

Subsec. (i)(1)(C). Pub. L. 105-248, §11, inserted “(or of an accreditation body approved pursuant to subsection (e) of this section)” after “of the Secretary” and inserted “(or such accreditation body or State carrying out certification program requirements pursuant to subsection (q) of this section)” after “that the Secretary”.

Subsec. (i)(1)(D). Pub. L. 105-248, §9(3), inserted “or local” after “any State” and “or local agency” after “by the State”.

Subsec. (i)(2)(A). Pub. L. 105-248, §12, substituted “has reason to believe that the circumstance of the case will support one or more of the findings described in paragraph (1) and that—” and cls. (i) and (ii) for “makes the finding described in paragraph (1) and determines that—

“(i) the failure of a facility to comply with the standards established by the Secretary under subsection (f) of this section presents a serious risk to human health; or

“(ii) a facility has engaged in an action described in subparagraph (D) or (E) of paragraph (1).”

Subsec. (q)(4)(B). Pub. L. 105-248, §13, substituted “certified” for “accredited”.

Subsec. (r)(2)(A). Pub. L. 105-248, §2, substituted “subsection (p)” for “subsection (q)” and “2002” for “1997”.

Subsec. (r)(2)(B). Pub. L. 105-248, §2, substituted “fiscal years” for “fiscal year” and “2002” for “1997”.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

Pub. L. 93-641, §6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

REGULATIONS

Pub. L. 103-183, title VII, §707, Dec. 14, 1993, 107 Stat. 2241, provided that: “The Secretary of Health and Human Services is authorized to issue interim final regulations—

“(1) under which the Secretary may approve accreditation bodies under section 354(e) of the Public Health Service Act (42 U.S.C. 263b(e)); and

“(2) establishing quality standards under section 354(f) of the Public Health Service Act (42 U.S.C. 263b(f)).”

STUDY

Section 3 of Pub. L. 102-539 directed Comptroller General of United States to conduct a study of the certifi-

cation program authorized by this section to determine if the program has resulted in improvement of quality and accessibility of mammography services, and if the program has reduced the frequency of poor quality mammography and improved early detection of breast cancer, with Comptroller General, not later than 3 years from Oct. 27, 1992, submit to Congress an interim report of results of study and, not later than 5 years from such date to submit a final report.

PART G—QUARANTINE AND INSPECTION

§ 264. Regulations to control communicable diseases

(a) Promulgation and enforcement by Surgeon General

The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Apprehension, detention, or conditional release of individuals

Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General.¹

(c) Application of regulations to persons entering from foreign countries

Except as provided in subsection (d) of this section, regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) Apprehension and examination of persons reasonably believed to be infected

(1) Regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a qualifying stage and (A) to be moving or about to move from a State to another State; or (B) to be a probable source of infection to individuals who, while infected with such disease in a qualifying stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reason-

¹ So in original. Comma probably should not appear.

ably necessary. For purposes of this subsection, the term “State” includes, in addition to the several States, only the District of Columbia.

(2) For purposes of this subsection, the term “qualifying stage”, with respect to a communicable disease, means that such disease—

(A) is in a communicable stage; or

(B) is in a precommunicable stage, if the disease would be likely to cause a public health emergency if transmitted to other individuals.

(e) Preemption

Nothing in this section or section 266 of this title, or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or section 266 of this title.

(July 1, 1944, ch. 373, title III, §361, 58 Stat. 703; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 86-624, §29(c), July 12, 1960, 74 Stat. 419; Pub. L. 94-317, title III, §301(b)(1), June 23, 1976, 90 Stat. 707; Pub. L. 107-188, title I, §142(a)(1), (2), (b)(1), (c), June 12, 2002, 116 Stat. 626, 627.)

AMENDMENTS

2002—Pub. L. 107-188, §142(a)(1), (2), (b)(1), and (c), which directed certain amendments to section 361 of the Public Health Act, was executed by making the amendments to this section, which is section 361 of the Public Health Service Act, to reflect the probable intent of Congress. See below.

Subsec. (b). Pub. L. 107-188, §142(a)(1), substituted “Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General,” for “Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General”.

Subsec. (d). Pub. L. 107-188, §142(a)(2), (b)(1), substituted in first sentence “Regulations” for “On recommendation of the National Advisory Health Council, regulations”, “in a qualifying stage” for “in a communicable stage” in two places, designated existing text as par. (1) and substituted “(A)” and “(B)” for “(1)” and “(2)”, respectively, and added par. (2).

Subsec. (e). Pub. L. 107-188, §142(c), added subsec. (e). 1976—Subsec. (d). Pub. L. 94-317 inserted provision defining “State” to include, in addition to the several States, only the District of Columbia.

1960—Subsec. (c). Pub. L. 86-624 struck out reference to Territory of Hawaii.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-624 effective Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as a note under section 201 of this title.

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by

section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20.

EVALUATION OF PUBLIC HEALTH AUTHORITIES

Pub. L. 110-392, title I, §121, Oct. 13, 2008, 122 Stat. 4200, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Tuberculosis Elimination Act of 2008 [Oct. 13, 2008], the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that evaluates and provides recommendations on changes needed to Federal and State public health authorities to address current disease containment challenges such as isolation and quarantine.

“(b) CONTENTS OF EVALUATION.—The report described in subsection (a) shall include—

“(1) an evaluation of the effectiveness of current policies to detain patients with active tuberculosis;

“(2) an evaluation of whether Federal laws should be strengthened to expressly address the movement of individuals with active tuberculosis; and

“(3) specific legislative recommendations for changes to Federal laws, if any.

“(c) UPDATE OF QUARANTINE REGULATIONS.—Not later than 240 days after the date of enactment of this Act [Oct. 13, 2008], the Secretary of Health and Human Services shall promulgate regulations to update the current interstate and foreign quarantine regulations found in parts 70 and 71 of title 42, Code of Federal Regulations.”

EXECUTIVE ORDER NO. 12452

Ex. Ord. No. 12452, Dec. 22, 1983, 48 F.R. 56927, which specified certain communicable diseases for regulations providing for the apprehension, detention, or conditional release of individuals to prevent the introduction, transmission, or spread of such diseases, was revoked by Ex. Ord. No. 13295, §5, Apr. 4, 2003, 68 F.R. 17255, set out below.

EX. ORD. NO. 13295. REVISED LIST OF QUARANTINABLE COMMUNICABLE DISEASES

Ex. Ord. No. 13295, Apr. 4, 2003, 68 F.R. 17255, as amended by Ex. Ord. No. 13375, §1, Apr. 1, 2005, 70 F.R. 17299, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 361(b) of the Public Health Service Act (42 U.S.C. 264(b)), it is hereby ordered as follows:

SECTION 1. Based upon the recommendation of the Secretary of Health and Human Services (the “Secretary”), in consultation with the Surgeon General, and for the purpose of specifying certain communicable diseases for regulations providing for the apprehension, detention, or conditional release of individuals to prevent the introduction, transmission, or spread of suspected communicable diseases, the following communicable diseases are hereby specified pursuant to section 361(b) of the Public Health Service Act:

(a) Cholera; Diphtheria; infectious Tuberculosis; Plague; Smallpox; Yellow Fever; and Viral Hemorrhagic Fevers (Lassa, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named).

(b) Severe Acute Respiratory Syndrome (SARS), which is a disease associated with fever and signs and symptoms of pneumonia or other respiratory illness, is transmitted from person to person predominantly by the aerosolized or droplet route, and, if spread in the population, would have severe public health consequences.

(c) Influenza caused by novel or reemergent influenza viruses that are causing, or have the potential to cause, a pandemic.

SEC. 2. The Secretary, in the Secretary's discretion, shall determine whether a particular condition constitutes a communicable disease of the type specified in section 1 of this order.

SEC. 3. The functions of the President under sections 362 and 364(a) of the Public Health Service Act (42 U.S.C. 265 and 267(a)) are assigned to the Secretary.

SEC. 4. This order is not intended to, and does not, create any right or benefit enforceable at law or equity by any party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

SEC. 5. Executive Order 12452 of December 22, 1983, is hereby revoked.

GEORGE W. BUSH.

§ 265. Suspension of entries and imports from designated places to prevent spread of communicable diseases

Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.

(July 1, 1944, ch. 373, title III, §362, 58 Stat. 704.)

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

DELEGATION OF FUNCTIONS

For assignment of functions of President under this section, see section 3 of Ex. Ord. No. 13295, Apr. 4, 2003, 68 F.R. 17255, set out as a note under section 264 of this title.

§ 266. Special quarantine powers in time of war

To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 264 of this title, the Secretary, in consultation with the Surgeon General, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonable necessary.

(July 1, 1944, ch. 373, title III, §363, 58 Stat. 704; Pub. L. 107-188, title I, §142(a)(3), (b)(2), June 12, 2002, 116 Stat. 626, 627.)

AMENDMENTS

2002—Pub. L. 107-188, which directed substitution of “the Secretary, in consultation with the Surgeon General,” for “the Surgeon General, on recommendation of the National Advisory Health Council,” and striking out of “in a communicable stage” after “(1) to be infected with such disease”, in section 363 of the Public Health Act, was executed to this section, which is section 363 of the Public Health Service Act, to reflect the probable intent of Congress.

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 267. Quarantine stations, grounds, and anchorages

(a) Control and management

Except as provided in title II of the Act of June 15, 1917, as amended [50 U.S.C. 191 et seq.], the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suitable sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) Hours of inspection

The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States.