Appendix A to Part 72-Select Agents

Viruses

1. Crimean-Congo haemorrhagic fever virus
2. Eastern Equine Encephalitis virus
3. Ebola viruses
4. Equine Morbillivirus
5. Lassa fever virus
6. Marburg virus
7. Rift Valley fever virus
8. South American Haemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito)
9. Tick-borne encephalitis complex viruses
10. Variola major virus (Smallpox virus)
11. Venezuelan Equine Encephalitis virus
12. Viruses causing hantavirus pulmonary syndrome
13. Yellow fever virus

Exemptions: Vaccine strains of viral agents (Junin Virus strain candid #1, Rift Valley fever virus strain MP-12, Venezuelan Equine encephalitis virus strain TC-83, Yellow fever virus strain 17-D) are exempt.

Bacteria

1. Bacillus anthracis
2. Brucella abortus, B. melitensis, B. suis
3. Burkholderia (Pseudomonas) mallei
4. Burkholderia (Pseudomonas) pseudomallei
5. Clostridium botulinum
6. Francisella tularensis
7. Yersinia pestis

Exemptions: vaccine strains as described in Title 9 CFR, Part 78.1 are exempt.

Rickettsiae

1. Coxiella burnetii
2. Rickettsia prowazekii
3. Rickettsia rickettsii

Fungi

1. Coccidioides immitis

Toxins

1. Abrin
2. Aflatoxins
3. Botulinum toxins
4. Clostridium perfringens epsilon toxin
5. Conotoxins
6. Diacetoxyscirpenol
7. Ricin
8. Saxitoxin
9. Shigatoxin
10. Staphylococcal enterotoxins
11. Tetrodotoxin
12. T-2 toxin

Exemptions: Toxins for medical use, inactivated for use as vaccines, or toxin preparations for biomedical research use at an LD50 for vertebrates of more than 100 nanograms per kilogram body weight are exempt. National standard toxins required for biologic potency testing as described in 9 CFR Part 113 are exempt.

Recombinant organisms/molecules

1. Genetically modified microorganisms or genetic elements from organisms on Appendix A, shown to produce or encode for a factor associated with a disease.
2. Genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins listed in this Appendix, or their toxic subunits.

Other restrictions

The deliberate transfer of a drug resistance trait to microorganisms listed in this Appendix that are not known to acquire the trait naturally is prohibited by NIH "Guidelines for Research Involving Recombinant DNA Molecules," if such acquisition could compromise the use of the drug to control these disease agents in humans or veterinary medicine.

Additional Exemptions

2. Additional exemptions for otherwise covered strains will be considered when CDC reviews and updates the list of select agents in this Appendix. Individuals seeking an exemption should submit a request to CDC that specifies the agent or strain to be exempted and explains why such an exemption should be granted. Future exemptions will be published in the Federal Register for review and comment prior to inclusion in this Appendix.
SEC. 175. PROHIBITIONS WITH RESPECT TO BIOLOGICAL WEAPONS

(a) In General.--Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same, shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b) ADDITIONAL OFFENSE--Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms 'biological agent' and 'toxin' do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.;

(c) Definition.--For purposes of this section, the term "for use as a weapon" includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective, bona fide research or other peaceful purposes.

SEC. 175b. POSSESSION BY RESTRICTED PERSONS.

(a) No restricted person described in subsection (b) shall ship or transport interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), and is not exempted under subsection (h) of such section 72.6, or appendix A of part 72 of the Code of Regulations.

(b) In this section:

(1) The term 'select agent' does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(2) The term 'restricted person' means an individual who--

(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(C) is a fugitive from justice;

(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(E) is an alien illegally or unlawfully in the United States;

(F) has been adjudicated as a mental defective or has been committed to any mental institution;

(G) is 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 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (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; or

(H) has been discharged from the Armed Services of the United States under dishonorable conditions.

(3) The term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(4) The term 'lawfully admitted for permanent residence' has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

(c) Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.