

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 331

#### 9 CFR Part 121

[Docket No. APHIS–2009–0070]

RIN 0579–AD09

#### Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Amendments to the Select Agent and Toxin Regulations; Technical Amendment

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** As part of a final rule published in the **Federal Register** on October 5, 2012, we amended and republished the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products. In that final rule we removed bovine spongiform encephalopathy agent from the list of select agents or toxins, but we neglected to remove it from the list of those select agents or toxins whose seizure must be reported within 24 hours by telephone, facsimile, or email. We are remedying that oversight in this document. We are also updating the name of another select agent to reflect its most current scientific classification, correcting a typographical error, and updating the name of a guidance document referenced in the regulations. **DATES:** Effective September 24, 2018. **FOR FURTHER INFORMATION CONTACT:** Dr. Keith Wiggins, Acting National Director, Agriculture Select Agent Services, APHIS, 4700 River Road Unit 2, Riverdale, MD 20737–1231; (301) 851–2024.

#### SUPPLEMENTARY INFORMATION:

### Background

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 provides for the regulation of certain biological agents that have the potential to pose a severe threat to both human and animal health, to animal health, to plant health, or to animal and plant products. The Animal and Plant Health Inspection Service (APHIS) has the primary responsibility for implementing the provisions of the Act within the U.S. Department of Agriculture. Veterinary Services (VS) select agents and toxins are those that have been determined to have the potential to pose a severe threat to animal health or animal products. Plant Protection and Quarantine (PPQ) select agents and toxins are those that have the potential to pose a severe threat to plant health or plant products. Overlap select agents and toxins are those that have been determined to pose a severe threat to both human and animal health or animal products. Overlap select agents are subject to regulation by both APHIS and the Centers for Disease Control and Prevention, which has the primary responsibility for implementing the provisions of the Act for the Department of Health and Human Services.

On October 5, 2012, we published in the **Federal Register** (77 FR 61056–61081, Docket No. APHIS–2009–0070) a final rule<sup>1</sup> that amended and republished the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products; and amended the regulations in order to add definitions and clarify language concerning security, training, biosafety, biocontainment, and incident response.

In that rule, we removed bovine spongiform encephalopathy agent from the list of VS select agents and toxins set out in 9 CFR 121.3(b). However, paragraph (f)(3)(i) of that section continues to list bovine spongiform encephalopathy agent among those VS select agents and toxins whose seizure by any Federal law enforcement agency must be reported within 24 hours by telephone, facsimile, or email. We are removing this outdated reference. Additionally, in paragraph (d)(9) of that section we reference pigeon

<sup>1</sup> To view the final rule, its preceding proposed rule, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0070>.

paramyxovirus-1, but the numerical suffix appears as “-12” instead of “-1.” We are correcting that.

The list of PPQ select agents and toxins is set out in 7 CFR 331.3(b) and includes the fungal plant pathogen, *Phoma glycinicola* (formerly *Pyrenochaeta glycines*). Recent molecular and phylogenetic studies have resulted in the reclassification of this pathogen as *Coniothyrium glycines*.<sup>2</sup> We are updating the regulations accordingly.

The regulations in 7 CFR 331.11 and 9 CFR 121.11 require development of a security plan that provides for measures sufficient to safeguard the select agent or toxin against unauthorized access, theft, loss, or release. In paragraph (g) of those sections, we recommend that an individual or entity consider the document entitled, “Security Guidance for Select Agent or Toxin Facilities” when developing the required plan.

We are correcting the name of that document, which has been shortened to “Security Plan Guidance,” in its most recent update.

### List of Subjects

#### 7 CFR Part 331

Agricultural research, Laboratories, Plant diseases and pests, Reporting and recordkeeping requirements.

#### 9 CFR Part 121

Agricultural research, Animal diseases, Laboratories, Medical research, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 331 and 9 CFR part 121 are amended as follows:

### Title 7—Agriculture

#### PART 331—POSSESSION, USE, AND TRANSFER OF SELECT AGENTS AND TOXINS

■ 1. The authority citation for part 331 continues to read as follows:

**Authority:** 7 U.S.C. 8401; 7 CFR 2.22, 2.80, and 371.3.

#### § 331.3 [Amended]

■ 2. In § 331.3, paragraph (b) is amended by removing the entry “*Phoma*

<sup>2</sup> de Gruyter J, Woudenberg JHC, Aveskamp MM, et al. (2013). Redispotion of phoma-like anamorphs in *Pleosporales* re-evaluation. *Studies in Mycology* 75: 1–36. <https://www.sciencedirect.com/science/article/pii/S0166061614600014?via%3Dihub>.

*glycinicola* (formerly *Pyrenochaeta glycinis*);” and adding, in alphabetical order, an entry for “*Coniothyrium glycinis*, (formerly *Phoma glycinicola*, *Pyrenochaeta glycinis*);”.

#### § 331.11 [Amended]

■ 3. In § 331.11, paragraph (g) is amended by removing the words “Security Guidance for Select Agent or Toxin Facilities” and adding the words “Security Plan Guidance” in their place.

### Title 9—Animals and Animal Products

#### PART 121—POSSESSION, USE, AND TRANSFER OF SELECT AGENTS AND TOXINS

■ 3. The authority citation for part 121 continues to read as follows:

**Authority:** 7 U.S.C. 8401; 7 CFR 2.22, 2.80, and 371.4.

#### § 121.3 [Amended]

■ 4. Section 121.3 is amended as follows:

- a. In paragraph (d)(9), by removing “-12” and adding “-1” in their place; and
- b. In paragraph (f)(3)(i), by removing the words “bovine spongiform encephalopathy agent,”.

#### § 121.11 [Amended]

■ 5. In § 121.11, paragraph (g) is amended by removing the words “Security Guidance for Select Agent or Toxin Facilities” and adding the words “Security Plan Guidance” in their place.

Done in Washington, DC, this 19th day of September 2018.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2018-20694 Filed 9-21-18; 8:45 am]

**BILLING CODE 3410-34-P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 140

[NRC-2017-0030]

RIN 3150-AK01

#### Inflation Adjustments to the Price-Anderson Act Financial Protection Regulations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to adjust for inflation the maximum total and annual standard deferred premiums specified in the

Price-Anderson Act. The NRC must perform this adjustment at least once during each 5-year period following August 20, 2003, as mandated by the Atomic Energy Act of 1954, as amended (AEA).

**DATES:** This rule is effective on November 1, 2018.

**ADDRESSES:** Please refer to Docket ID NRC-2017-0030 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0030. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Yanely Malave-Velez, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1519, email: [Yanely.Malave-Velez@nrc.gov](mailto:Yanely.Malave-Velez@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The NRC's regulations in part 140 of title 10 of the *Code of Federal Regulations* (10 CFR), “Financial Protection Requirements and Indemnity Agreements,” implement the financial protection requirements of certain licensees and other persons under section 170 of the AEA, also known as the Price-Anderson Act (Pub. L. 85-256,

71 Stat. 576), as amended and codified at 42 U.S.C. 2210. In 2005, Congress amended section 170 of the AEA (Pub. L. 109-58, 119 Stat. 780) to require the NRC to adjust for inflation the maximum total and annual standard deferred premiums that may be charged to a licensee following a nuclear incident. These adjustments must be performed not less than once during each 5-year period following August 20, 2003, in accordance with the aggregate percentage change in the Consumer Price Index (CPI) (<https://www.bls.gov/cpi>) for all urban consumers published by the Secretary of Labor. The NRC made the first periodic inflation adjustment required by this section on September 29, 2008 (73 FR 56451). The NRC last adjusted this amount in 2013, establishing the current maximum total deferred premium at \$121,255,000, and the maximum annual deferred premium at \$18,963,000 (78 FR 41835; July 12, 2013). This final rule makes the third required periodic inflation adjustment and results in a maximum total premium of \$131,056,000 and an annual standard deferred premium of \$20,496,000.

##### II. Discussion

Section 170(t) of the AEA (42 U.S.C. 2210(t)) requires the NRC to “adjust the amount of the maximum total and annual standard deferred premium not less than once during each 5-year period following August 20, 2003, in accordance with the aggregate percentage change in the Consumer Price Index,” since the previous adjustment. These amounts are codified in § 140.11, “Amounts of financial protection for certain reactors.” Accordingly, the NRC is amending § 140.11(a)(4) to adjust for the increase in inflation, since the last adjustment to these amounts was made in 2013.

The inflation adjustment that the NRC made on July 12, 2013 (78 FR 41835) and which took effect on September 10, 2013, raised the maximum total deferred premium in § 140.11(a)(4) to \$121,255,000 and the maximum annual deferred premium to \$18,963,000. The CPI figure used in calculating this adjustment was 232.773 (March 2013). The inflation adjustment in this final rule are based on a CPI figure of 251.588 (May 2018). This represents an increase of approximately 8.08 percent. The adjustment methodology used to calculate these values is described on the Bureau of Labor Statistics' website (<https://www.bls.gov>). When this increase is applied to the maximum total and annual standard deferred premiums and rounded to the nearest thousand, the new maximum total