gov/od/sap/forms/APHIS-CDC-Form2.pdf
Report of Theft, Loss, or Release	3	http://www.cdc.gov/od/sap/forms/APHIS-CDC-Form3.pdf
Report of Identification	4	http://www.cdc.gov/od/sap/forms/APHIS-CDC-Form4.pdf
Request for Exemption	5	http://www.cdc.gov/od/sap/forms/APHIS-CDC-Form5.pdf

Completing Identification of Select Agent Form 4

Some important “to do’s”:

- Fill out form completely and accurately
- Submit to APHIS or CDC within the required time-frames
- Maintain a copy of APHIS / CDC Form 4 for three years

Completing Identification of Select Agent Form 4

Some important “to do’s”:

- Section 5 of form may require, in addition:
- Submission of APHIS/CDC Form 2, “Report of Transfer of Select Agents and Toxins” to APHIS or CDC for pre-approval, if the select agent or toxin is transferred to a registered entity

Completing Identification of Select Agent Form 4

Some important “to do’s”:

For all entities, be sure to provide:

- The select agent or toxin identified
- A facility identification number (Section I)
- The molecular, phenotypic, or morphological characteristics (mandated under the Act of 2002)
- The name, address, and phone number of laboratory that submitted the isolate, if applicable
- The name of the laboratory that identified the select agent or toxin
- The name, address, and phone number of the laboratory director for the above laboratory

Completing Identification of Select Agent Form 4

Some important “to do’s”: (Proficiency Samples)

- The date a proficiency testing sample was received
- The date of identification of a select agent or toxin
- The disposition of the select agent or toxin ***after*** identification
- The signature of the laboratory director or responsible official

Penalties for Non-Compliance

Penalties

Civil Money

- Up to $250,000 for an individual for each violation
- Up to $500,000 for an organization for each violation

Criminal

- Imprisonment for up to 5 years, a fine, or both for
  - Transfer of a select agent to an unregistered person
  - Possession of a select agent by an unregistered person
  - Knowingly making a false statement

For More Information

CDC Select Agent Program

- Phone 404-498-2255
- Fax 404-498-2265
- E-mail lrsat@cdc.gov
- Web site http://www.cdc.gov/od/sap

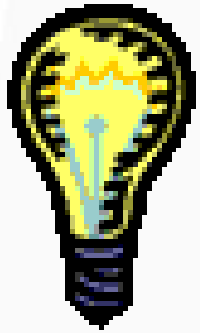
APHIS Select Agent Program

- Phone 301-734-3277
- Fax 301-734-3652
- Web site http://www.aphis.usda.gov/vs/ncie/bta.html

FBI/CJIS

- Phone 304-625-4900
- Fax 304-625-5393
- Web site http://www.fbi.gov/hq/cjisd/cjis.htm

Questions???????




California Redwood Forest