

protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes any poisonous substance or biological product that may be engineered as a result of biotechnology, produced by a living organism; or any poisonous isomer or biological product, homologue, or derivative of such a substance.

*United States* means all of the States.

*USDA* means the United States Department of Agriculture.

*Verification* means the demonstration of obtaining established performance (e.g., accuracy, precision, and the analytical sensitivity and specificity) specifications for any procedure used for diagnosis.

### § 73.2 Purpose and scope.

This part implements the provisions of the Public Health Security and Biodefense Preparedness and Response Act of 2002 setting forth the requirements for possession, use, and transfer of select agents and toxins. The biological agents and toxins listed in this part have the potential to pose a severe threat to public health and safety, to animal health, or to animal products. Overlap select agents and toxins are subject to regulation by both CDC and APHIS.

### § 73.3 HHS select agents and toxins.

(a) Except for exclusions under paragraphs (d) and (e) of this section, the HHS Secretary has determined that the biological agents and toxins listed in this section have the potential to pose a severe threat to public health and safety.

(b) HHS select agents and toxins:

Abrin  
 Cercopithecine herpesvirus 1 (Herpes B virus)  
*Coccidioides posadasii*  
 Conotoxins  
 Crimean-Congo haemorrhagic fever virus  
 Diacetoxyscirpenol  
 Ebola viruses  
 Lassa fever virus  
 Marburg virus  
 Monkeypox virus  
 Ricin  
*Rickettsia prowazekii*  
*Rickettsia rickettsii*  
 Saxitoxin  
 Shiga-like ribosome inactivating proteins  
 South American Haemorrhagic Fever viruses  
 (Junin, Machupo, Sabia, Flexal, Guanarito)

Tetrodotoxin

Tick-borne encephalitis complex (flavi) viruses (Central European Tick-borne encephalitis, Far Eastern Tick-borne encephalitis [Russian Spring and Summer encephalitis, Kyasanur Forest disease, Omsk Hemorrhagic Fever])

Variola major virus (Smallpox virus) and Variola minor virus (Alastrim)

*Yersinia pestis*

(c) Genetic Elements, Recombinant Nucleic Acids, and Recombinant Organisms:

(1) Nucleic acids that can produce infectious forms of any of the select agent viruses listed in paragraph (b) of this section.

(2) Recombinant nucleic acids that encode for the functional form(s) of any of the toxins listed in paragraph (b) of this section if the nucleic acids:

(i) Can be expressed *in vivo* or *in vitro*, or

(ii) Are in a vector or recombinant host genome and can be expressed *in vivo* or *in vitro*.

(3) HHS select agents and toxins listed in paragraph (b) of this section that have been genetically modified.

(d) HHS select agents or toxins that meet any of the following criteria are excluded from the requirements of this part:

(1) Any HHS select agent or toxin that is in its naturally occurring environment provided the select agent or toxin has not been intentionally introduced, cultivated, collected, or otherwise extracted from its natural source.

(2) Non-viable HHS select agents or nonfunctional HHS toxins.

(3) HHS toxins under the control of a principal investigator, treating physician or veterinarian, or commercial manufacturer or distributor, if the aggregate amount does not, at any time, exceed the following amounts: 100 mg of Abrin; 100 mg of Conotoxins; 1,000 mg of Diacetoxyscirpenol; 100 mg of Ricin; 100 mg of Saxitoxin; 100 mg of Shiga-like ribosome inactivating proteins; or 100 mg of Tetrodotoxin.

(e) An attenuated strain of a HHS select agent or toxin may be excluded from the requirements of this part based upon a determination that the attenuated strain does not pose a severe threat to public health and safety.

(1) To apply for an exclusion, an individual or entity must submit a written