

USDA Amends Regulations Regarding Possession and Use of Select Biological Agents

Q. What does the interim rule do?

A. The interim rule establishes that the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) may issue provisional registration certificates for individuals and entities and provisional grants of access to select biological agents and toxins listed in 7 CFR 331.3 or 9 CFR 121.3. To see the text of the rule, go to www.aphis.usda.gov/ppd/rad/webrepor.html.

Q. What do I need to do to receive a provisional registration certificate?

A. The requirements for a provisional registration certificate are different for entities that possessed agents and toxins as of February 11, 2003 (current possessors) and entities that did not possess agents and toxins as of that date.

For current possessors, APHIS may issue a provisional registration certificate if, as of November 12, 2003, all of the following requirements are met: the Federal Bureau of Investigations Criminal Justice Information Services (FBI-CJIS) division has received all of the information, including fingerprint cards, required to conduct a security risk assessment of the entity, including any individual who owns or controls the entity; and the entity meets all of the requirements of the regulations.

APHIS may issue a provisional registration certificate to individuals and entities that did not possess listed biological agents or toxins as of February 11, 2003, if, as of November 12, 2003, all of the following requirements are met: the FBI-CJIS Division has received all of the information, including fingerprint cards, required to conduct a security risk assessment of the entity, including any individual who owns or controls the entity; the entity meets all of the requirements of the regulations; and the APHIS Administrator finds that circumstances warrant such action in the interest of the health of plants or plant

products or national security (for the plant-related provisions in 7 CFR part 331) or the health of animals or animal products or national security (for the overlap and animal-related provisions in 9 CFR part 121).

Q. How long will a provisional registration certificate be effective?

A. A provisional registration certificate will be effective until APHIS either issues a certificate of registration or suspends or revokes the provisional registration.

Q. What information must I submit to the FBI-CJIS Division?

A. To obtain a security risk assessment, an FD-961 form and fingerprint card must be submitted to the FBI-CJIS Division.

Q. Where do I get the information needed to fulfill the requirements of the rule?

A. The registration form is available on the APHIS Web site at www.aphis.usda.gov/vs/ncie/bta.html. If you have questions about the form, you may call the National Center for Import and Export at (301) 734-3277 for assistance.

FBI form FD-961 for security risk assessments is available on the Web at www.fbi.gov/terrorinfo/bioterrorfd961.htm. Block 17 of the FD-961 requests an "identifier number (supplied by the entity)." If you submitted your registration application to APHIS, this identifier number may be obtained by contacting the National Center for Import and Export at (301) 734-5460. If you submitted your application to the Centers for Disease Control and Prevention (CDC), then you should contact the CDC, Select Agent Program at (404) 498-2250.

You will also need to submit to the FBI fingerprint cards with your FD-961's. To obtain the correct fingerprint cards and for assistance with completing the FD-961 please contact the FBI, Criminal Justice Information Service at (304) 625-5590.

Q. What happens if I cannot meet the requirements by November 12, 2003?

A. An entity or individual may not possess, use, or transfer a select biological agent or toxin unless such activities are conducted for a lawful purpose and in accordance with the provisions of the regulations. Therefore, an entity unable to meet the requirements by November 12, 2003, will be in violation of the regulations.

The Act provides APHIS with the authority to impose civil and criminal penalties for violations. An individual who violates any provision of the regulations may be subjected to a civil penalty not to exceed \$250,000 and \$500,000 for any other person. Criminal penalty may include imprisonment for not more than 5 years.

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