

Registry Web site at <http://www.selectagents.gov/>.

(2) If an excluded attenuated strain or inactivated toxin is subjected to any manipulation that restores or enhances its virulence or toxic activity, the resulting select agent or toxin will be subject to the requirements of this part.

(f) Any select agent or toxin seized by a Federal law enforcement agency will be excluded from the requirements of this part during the period between seizure of the agent or toxin and the transfer or destruction of such agent or toxin provided that:

(1) As soon as practicable, the Federal law enforcement agency transfers the seized agent or toxin to an entity eligible to receive such agent or toxin or destroys the agent or toxin by a recognized sterilization or inactivation process.

(2) The Federal law enforcement agency safeguards and secures the seized agent or toxin against theft, loss, or release, and reports any theft, loss, or release of such agent or toxin.

(3) The Federal law enforcement agency reports the seizure of the select agent or toxin to APHIS or CDC. The seizure must be reported within 24 hours by telephone, facsimile, or e-mail. This report must be followed by submission of APHIS/CDC Form 4 within 7 calendar days after seizure of the select agent or toxin. A copy of the completed form must be maintained for 3 years.

(4) The Federal law enforcement agency reports the final disposition of the select agent or toxin to APHIS or CDC by submission of APHIS/CDC Form 4. A copy of the completed form must be maintained for 3 years.

[70 FR 13278, Mar. 18, 2005, as amended at 73 FR 61331, Oct. 16, 2008; 77 FR 61075, Oct. 5, 2012]

#### § 331.4 [Reserved]

#### § 331.5 Exemptions.

(a) Diagnostic laboratories and other entities that possess, use, or transfer a select agent or toxin that is contained in a specimen presented for diagnosis or verification will be exempt from the requirements of this part for such

agent or toxin contained in the specimen, provided that:

(1) Unless directed otherwise by the Administrator, within 7 calendar days after identification, the agent or toxin is transferred in accordance with § 331.16 or destroyed on-site by a recognized sterilization or inactivation process;

(2) The agent or toxin is secured against theft, loss, or release during the period between identification of the agent or toxin and transfer or destruction of such agent or toxin, and any theft, loss, or release of such agent or toxin is reported; and

(3) The identification of the agent or toxin is immediately reported to APHIS or CDC by telephone, facsimile, or e-mail. This report must be followed by submission of APHIS/CDC Form 4 within 7 calendar days after identification. Less stringent reporting may be required during agricultural emergencies or outbreaks, or in endemic areas. A copy of APHIS/CDC Form 4 must be maintained for 3 years.

(b) In addition to the exemption provided in paragraph (a) of this section, the Administrator may grant a specific exemption upon a showing of good cause and upon his or her determination that such exemption is consistent with protecting plant health or plant products. An individual or entity may request in writing an exemption from the requirements of this part. If granted, such exemptions are valid for a maximum of 3 years; thereafter, an individual or entity must request a new exemption. If a request for exemption is denied, an individual or entity may request reconsideration in writing to the Administrator. The request for reconsideration must state all of the facts and reasons upon which the individual or entity relies to show that the exemption was wrongfully denied. The Administrator will grant or deny the request for reconsideration as promptly as circumstances allow and will state, in writing, the reasons for the decision.