



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas A. Farley, MD, MPH
Commissioner

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Regarding Public Health Security Bioterrorism Preparedness and Response Act of 2002; Biennial Review and Legislation of the Select Agent and Toxin List - 42 CFR Part 73

To Whom It May Concern:

The New York City Department of Health and Mental Hygiene (DOHMH) has reviewed CDC's advance notice of proposed rulemaking and herein provide our comments. DOHMH supports establishment of biological threat tiers and further stratification within each tier.

Ideally, tiers would consider other potential biological threats in addition to bioterrorism, including biological warfare and accidental releases from research laboratories. Strata could be distinguished by degree of laboratory sophistication needed to work with the agent and disseminate it (i.e., if easier to work with and to disseminate, the threat would be greater); the agent's effectiveness as a strategic weapon; and the agent's potential to cause mass casualties and latent environmental biological hazards.

We suggest adding SARS and H5N1 influenza to the HHS Select Agent List. If either of those agents were disseminated as an aerosol in an urban environment, the impact could be catastrophic. Since these viruses are actively researched in many U.S. academic laboratories, there are significant security and safety concerns that could be addressed by bringing those laboratories under more stringent federal regulation.

Finally, we believe that it is critical that local public health agencies be authorized to know which laboratories in their jurisdictions work with select agents and the specific select agents that they work with. In the absence of such knowledge, public health agencies would be hampered from responding effectively to accidental spills or occupational exposures that could pose risks to public health. We appreciate that this concern cannot be addressed through amendments to 42 Part 73 but rather through legislative change (specifically, by amending 42 USCA §262a (j)). However, we want to take this opportunity to raise this as a concern.

We appreciate the opportunity to comments on this advanced notice of proposed rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcelle Layton", written over a horizontal line.

Marcelle Layton, MD, Assistant Commissioner
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