



# Guidance on the Inventory Requirements for Select Agents and Toxins

7 CFR Part 331, 9 CFR Part 121, 42 CFR Part 73

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Centers for Disease Control and Prevention (CDC)  
Division of Select Agents and Toxins  
Animal and Plant Health Inspection Service (APHIS)  
Agriculture Select Agent Program

## Preface

**Revisions:** This is a living document subject to ongoing improvement. Feedback or suggestions for improvement from registered Select Agent entities or the public are welcomed. Submit comments directly to the Federal Select Agent Program at:

CDC: [LRSAT@cdc.gov](mailto:LRSAT@cdc.gov)

APHIS: [ASAP@aphis.usda.gov](mailto:ASAP@aphis.usda.gov)

## Introduction

The Federal Select Agent Program oversees the use, possession, and transfer of select agents and toxins at registered entities throughout the United States. The select agent regulations require an accurate and current inventory for: (1) “each select agent (including viral genetic elements, recombinant and/or synthetic nucleic acids, and recombinant and/or synthetic 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)”; and (2) “any animals or plants intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition)” and (3) “for each toxin held.” The information in this guidance document is meant to provide additional information to regulated entities in meeting the requirements for (1), (2), and (3) above. See 42 CFR § 73.17, 7 CFR § 331.17, and 9 CFR § 121.17

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## Definitions for regulated select agents and toxins

The select agents and toxins lists can be found in 42 CFR § 73.3 (HHS only agents), 42 CFR § 73.4 and 9 CFR § 121.4 (Overlap agents), 7 CFR § 331.3 (PPQ only agents), and 9 CFR § 121.3 (VS only agents). Accordingly, select agent infected materials, including confirmed clinical specimens, laboratory cultures, animals, animal tissues, plants, and plant tissues, are subject to regulation. Animals inoculated with toxins, however, are not regulated; only toxins or recombinant/synthetic nucleic acids encoding functional forms of the select toxins are regulated.

Inventory records are not required for select agent and toxin strains or constructs that the Federal Select Agent Program has excluded from the provisions of the select agent regulations pursuant to 42 CFR § 73.3(e) (HHS only agents), 42 CFR § 73.4(e) and 9 CFR § 121.4(e) (Overlap agents), 7 CFR § 331.3(e) (Plant agents), and 9 CFR § 121.3(e) (VS only agents). Please visit <http://www.selectagents.gov/Select%20Agents%20and%20Toxins%20Exclusions.html> for a list of excluded select agents and toxins. To apply for a novel exclusion, an entity must provide sufficient documentation that an attenuated select agent or modified toxin no longer poses a severe threat to the public health and safety, and/or animal health or animal products, or plant health or plant products, as appropriate. An entity does not need to apply for exclusion if the agent is non-viable or the toxin is inactivated as these are not regulated. However, the Federal Select Agent Program recommends that an entity maintain validation data to document that an agent is non-viable or that toxin is nonfunctional for all such agents or toxins.

### Regulatory definitions that apply to this document:

**Biological Agent:** “Any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsia, or protozoa), or infectious substance, or any naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance, capable of causing death, disease, or other biological malfunction in a human, an animal, a plant, or other living organism, deterioration of food, water, equipment, supplies, or material of any kind, deleterious alteration of the environment.”

**Toxin:** “Toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, or protozoa), or infectious substances, or recombinant or synthesized molecules, 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, homolog, or derivative of such a substance.”

**Recombinant nucleic acids:** “(a) Molecules that are constructed by joining nucleic acid molecules and that can replicate in a living cell (i.e., recombinant nucleic acids) or (b) molecules that result from the replication of those described in (a) above.”

Synthetic nucleic acids: “(a) Molecules that are chemically or by other means synthesized or amplified, including those that are chemically or otherwise modified but can base pair with naturally occurring nucleic acid molecules (i.e., synthetic nucleic acids) or (b) molecules that result from the replication of those described in (a) above.”

## Long-term storage criteria for select agents and toxins

Section 17(a)(1) of the select agent regulations explains that long-term storage includes the “placement in a system designed to ensure viability for future use, such as in a freezer or lyophilized materials.” In addition to freezers and lyophilized materials, the system selected by the entity to preserve specimens for future use can be appropriate to specific select agents and toxins and, therefore can include, but is not limited to, refrigerators, liquid nitrogen tanks, and room temperature storage units. As a general rule, long-term storage materials include select agents (including viral genetic elements, recombinant and/or synthetic nucleic acids, and recombinant and/or synthetic organisms) and toxins (including nucleic acids encoding functional forms of toxins), which are not part of an ongoing experiment or have not been accessed for a significant period of time (e.g., 30 calendar days). All select agent and toxin materials stored long-term must be kept in a secure location registered with the Federal Select Agent Program. All personnel with access to select agent and toxin materials must have security risk assessment (SRA) approval and be in compliance with the select agent regulations.

### Indicators of long-term storage materials

- a) The material is in a highly concentrated state and would not be used in its present state without dilution to a less concentrated state.
  - 1. Example: A vial containing a high concentration of select agent bacteria is removed from storage and used to inoculate several tubes of broth, and then the vial is returned to storage.
  - 2. Example: A vial containing a high concentration of select agent bacteria is removed from storage to make additional aliquots (vials) of highly concentrated bacteria from the original stock(s).
  - 3. Example: Subcultures of highly concentrated select agent bacteria or high titer select agent viruses (plates, broth cultures, cell culture tubes, flasks, etc.) are used to replace the original seed stocks for experiments to be performed within a specify amount of time (e.g., 30 calendar days).
- b) The material is not part of an ongoing experiment and will not be used for any work by the entity within a defined period of time (e.g., 30 calendar days).
  - 1. Example: A vial of select agents or toxins is not planned for use for any entity research project, diagnostic procedure, quality control or other laboratory activity within the defined period of time.
- c) The material is not consumed within a defined period of time by the entity (e.g., 30 calendar days).

1. Example: A vial of select agents or toxins is received by the laboratory but there are no plans to use the contents of the vial for any work within the defined time period.
  2. Example: A select agent aliquot is collected from an experimental protocol that is preserved for future analysis within the defined time period.
- d) The material is placed in an environment where there is infrequent access to the environment.
1. Example: Viruses are placed in a liquid nitrogen tank that is only accessed infrequently by a member of the laboratory (e.g., 30 or more calendar days).

## Working stock criteria for select agents and toxins

Select agents and toxins are considered working stock if the materials are part of an ongoing experiment, accessed frequently, or are not stored for an extended period of time. Select agent materials classified as working stock do not require that records are kept that contain the information required in Sections 17(a)(1) and 17(a)(3) of the select agent regulations. All working stock select agent and toxin materials must be kept and used in a secure location registered with the Federal Select Agent Program. All personnel with access to working stock select agent and toxin materials must have SRA approval, and be in compliance with the select agent regulations.

### Indicators of working stock materials

- a) The material has been diluted from a concentrated state and placed into multiple aliquots in the less concentrated form for immediate use (e.g., within 30 calendar days).
- b) The material is part of an ongoing experiment and will be used for work by the entity within a period of time as defined by experimental protocol.
  1. Example: The material (bacteria, virus) has been propagated for a specific experiment and will be used to infect animals or cells.
  2. Example: A plant infected with a slow growing fungus is maintained at room temperature for 30 calendar days.
- c) The material is consumed within a defined period of time by the entity (e.g., 30 calendar days).
- d) The material is placed in an environment where there is frequent access to the material, such as a refrigerator or incubator in an active laboratory.

## Select agent inventory records

Select agent material includes confirmed clinical specimens, laboratory cultures, animals, animal tissues, plants, and plant tissues containing select agents and recombinant and/or synthetic select agent organisms, as well as genetic elements and recombinant and/or synthetic nucleic acids encoding regulated genetic material. Each sample of select agent material stored

long-term should correspond to a written record containing all of the information required in 42 CFR § 73.17(a)(1) of the select agent regulations (*See Appendix I*). Documentation of sample volume is not required for select agents (as opposed to select toxins, see below) and does not need to be recorded in the long-term storage inventory record. An entity is responsible for maintaining an accurate and current inventory of select agents and toxins held in long term storage, which may be verified during an inspection. Please review the Security Guidance document for information regarding inventory reconciliations.

## Select toxins and select toxin-exposed animals and animal tissues

Individuals and entities that possess aggregate amounts of select toxins that exceed the amounts listed in 42 CFR § 73.3 (d)(3) of the select agent regulations, must maintain records containing all of the information required in section 17(a)(3) of the select agent regulations (*See Appendix II*). The current quantity of each vial must be documented for toxins following each use. The current quantity of each vial that is recorded following the last usage may be examined during an inspection.

Entities that ship aggregate amounts of select toxin below the amounts listed in Section 73.3(d)(3) are not required to submit APHIS/CDC Form 2 for approval prior to shipment; however, the entity should maintain documentation of the amount of shipped toxin in order to fulfill their responsibilities under Section 73.16(l).

Once an animal has been injected with or exposed to a select toxin (for example, by inhalation, dermal absorption, or ingestion), the animal would not be considered a "select toxin" and would not need to be housed in a registered space. The number of animals injected with or exposed to a select toxin does not need to be recorded for long-term storage, but may need to be recorded for other purposes.

Until the select toxin is injected into or exposed to the animal, the select toxin would be regulated under the select agent regulations. This would include storage or use of the material (e.g., injection or exposure procedure). If the select toxin is stored or used in the same area as the injected or exposed animal, that area will need to be listed on an entity's approved certificate of registration.

The room where the injection or exposure procedures occur may be assessed using laboratory biosafety level criteria instead of animal laboratory biosafety level criteria. These rooms, however, must be included on an entity's registration and must be managed as regulated space.

## Select agent-infected animals and animal tissues

Section 17(a)(2) of the select agent regulations requires an accounting of animals intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition). The intent of this requirement is to ensure that an entity has a system in place to manage and account for the number of research animals used in experimental protocols with select agents. The accounting should include the location of these animals in the facility and their final disposition. This information can be contained in research notes, animal care log books, daily check sheets, or other formats. An accidental release of exposed animals or animal exposure to select agents outside of primary containment must be reported using the APHIS/CDC Form 3 (Theft, Loss and Release form), which requires an entity to provide a detailed description and follow-up actions of the incident. An accounting of animals intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition) will facilitate the investigation of these types of incidents.

Fluid, serum, tissue or other samples collected from animals infected with or exposed to select agents in the laboratory are considered select agent material, and are subject to the select agent regulations, under Section 17(a)(1). Animals, which are infected with select agents for experiments that require longer incubation periods (e.g., 30 days) before the agent or disease can be detected, are considered to be select agents and must be handled in the same manner as infected animals above. A uniquely-identified vial-by-vial inventory record of tissue specimens from a single source or experiment is not required for animals or animal samples, and specimens may be grouped without individual vial identification. For example, 14 vials of infected mouse lung samples from the same experiment may be grouped under one reference identification number, consistent with the experimental protocol. However, the reference number must be linked to a record that notes 14 vials upon inventory reconciliation. If an entity wishes to group specimen vials in this manner, each primary and secondary container in which the samples are stored must be labeled with the date placed in storage, the agent contained in the sample, and a reference identification that is associated with a written record (inventory record, research notes, etc.) describing those specimens, including the total number of vials. An entity is required to maintain accurate inventory records for each identification number that includes all of the information required in Section 17 and an entity is accountable for each vial associated with that number. As vials are removed from inventory for processing, their removal must be noted in the written record to maintain an accurate and current inventory.

The Federal Select Agent Program recommends that an entity document the means of ensuring that select agents are non-viable. Samples collected from animals that are presumed to have been naturally infected (i.e., not intentionally introduced) would not be considered select agent material and are not required to be handled as regulated material until the samples have been confirmed to contain select agent material. Diagnostic samples from which the presence of a select agent has been detected are subject to the select agent regulations; however, diagnostic samples from which only an antibody response to a select agent is detected are not considered

select agent material. In addition, samples taken from animals experimentally infected with select agents are considered select agents and are subject to the select agent regulations, unless the absence of the agent can be demonstrated.

### Long-term storage criteria for select agent-infected arthropods

Infected arthropods may be recorded individually or pooled, at the discretion of the entity. The long-term storage inventory of infected arthropod vials may be verified during an inspection. Each vial in long-term storage must have an associated record that collects all of the information required in Section 17(a)(1) (*See Appendix I*).

### Long-term storage criteria for select agent-infected plants

The regulations in 7 CFR 331.17(a)(2) required an accurate, current inventory of plants intentionally or accidentally inoculated with a select agent (including number and plant species, location, and appropriate disposition). The intent of this requirement is that an entity has a system in place to manage and account for the number of research plants used in experimental protocols with select agents. The accounting should include the location of these plants in the facility and their final disposition. This information can be contained in research notes, plant log books, daily check sheets, or other formats. In the event of a theft, loss, or an accidental release outside of primary containment, the incident must be immediately reported to the Agriculture Select Agent Program with a follow-up submission within 7 days on APHIS/CDC Form 3-Theft, Loss and Release. The submission of the APHIS/CDC Form 3 will provide a detailed description and follow-up actions of the incident.

Plants that are infected with select agents for experimental purposes or as a mechanism to maintain long-term viability and are held for long incubation periods (e.g., 30 days) are considered long-term storage select agents and require accurate inventory records for each inoculated plant, such as an identification number that includes all of the information required in Section 17(a)(1) (*See Appendix I*) and should be handled as select agent material. Plants infected with select agents for experiments that require longer incubation periods (e.g., 30 calendar days) before the agent can be detected or disease symptoms detected are considered long-term storage select agents and must be handled in the same manner as infected plants above. These infected plants can be removed from long-term storage inventory records when they are shown to be uninfected by appropriate testing (documentation must be made available upon request).

Select agent infected plant tissues (living or dead) that contain infectious select agent propagules are considered long-term storage, as are culture plates and vials containing isolated select agents, and are subject to regulation and should correspond to a written record that includes all of the information required in Section 17(a)(1) (*See Appendix I*). If several vials or culture plates generated from a single source of material are in long-term storage they may be

grouped under a single reference identification number and the inventory records must indicate how many vials are associated with this reference identification number and a written record must be maintained of the vials and plates removed for accurate inventory reconciliation. The entity is accountable for each vial or plate associated with the reference identification number. Plants inoculated from a single source and held in long-term storage will be considered as individuals and each must be given a unique reference identification number for inventory records and must correspond to a written record that includes all of the information required in Section 17(a)(1) (*See Appendix I*). As vials or plates are removed from inventory for processing, their removal must be noted in the written record to maintain an accurate and current inventory.

### **Additional Information**

If an entity has archived specimens that are accessed infrequently, the container may be sealed with tamper-proof material (e.g., security tape) following inventory verification, and the sealed container individual vials can be verified during self-audits. However, any or all archived containers may be required to be opened during inspection to perform vial-by-vial count verifications.

Each entity should have a written policy to manage its select agent inventory held in long-term storage, including identifying specific individual responsibilities for inventory oversight, an internal audit system to spot check that appropriate procedures are followed to document changes to the inventory, and training as appropriate to personnel with access to select agent inventory. In addition, the entity should have protocols in place for the transfer (either intra-entity or inter-entity) and accountability of long-term storage inventories of select agents and toxins, at all times, including when the investigator responsible for the inventory departs the entity as a result of change in employment, retirement, death, sabbatical, or other reasons..

## Appendices

The information found in the appendices specifies information that is required by the select agent regulations.

[Appendix I. Section 17\(a\)\(1\) specifies the information that is required for all select agent materials held in long-term storage](#)

[Appendix II. Section 17\(a\)\(3\) outlines the information that is required for all select toxins stored long-term](#)

## Appendix I. Section 17(a)(1): Required information for select agent materials stored long-term

“Accurate, current inventory for each select agent (including viral genetic elements, recombinant and/or synthetic nucleic acids, and recombinant and/or synthetic 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:”

- i. Name and characteristics (e.g., strain designation, GenBank Accession number, etc.),
- ii. The quantity acquired from another individual or entity (e.g., containers, vials, tubes, etc.), date of acquisition, and the source,
- iii. Where stored (e.g., building, room, and freezer),
- iv. When moved from storage and by whom and when returned to storage and by whom,
- v. The select agent used and purpose of use,
- vi. Records created under section 16 (Transfers),
- vii. For intra-entity transfers (sender and the recipient are covered by the same certificate of registration), the select agent, the quantity transferred, the date of transfer, the sender, and the recipient, and
- viii. Records created under section 19 (Notification of theft, loss, or release).

## Appendix II. Section 17(a)(3): Required information for select toxins stored long-term

“Accurate, current inventory for each toxin held, including:”

- i. The name and characteristics,
- ii. The quantity acquired from another individual or entity (e.g., containers, vials, tubes, etc.), date of acquisition, and the source,
- iii. The initial and current quantity amount (e.g., milligrams, milliliters, grams, etc.),
- iv. The toxin used and purpose of use, quantity, date(s) of the use and by whom,
- v. Where stored (e.g., building, room, and freezer),
- vi. When moved from storage and by whom and when returned to storage and by whom, including quantity amount,
- vii. Records created under section 16 (Transfers),
- viii. For intra-entity transfers (sender and the recipient are covered by the same certificate of registration), the toxin, the quantity transferred, the date of transfer, the sender, and the recipient,
- ix. Records created under section 19 (Notification of theft, loss, or release), and
- x. If destroyed, the quantity of toxin destroyed, the date of such action, and by whom.