

conditions prescribed by the Administrator and the HHS Secretary.

(b) *Restricted experiments:* (1) Experiments utilizing recombinant DNA that involve the deliberate transfer of a drug resistance trait to select agents that are not known to acquire the trait naturally, if such acquisition could compromise the use of the drug to control disease agents in humans, veterinary medicine, or agriculture.

(2) Experiments involving the deliberate formation of recombinant DNA containing genes for the biosynthesis of toxins lethal for vertebrates at an LD₅₀ <100 ng/kg body weight.

(c) The Administrator may revoke approval to conduct any of the experiments in paragraph (b) of this section, or revoke or suspend a certificate of registration, if the individual or entity fails to comply with the requirements of this part.

(d) To apply for approval to conduct any of the experiments in paragraph (b) of this section, an individual or entity must submit a written request and supporting scientific information. A written decision granting or denying the request will be issued.

§ 121.14 Incident response.¹⁰

(a) An individual or entity required to register under this part must develop and implement a written incident response plan.¹¹ The incident response plan must be coordinated with any entity-wide plans, kept in the workplace, and available to employees for review.

(b) The incident response plan must fully describe the entity's response procedures for the theft, loss, or release of a select agent or toxin; inventory discrepancies; security breaches (including information systems); severe weather and other natural disasters; workplace violence; bomb threats and suspicious packages; and emergencies such as fire, gas leak, explosion, power outage, etc. The response procedures must account for hazards associated with the select agent or toxin and ap-

propriate actions to contain such agent or toxin.

(c) The incident response plan must also contain the following information:

(1) The name and contact information (e.g., home and work) for the individual or entity (e.g., responsible official, alternate responsible official(s), biosafety officer, etc.);

(2) The name and contact information for the building owner and/or manager, where applicable;

(3) The name and contact information for tenant offices, where applicable;

(4) The name and contact information for the physical security official for the building, where applicable;

(5) Personnel roles and lines of authority and communication;

(6) Planning and coordination with local emergency responders;

(7) Procedures to be followed by employees performing rescue or medical duties;

(8) Emergency medical treatment and first aid;

(9) A list of personal protective and emergency equipment, and their locations;

(10) Site security and control;

(11) Procedures for emergency evacuation, including type of evacuation, exit route assignments, safe distances, and places of refuge; and

(12) Decontamination procedures.

(d) The plan must be reviewed annually and revised as necessary. Drills or exercises must be conducted at least annually to test and evaluate the effectiveness of the plan. The plan must be reviewed and revised, as necessary, after any drill or exercise and after any incident.

§ 121.15 Training.

(a) An individual or entity required to register under this part must provide information and training on biosafety and security to each individual with access approval from the Administrator or the HHS Secretary before he/she has such access. In addition, an individual or entity must provide information and training on biosafety and security to each individual not approved for access by the Administrator or the HHS Secretary before he/she works in or visits areas where select

¹⁰Nothing in this section is meant to supersede or preempt incident response requirements imposed by other statutes or regulations.

¹¹Technical assistance and guidance may be obtained by contacting APHIS.

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agents or toxins are handled or stored (e.g., laboratories, growth chambers, animal rooms, greenhouses, storage areas, etc.). The training must address the particular needs of the individual, the work they will do, and the risks posed by the select agents or toxins.¹²

(b) Refresher training must be provided annually.

(c) A record of the training provided to each individual must be maintained. The record must include the name of the individual, the date of training, a description of the training provided, and the means used to verify that the employee understood the training.

§ 121.16 Transfers.

(a) Except as provided in paragraphs (c) and (d) of this section, a select agent or toxin may only be transferred to individuals or entities registered to possess, use, or transfer that agent or toxin. A select agent or toxin may only be transferred under the conditions of this section and must be authorized by APHIS or CDC prior to the transfer.¹³

(b) In addition to any permit required under part 122 of this subchapter, a transfer may be authorized if:

(1) The sender:

(i) Has at the time of transfer a certificate of registration that covers the particular select agent or toxin to be transferred and meets all the requirements of this part;

(ii) Meets the exemption requirements for the particular select agent or toxin to be transferred; or

(iii) Is transferring the select agent or toxin from outside of the United States and meets all import requirements.

(2) At the time of transfer, the recipient has a certificate of registration that includes the particular select agent or toxin to be transferred and meets all of the requirements of this part.

¹²For guidance, see the CDC/NIH publication, "Biosafety in Microbiological and Biomedical Laboratories." This document is available on the Internet at http://www.aphis.usda.gov/programs/ag_selectagent/index.html.

¹³The requirements of this section do not apply to transfers within a registered entity (*i.e.*, the sender and the recipient are covered by the same certificate of registration).

(c) A select agent or toxin that is contained in a specimen for proficiency testing may be transferred without prior authorization from APHIS or CDC provided that, at least 7 calendar days prior to the transfer, the sender reports to APHIS or CDC the select agent or toxin to be transferred and the name and address of the recipient.

(d) On a case-by-case basis, the Administrator may authorize a transfer of a select agent or toxin not otherwise eligible for transfer under this part under conditions prescribed by the Administrator.

(e) To obtain authorization for a transfer, APHIS/CDC Form 2 must be submitted.

(f) The recipient must submit a completed APHIS/CDC Form 2 within 2 business days of receipt of a select agent or toxin.

(g) The recipient must immediately notify APHIS or CDC if the select agent or toxin has not been received within 48 hours after the expected delivery time or if the package containing the select agent or toxin has been damaged to the extent that a release of the select agent or toxin may have occurred.

(h) An authorization for a transfer shall be valid only for 30 calendar days after issuance, except that such an authorization becomes immediately null and void if any facts supporting the authorization change (e.g., change in the certificate of registration for the sender or recipient, change in the application for transfer).

(i) The sender must comply with all applicable laws governing packaging and shipping.

§ 121.17 Records.

(a) An individual or entity required to register under this part must maintain complete records relating to the activities covered by this part. Such records must include:

(1) An accurate, current inventory for each select agent (including viral genetic elements, recombinant nucleic acids, and recombinant organisms) held in long-term storage (placement in a system designed to ensure viability for future use, such as in a freezer or lyophilized materials), including: