5. other emerging policy issues relevant to the security of BSAT.

Thereafter, the Panel shall continue to provide technical advice concerning the SAP on request.

(iv) If the Panel is unable to reach consensus on recommendations for an issue within its charge, the matter shall be resolved through the interagency policy committee process led by the National Security Staff.

(v) The Secretaries of Health and Human Services and Agriculture and the Attorney General shall report to the Assistant to the President for Homeland Security and Counterterrorism on the consideration and implementation of Panel recommendations concerning the SAP, including a rationale for failure to implement any recommendations.

(vi) The Panel shall be chartered for a period of 4 years subject to renewal through the interagency policy committee process led by the National Security Staff.

(b) To further assist the Secretaries of Health and Human Services and Agriculture and the Attorney General in implementing the policy set forth in sections 1, 4, 5, and 6 of this order, the National Science Advisory Board for Biosecurity shall provide technical advice and serve as a conduit for public consultation, as needed, on topics of relevance to the SAP.

SEC. 8. *Sharing of Select Agent Program Information*. (a) Consistent with applicable laws and regulations, the Secretaries of Health and Human Services and Agriculture and the Attorney General shall, no later than 6 months from the date of this order, develop a process and the criteria for making SAP information available to executive departments and agencies when such information is necessary for furthering a public health, safety, security, law enforcement, or national security mission.

(b) SAP information shall continue to be safeguarded properly and handled securely to minimize the risk of disclosing sensitive, personal, and other information protected by the Privacy Act, 5 U.S.C. 552a.

SEC. 9. *General Provisions*. (a) The National Security Staff shall, on a biennial basis, review the implementation and effectiveness of this order and refer to the interagency policy committee process any issues that require further deliberation or adjudication.

(b) Nothing in this order shall be construed to impair or otherwise affect the authority granted by law to a department or agency, or the head thereof, or functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

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

BARACK OBAMA.

§ 263. Preparation of biological products by Service

(a) The Service may prepare for its own use any product described in section 262 of this title and any product necessary to carrying out any of the purposes of section 241 of this title.

(b) The Service may prepare any product described in section 262 of this title for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section.

(July 1, 1944, ch. 373, title III, § 352, 58 Stat. 703.)

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, 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.

SUBPART 2—CLINICAL LABORATORIES

§ 263a. Certification of laboratories

(a) "Laboratory" or "clinical laboratory" defined

As used in this section, the term ''laboratory'' or ''clinical laboratory'' means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(b) Certificate requirement

No person may solicit or accept materials derived from the human body for laboratory examination or other procedure unless there is in effect for the laboratory a certificate issued by the Secretary under this section applicable to the category of examinations or procedures which includes such examination or procedure.

(c) Issuance and renewal of certificates

(1) In general

The Secretary may issue or renew a certificate for a laboratory only if the laboratory meets the requirements of subsection (d) of this section.

(2) Term

A certificate issued under this section shall be valid for a period of 2 years or such shorter period as the Secretary may establish.

(d) Requirements for certificates

(1) In general

A laboratory may be issued a certificate or have its certificate renewed if—

(A) the laboratory submits (or if the laboratory is accredited under subsection (e) of this section, the accreditation body which accredited the laboratory submits), an application—

(i) in such form and manner as the Secretary shall prescribe,

(ii) that describes the characteristics of the laboratory examinations and other procedures performed by the laboratory including—

(I) the number and types of laboratory examinations and other procedures performed,

(II) the methodologies for laboratory examinations and other procedures employed, and

(III) the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures, and

(iii) that contains such other information as the Secretary may require to determine compliance with this section, and

the laboratory agrees to provide to the Secretary (or if the laboratory is accredited, to the accreditation body which accredited it) a description of any change in the information submitted under clause (ii) not later than 6 months after the change was put into effect,

(B) the laboratory provides the Secretary—

(i) with satisfactory assurances that the laboratory will be operated in accordance with standards issued by the Secretary under subsection (f) of this section, or

(ii) with proof of accreditation under subsection (e) of this section,

(C) the laboratory agrees to permit inspections by the Secretary under subsection (g) of this section,

(D) the laboratory agrees to make records available and submit reports to the Secretary as the Secretary may reasonably require, and

(E) the laboratory agrees to treat proficiency testing samples in the same manner as it treats materials derived from the human body referred to it for laboratory examinations or other procedures in the ordinary course of business.

(2) Requirements for certificates of waiver

(A) In general

A laboratory which only performs laboratory examinations and procedures described in paragraph (3) shall be issued a certificate of waiver or have its certificate of waiver renewed if—

(i) the laboratory submits an application—

(I) in such form and manner as the Secretary shall prescribe,

(II) that describes the characteristics of the laboratory examinations and other procedures performed by the laboratory, including the number and types of laboratory examinations and other procedures performed, the methodologies for laboratory examinations and other procedures employed, and the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures, and

(III) that contains such other information as the Secretary may reasonably require to determine compliance with this section, and

(ii) the laboratory agrees to make records available and submit reports to the Secretary as the Secretary may require.

(B) Changes

If a laboratory makes changes in the examinations and other procedures performed by it only with respect to examinations and procedures which are described in paragraph (3), the laboratory shall report such changes to the Secretary not later than 6 months after the change has been put into effect. If a laboratory proposes to make changes in the examinations and procedures performed by it such that the laboratory will perform an examination or procedure not described in paragraph (3), the laboratory shall report such change to the Secretary before the change takes effect.

(C) Effect

Subsections (f) and (g) of this section shall not apply to a laboratory to which has been issued a certificate of waiver.

(3) Examinations and procedures

The examinations and procedures identified in paragraph (2) are laboratory examinations and procedures that have been approved by the Food and Drug Administration for home use or that, as determined by the Secretary, are simple laboratory examinations and procedures that have an insignificant risk of an erroneous result, including those that—

(A) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results by the user negligible, or

(B) the Secretary has determined pose no unreasonable risk of harm to the patient if performed incorrectly.

(4) "Certificate" defined

As used in this section, the term ''certificate'' includes a certificate of waiver issued under paragraph (2).

(e) Accreditation

(1) In general

A laboratory may be accredited for purposes of obtaining a certificate if the laboratory—

(A) meets the standards of an approved accreditation body, and

(B) authorizes the accreditation body to submit to the Secretary (or such State agency as the Secretary may designate) such records or other information as the Secretary may require.

(2) Approval of accreditation bodies

(A) In general

The Secretary may approve a private nonprofit organization to be an accreditation body for the accreditation of laboratories if—

(i) using inspectors qualified to evaluate the methodologies used by the laboratories in performing laboratory examinations and other procedures, the accreditation body agrees to inspect a laboratory for purposes of accreditation with such frequency as determined by[1] Secretary,

(ii) the standards applied by the body in determining whether or not to accredit a laboratory are equal to or more stringent than the standards issued by the Secretary under subsection (f) of this section,

(iii) there is adequate provision for assuring that the standards of the accreditation body continue to be met by the laboratory,

[1] So in original. Probably should be ''by the''.

(iv) in the case of any laboratory accredited by the body which has had its accreditation denied, suspended, withdrawn, or revoked or which has had any other action taken against it by the accrediting body, the accrediting body agrees to submit to the Secretary the name of such laboratory within 30 days of the action taken,

(v) the accreditation body agrees to notify the Secretary at least 30 days before it changes its standards, and

(vi) if the accreditation body has its approval withdrawn by the Secretary, the body agrees to notify each laboratory accredited by the body of the withdrawal within 10 days of the withdrawal.

(B) Criteria and procedures

The Secretary shall promulgate criteria and procedures for approving an accreditation body and for withdrawing such approval if the Secretary determines that the accreditation body does not meet the requirements of subparagraph (A).

(C) Effect of withdrawal of approval

If the Secretary withdraws the approval of an accreditation body under subparagraph (B), the certificate of any laboratory accredited by the body shall continue in effect for 60 days after the laboratory receives notification of the withdrawal of the approval, except that the Secretary may extend such period for a laboratory if it determines that the laboratory submitted an application for accreditation or a certificate in a timely manner after receipt of the notification of the withdrawal of approval. If an accreditation body withdraws or revokes the accreditation of a laboratory, the certificate of the laboratory shall continue in effect—

(i) for 45 days after the laboratory receives notice of the withdrawal or revocation of the accreditation, or

(ii) until the effective date of any action taken by the Secretary under subsection (i) of this section.

(D) Evaluations

The Secretary shall evaluate annually the performance of each approved accreditation body by—

(i) inspecting under subsection (g) of this section a sufficient number of the laboratories accredited by such body to allow a reasonable estimate of the performance of such body, and

(ii) such other means as the Secretary determines appropriate.

(3) Omitted

(f) Standards

(1) In general

The Secretary shall issue standards to assure consistent performance by laboratories issued a certificate under this section of valid and reliable laboratory examinations and other procedures. Such standards shall require each laboratory issued a certificate under this section—

(A) to maintain a quality assurance and quality control program adequate and appropriate for the validity and reliability of the laboratory examinations and other procedures of the laboratory and to meet requirements relating to the proper collection, transportation, and storage of specimens and the reporting of results,

(B) to maintain records, equipment, and facilities necessary for the proper and effective operation of the laboratory,

(C) in performing and carrying out its laboratory examinations and other procedures, to use only personnel meeting such qualifications as the Secretary may establish for the direction, supervision, and performance of examinations and procedures within the laboratory, which qualifications shall take into consideration competency, training, experience, job performance, and education and which qualifications shall, as appropriate, be different on the basis of the type of examinations and procedures being performed by the laboratory and the risks and consequences of erroneous results associated with such examinations and procedures,

(D) to qualify under a proficiency testing program meeting the standards established by the Secretary under paragraph (3), and

(E) to meet such other requirements as the Secretary determines necessary to assure consistent performance by such laboratories of accurate and reliable laboratory examinations and procedures.

(2) Considerations

In developing the standards to be issued under paragraph (1), the Secretary shall, within the flexibility provided under subparagraphs (A) through (E) of paragraph (1), take into consideration—

(A) the examinations and procedures performed and the methodologies employed,

(B) the degree of independent judgment involved,

(C) the amount of interpretation involved,

(D) the difficulty of the calculations involved,

(E) the calibration and quality control requirements of the instruments used,

(F) the type of training required to operate the instruments used in the methodology, and

(G) such other factors as the Secretary considers relevant.

(3) Proficiency testing program

(A) In general

The Secretary shall establish standards for the proficiency testing programs for laboratories issued a certificate under this section which are conducted by the Secretary, conducted by an organization approved under subparagraph (C), or conducted by an approved accrediting body. The standards shall require that a laboratory issued a certificate under this section be tested for each examination and procedure conducted within a category of examinations or procedures for which it has received a certificate, except for examinations and procedures for which the Secretary has determined that a proficiency test cannot reasonably be devel-

oped. The testing shall be conducted on a quarterly basis, except where the Secretary determines for technical and scientific reasons that a particular examination or procedure may be tested less frequently (but not less often than twice per year).

(B) Criteria

The standards established under subparagraph (A) shall include uniform criteria for acceptable performance under a proficiency testing program, based on the available technology and the clinical relevance of the laboratory examination or other procedure subject to such program. The criteria shall be established for all examinations and procedures and shall be uniform for each examination and procedure. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory has performed acceptably for a particular quarter and acceptably for a particular examination or procedure or category of examination or procedure over a period of successive quarters.

(C) Approved proficiency testing programs

For the purpose of administering proficiency testing programs which meet the standards established under subparagraph (A), the Secretary shall approve a proficiency testing program offered by a private nonprofit organization or a State if the program meets the standards established under subparagraph (A) and the organization or State provides technical assistance to laboratories seeking to qualify under the program. The Secretary shall evaluate each program approved under this subparagraph annually to determine if the program continues to meet the standards established under subparagraph (A) and shall withdraw the approval of any program that no longer meets such standards.

(D) Onsite testing

The Secretary shall perform, or shall direct a program approved under subparagraph (C) to perform, onsite proficiency testing to assure compliance with the requirements of subsection (d)(5) of this section. The Secretary shall perform, on an onsite or other basis, proficiency testing to evaluate the performance of a proficiency testing program approved under subparagraph (C) and to assure quality performance by a laboratory.

(E) Training, technical assistance, and enhanced proficiency testing

The Secretary may, in lieu of or in addition to actions authorized under subsection (h), (i), or (j) of this section, require any laboratory which fails to perform acceptably on an individual examination and procedure or a category of examination and procedures—

(i) to undertake training and to obtain the necessary technical assistance to meet the requirements of the proficency[2] testing program,

(ii) to enroll in a program of enhanced proficiency testing, or

(iii) to undertake any combination of the training, technical assistance, or testing described in clauses (i) and (ii).

(F) Testing results

The Secretary shall establish a system to make the results of the proficiency testing programs subject to the standards established by the Secretary under subparagraph (A) available, on a reasonable basis, upon request of any person. The Secretary shall include with results made available under this subparagraph such explanatory information as may be appropriate to assist in the interpretation of such results.

(4) National standards for quality assurance in cytology services

(A) Establishment

The Secretary shall establish national standards for quality assurance in cytology services designed to assure consistent performance by laboratories of valid and reliable cytological services.

(B) Standards

The standards established under subparagraph (A) shall include—

(i) the maximum number of cytology slides that any individual may screen in a 24-hour period,

(ii) requirements that a clinical laboratory maintain a record of (I) the number of cytology slides screened during each 24-hour period by each individual who examines cytology slides for the laboratory, and (II) the number of hours devoted during each 24-hour period to screening cytology slides by such individual,

(iii) criteria for requiring rescreening of cytological preparations, such as (I) random rescreening of cytology specimens determined to be in the benign category, (II) focused rescreening of such preparations in high risk groups, and (III) for each abnormal cytological result, rescreening of all prior cytological specimens for the patient, if available,

(iv) periodic confirmation and evaluation of the proficiency of individuals involved in screening or interpreting cytological preparations, including announced and unannounced on-site proficiency testing of such individuals, with such testing to take place, to the extent practicable, under normal working conditions,

(v) procedures for detecting inadequately prepared slides, for assuring that no cytological diagnosis is rendered on such slides, and for notifying referring physicians of such slides,

(vi) requirements that all cytological screening be done on the premises of a laboratory that is certified under this section,

(vii) requirements for the retention of cytology slides by laboratories for such periods of time as the Secretary considers appropriate, and

(viii) standards requiring periodic inspection of cytology services by persons

[2] So in original. Probably should be ''proficiency''.

capable of evaluating the quality of cytology services.

(g) Inspections

(1) In general

The Secretary may, on an announced or unannounced basis, enter and inspect, during regular hours of operation, laboratories which have been issued a certificate under this section. In conducting such inspections the Secretary shall have access to all facilities, equipment, materials, records, and information that the Secretary determines have a bearing on whether the laboratory is being operated in accordance with this section. As part of such an inspection the Secretary may copy any such material or require to it[3] be submitted to the Secretary. An inspection under this paragraph may be made only upon presenting identification to the owner, operator, or agent in charge of the laboratory being inspected.

(2) Compliance with requirements and standards

The Secretary shall conduct inspections of laboratories under paragraph (1) to determine their compliance with the requirements of subsection (d) of this section and the standards issued under subsection (f) of this section. Inspections of laboratories not accredited under subsection (e) of this section shall be conducted on a biennial basis or with such other frequency as the Secretary determines to be necessary to assure compliance with such requirements and standards. Inspections of laboratories accredited under subsection (e) of this section shall be conducted on such basis as the Secretary determines is necessary to assure compliance with such requirements and standards.

(h) Intermediate sanctions

(1) In general

If the Secretary determines that a laboratory which has been issued a certificate under this section no longer substantially meets the requirements for the issuance of a certificate, the Secretary may impose intermediate sanctions in lieu of the actions authorized by subsection (i) of this section.

(2) Types of sanctions

The intermediate sanctions which may be imposed under paragraph (1) shall consist of—

(A) directed plans of correction,

(B) civil money penalties in an amount not to exceed $10,000 for each violation listed in subsection (i)(1) of this section or for each day of substantial noncompliance with the requirements of this section,

(C) payment for the costs of onsite monitoring, or

(D) any combination of the actions described in subparagraphs (A), (B), and (C).

(3) Procedures

The Secretary shall develop and implement procedures with respect to when and how each of the intermediate sanctions is to be imposed under paragraph (1). Such procedures shall provide for notice to the laboratory and a reasonable opportunity to respond to the proposed sanction and appropriate procedures for appealing determinations relating to the imposition of intermediate sanctions[4]

(i) Suspension, revocation, and limitation

(1) In general

Except as provided in paragraph (2), the certificate of a laboratory issued under this section may be suspended, revoked, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

(A) has been guilty of misrepresentation in obtaining the certificate,

(B) has performed or represented the laboratory as entitled to perform a laboratory examination or other procedure which is not within a category of laboratory examinations or other procedures authorized in the certificate,

(C) has failed to comply with the requirements of subsection (d) of this section or the standards prescribed by the Secretary under subsection (f) of this section,

(D) has failed to comply with reasonable requests of the Secretary for—

(i) any information or materials, or

(ii) work on materials,

that the Secretary concludes is necessary to determine the laboratory's continued eligibility for its certificate or continued compliance with the Secretary's standards under subsection (f) of this section,

(E) has refused a reasonable request of the Secretary, or any Federal officer or employee duly designated by the Secretary, for permission to inspect the laboratory and its operations and pertinent records during the hours the laboratory is in operation,

(F) has violated or aided and abetted in the violation of any provisions of this section or of any regulation promulgated thereunder, or

(G) has not complied with an intermediate sanction imposed under subsection (h) of this section.

(2) Action before a hearing

If the Secretary determines that—

(A) the failure of a laboratory to comply with the standards of the Secretary under subsection (f) of this section presents an imminent and serious risk to human health, or

(B) a laboratory has engaged in an action described in subparagraph (D) or (E) of paragraph (1),

the Secretary may suspend or limit the certificate of the laboratory before holding a hearing under paragraph (1) regarding such failure or refusal. The opportunity for a hearing shall be provided no later than 60 days from the effective date of the suspension or limitation. A suspension or limitation under this paragraph shall stay in effect until the decision of the Secretary made after the hearing under paragraph (1).

[3] So in original. Probably should be ''require it to''.

[4] So in original. Probably should be followed by a period.

(3) Ineligibility to own or operate laboratories after revocation

No person who has owned or operated a laboratory which has had its certificate revoked may, within 2 years of the revocation of the certificate, own or operate a laboratory for which a certificate has been issued under this section. The certificate of a laboratory which has been excluded from participation under the medicare program under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] because of actions relating to the quality of the laboratory shall be suspended for the period the laboratory is so excluded.

(4) Improper referrals

Any laboratory that the Secretary determines intentionally refers its proficiency testing samples to another laboratory for analysis shall have its certificate revoked for at least one year and shall be subject to appropriate fines and penalties as provided for in subsection (h) of this section.

(j) Injunctions

Whenever the Secretary has reason to believe that continuation of any activity by a laboratory would constitute a significant hazard to the public health the Secretary may bring suit in the district court of the United States for the district in which such laboratory is situated to enjoin continuation of such activity. Upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this subsection shall be granted without bond by such court.

(k) Judicial review

(1) Petition

Any laboratory which has had an intermediate sanction imposed under subsection (h) of this section or has had its certificate suspended, revoked, or limited under subsection (i) of this section may, at any time within 60 days after the date the action of the Secretary under subsection (i) or (h) of this section becomes final, file a petition with the United States court of appeals for the circuit wherein the laboratory has its principal place of business for judicial review of such action. As soon as practicable after receipt of the petition, the clerk of the court shall transmit a copy of the petition to the Secretary or other officer designated by the Secretary for that purpose. As soon as practicable after receipt of the copy, the Secretary shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28.

(2) Additional evidence

If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal of such additional evidence) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Judgment of court

Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) Finality of judgment

The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(*l*) Sanctions

Any person who intentionally violates any requirement of this section or any regulation promulgated thereunder shall be imprisoned for not more than one year or fined under title 18, or both, except that if the conviction is for a second or subsequent violation of such a requirement such person shall be imprisoned for not more than 3 years or fined in accordance with title 18, or both.

(m) Fees

(1) Certificate fees

The Secretary shall require payment of fees for the issuance and renewal of certificates, except that the Secretary shall only require a nominal fee for the issuance and renewal of certificates of waiver.

(2) Additional fees

The Secretary shall require the payment of fees for inspections of laboratories which are not accredited and for the cost of performing proficiency testing on laboratories which do not participate in proficiency testing programs approved under subsection (f)(3)(C) of this section.

(3) Criteria

(A) Fees under paragraph (1)

Fees imposed under paragraph (1) shall be sufficient to cover the general costs of administering this section, including evaluating and monitoring proficiency testing programs approved under subsection (f) of this section and accrediting bodies and implementing and monitoring compliance with the requirements of this section.

(B) Fees under paragraph (2)

Fees imposed under paragraph (2) shall be sufficient to cover the cost of the Secretary in carrying out the inspections and proficiency testing described in paragraph (2).

(C) Fees imposed under paragraphs (1) and (2)

Fees imposed under paragraphs (1) and (2) shall vary by group or classification of lab-

oratory, based on such considerations as the Secretary determines are relevant, which may include the dollar volume and scope of the testing being performed by the laboratories.

(n) Information

On April 1, 1990 and annually thereafter, the Secretary shall compile and make available to physicians and the general public information, based on the previous calendar year, which the Secretary determines is useful in evaluating the performance of a laboratory, including—

(1) a list of laboratories which have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks,

(2) a list of laboratories—

(A) which have had their certificates revoked, suspended, or limited under subsection (i) of this section, or

(B) which have been the subject of a sanction under subsection (*l*) of this section,

together with a statement of the reasons for the revocation, suspension, limitation, or sanction,

(3) a list of laboratories subject to intermediate sanctions under subsection (h) of this section together with a statement of the reasons for the sanctions,

(4) a list of laboratories whose accreditation has been withdrawn or revoked together with a statement of the reasons for the withdrawal or revocation,

(5) a list of laboratories against which the Secretary has taken action under subsection (j) of this section together with a statement of the reasons for such action, and

(6) a list of laboratories which have been excluded from participation under title XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

The information to be compiled under paragraphs (1) through (6) shall be information for the calendar year preceding the date the information is to be made available to the public and shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraphs.

(*o*) Delegation

In carrying out this section, the Secretary may, pursuant to agreement, use the services or facilities of any Federal or State or local public agency or nonprofit private organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(p) State laws

(1) Except as provided in paragraph (2), nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with this section or with the regulations issued under this section.

(2) If a State enacts laws relating to matters covered by this section which provide for requirements equal to or more stringent than the requirements of this section or than the regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.

(q) Consultations

In carrying out this section, the Secretary shall consult with appropriate private organizations and public agencies.

(July 1, 1944, ch. 373, title III, § 353, as added Pub. L. 90–174, § 5(a), Dec. 5, 1967, 81 Stat. 536; amended Pub. L. 100–578, § 2, Oct. 31, 1988, 102 Stat. 2903; Pub. L. 105–115, title I, § 123(h), Nov. 21, 1997, 111 Stat. 2324.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (i)(3) and (n)(6), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CODIFICATION

Subsec. (e)(3) of this section, which required the Secretary to annually prepare and submit to certain committees of Congress a report describing the results of the evaluation conducted under subsec. (e)(2)(D) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 96 of House Document No. 103–7.

AMENDMENTS

1997—Subsec. (d)(3). Pub. L. 105–115 amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''The examinations and procedures identified in paragraph (2) are simple laboratory examinations and procedures which, as determined by the Secretary, have an insignificant risk of an erroneous result, including those which—

''(A) have been approved by the Food and Drug Administration for home use,

''(B) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible, or

''(C) the Secretary has determined pose no reasonable risk of harm to the patient if performed incorrectly.''

1988—Pub. L. 100–578 substituted ''Certification of laboratories'' for ''Licensing of laboratories'' in section catchline, and amended text generally, revising and restating as subsecs. (a) to (q) provisions of former subsecs. (a) to (*l*).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–115 effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105–115, set out as a note under section 321 of Title 21, Food and Drugs.

EFFECTIVE DATE OF 1988 AMENDMENT; EXCEPTIONS; CONTINUING APPLICABILITY

Section 3 of Pub. L. 100–578 provided that: ''Subsections (g)(1), (h), (i), (j), (k), (*l*), and (m) of section 353 of the Public Health Service Act [this section], as amended by section 101 [probably means section 2 of Pub. L. 100–578], shall take effect January 1, 1989, except that any reference in such subsections to the standards established under subsection (f) shall be considered a reference to the standards established under subsection (d) of such section 353, as in effect on December 31, 1988. During the period beginning January 1, 1989, and ending December 31, 1989, subsections (a) through (d) and subsection (i) through (*l*) of such section 353 as in effect on December 31, 1988, shall continue

to apply to clinical laboratories. The remaining subsections of such section 353, as so amended, shall take effect January 1, 1990, except that subsections (f)(1)(C) and (g)(2) shall take effect July 1, 1991, with respect to laboratories which were not subject to the requirements of such section 353 as in effect on December 31, 1988.''

EFFECTIVE DATE

Section 5(b) of Pub. L. 90–174 provided that: ''The amendment made by subsection (a) [enacting this section] shall become effective on the first day of the thirteenth month after the month [December 1967] in which it is enacted, except that the Secretary of Health, Education, and Welfare may postpone such effective date for such additional period as he finds necessary, but not beyond the first day of the 19th month after such month [December 1967] in which the amendment is enacted.''

STUDIES

Section 4 of Pub. L. 100–578 directed Secretary to conduct studies and submit report to Congress, not later than May 1, 1990, relating to the reliability and quality control procedures of clinical laboratory testing programs and the effect of errors in the testing procedures and results on the diagnosis and treatment of patients.

§ 263a–1. Assisted reproductive technology programs

(a) In general

Effective 2 years after October 24, 1992, each assisted reproductive technology (as defined in section 263a–7[1] of this title) program shall annually report to the Secretary through the Centers for Disease Control—

(1) pregnancy success rates achieved by such program through each assisted reproductive technology, and

(2) the identity of each embryo laboratory (as defined in section 263a–7[1] of this title) used by such program and whether the laboratory is certified under section 263a–2 of this title or has applied for such certification.

(b) Pregnancy success rates

(1) In general

For purposes of subsection (a)(1) of this section, the Secretary shall, in consultation with the organizations referenced in subsection (c) of this section, define pregnancy success rates and shall make public any proposed definition in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development.

(2) Definition

In developing the definition of pregnancy success rates, the Secretary shall take into account the effect on success rates of age, diagnosis, and other significant factors and shall include in such rates—

(A) the basic live birth rate calculated for each assisted reproductive technology performed by an assisted reproductive technology program by dividing the number of pregnancies which result in live births by the number of ovarian stimulation procedures attempted by such program, and

(B) the live birth rate per successful oocyte retrieval procedure calculated for each assisted reproductive technology performed by an assisted reproductive technology program by dividing the number of pregnancies which result in live births by the number of successful oocyte retrieval procedures performed by such program.

(c) Consultation

In developing the definition under subsection (b) of this section, the Secretary shall consult with appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with assisted reproductive technologies.

(Pub. L. 102–493, § 2, Oct. 24, 1992, 106 Stat. 3146.)

REFERENCES IN TEXT

Section 263a–7 of this title, referred to in subsec. (a), was in the original ''section 7'' meaning section 7 of Pub. L. 102–493, which was translated as reading section 8 to reflect the probable intent of Congress, because definitions are contained in section 8 instead of section 7.

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section 9 of Pub. L. 102–493 provided that: ''This Act [enacting this section, sections 263a–2 to 263a–7 of this title, and provisions set out as a note under section 201 of this title] shall take effect upon the expiration of 2 years after the date of the enactment of this Act [Oct. 24, 1992].''

§ 263a–2. Certification of embryo laboratories

(a) In general

(1) Development

Not later than 2 years after October 24, 1992, the Secretary, through the Centers for Disease Control, shall develop a model program for the certification of embryo laboratories (referred to in this section as a ''certification program'') to be carried out by the States.

(2) Consultation

In developing the certification program under paragraph (1), the Secretary shall consult with appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with the assisted reproductive technology programs.

(b) Distribution

The Secretary shall distribute a description of the certification program to—

(1) the Governor of each State,

(2) the presiding officers of each State legislature,

(3) the public health official of each State, and

(4) the official responsible in each State for the operation of the State's contract with the Secretary under section 1395aa of this title,

[1] See References in Text note below.

and shall encourage such officials to assist in the State adopting such program.

(c) Requirements

The certification program shall include the following requirements:

(1) Administration

The certification program shall be administered by the State and shall provide for the inspection and certification of embryo laboratories in the State by the State or by approved accreditation organizations.

(2) Application requirements

The certification program shall provide for the submission of an application to a State by an embryo laboratory for certification, in such form as may be specified by the State. Such an application shall include—

(A) assurances satisfactory to the State that the embryo laboratory will be operated in accordance with the standards under subsection (d) of this section,

(B) a report to the State identifying the assisted reproductive technology programs with which the laboratory is associated, and

(C) such other information as the State finds necessary.

An embryo laboratory which meets the requirements of section 263a of this title shall, for the purposes of subparagraph (A) be considered in compliance with the standards referred to in such subparagraph which are the same as the standards in effect under section 263a of this title.

(d) Standards

The certification program shall include the following standards developed by the Secretary:

(1) A standard to assure consistent performance of procedures by each embryo laboratory certified under the certification program or by an approved accreditation organization in a State which has not adopted the certification program.

(2) A standard for a quality assurance and a quality control program to assure valid, reliable, and reproduceable[1] procedures in the laboratory.

(3) A standard for the maintenance of records (on a program by program basis) on laboratory tests and procedures performed, including the scientific basis of, and the methodology used for, the tests, procedures, and preparation of any standards or controls, criteria for acceptable and unacceptable outcomes, criteria for sample rejection, and procedures for safe sample disposal.

(4) A standard for the maintenance of written records on personnel and facilities necessary for proper and effective operation of the laboratory, schedules of preventive maintenance, function verification for equipment, and the release of such records to the State upon demand.

(5) A standard for the use of such personnel who meet such qualifications as the Secretary may develop.

(e) Certification under State programs

A State may qualify to adopt the certification program if the State has submitted an application to the Secretary to adopt such program and the Secretary has approved the application. Such an application shall include—

(1) assurances by the State satisfactory to the Secretary that the certification program within the State meets the requirements of this section,

(2) an agreement to make such reports as the Secretary may require, and

(3) information about any proposed use of accreditation organizations under subsection (g)[2] of this section.

(f) Use of accreditation organizations

A State which has adopted the certification program may use accreditation organizations approved under section 263a–3 of this title to inspect and certify embryo laboratories.

(g) Inspections

(1) In general

A State which qualifies to adopt the certification program within the State shall conduct inspections in accordance with paragraph (2) to determine if laboratories in the State meet the requirements of such program. Such inspections shall be carried out by the State or by accreditation organizations used by the State under subsection (g)[2] of this section.

(2) Requirements

Inspections carried out under paragraph (1) shall—

(A) be periodic and unannounced, or

(B) be announced in such circumstances as the Secretary determines will not diminish the likelihood of discovering deficiencies in the operations of a laboratory.

Before making a determination under subparagraph (B), the Secretary shall make public, in such manner as to facilitate comment from any person (including any Federal or other public agency), a proposal indicating the circumstances under which announced inspections would be permitted.

(3) Results

The specific findings, including deficiencies, identified in an inspection carried out under paragraph (1) and any subsequent corrections to those deficiencies shall be announced and made available to the public upon request beginning no later than 60 days after the date of the inspection.

(h) Validation inspections

(1) In general

The Secretary may enter and inspect, during regular hours of operation, embryo laboratories—

(A) which have been certified by a State under the certification program, or

(B) which have been certified by an accreditation organization approved by the Secretary under section 263a–3 of this title,

for the purpose of determining whether the laboratory is being operated in accordance

[1] So in original. Probably should be ''reproducible''.

[2] So in original. Probably should be subsection ''(f)''.

with the standards in subsection (d) of this section.

(2) Access to facilities and records

In conducting an inspection of an embryo laboratory under paragraph (1), the Secretary shall have access to all facilities, equipment, materials, records, and information which the Secretary determines is necessary to determine if such laboratory is being operated in accordance with the standards in subsection (d) of this section. As part of such an inspection, the Secretary may copy any material, record, or information inspected or require it to be submitted to the Secretary. Such an inspection may be made only upon the presentation of identification to the owner, operator, or agent in charge of the laboratory being inspected.

(3) Failure to comply

If the Secretary determines as a result of an inspection under paragraph (1) that the embryo laboratory is not in compliance with the standards in subsection (d) of this section, the Secretary shall—

(A) notify the State in which the laboratory is located and, if appropriate, the accreditation organization which certified the laboratory,

(B) make available to the public the results of the inspection,

(C) conduct additional inspections of other embryo laboratories under paragraph (1) to determine if—

(i) such State in carrying out the certification program is reliably identifying the deficiencies of such laboratory, or

(ii) the accreditation organization which certified such laboratories is reliably identifying such deficencies,[3] and

(D) if the Secretary determines—

(i) that such State in carrying out the certification program has not met the requirements applicable to such program, or

(ii) the accreditation organization which certified such laboratory has not met the requirements of section 263a–3 of this title,

the Secretary may revoke the approval of the State certification program or revoke the approval of such accreditation organization.

(i) Limitation

(1) Secretary

In developing the certification program, the Secretary may not establish any regulation, standard, or requirement which has the effect of exercising supervision or control over the practice of medicine in assisted reproductive technology programs.

(2) State

In adopting the certification program, a State may not establish any regulation, standard, or requirement which has the effect of exercising supervision or control over the practice of medicine in assisted reproductive technology programs.

(j) Term

The term of a certification issued by a State or an accreditation organization in a State shall be prescribed by the Secretary in the certification program and shall be valid for a period of time to be defined by the Secretary through the public comment process described in subsection (h)(2)[4] of this section. The Secretary shall provide an application for recertification to be submitted at the time of changes in the ownership of a certified laboratory or changes in the administration of such a laboratory.

(Pub. L. 102–493, § 3, Oct. 24, 1992, 106 Stat. 3146.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

§ 263a–3. Accreditation organizations

(a) Approval of accreditation organizations

Not later than 2 years after October 24, 1992, the Secretary, through the Centers for Disease Control, shall promulgate criteria and procedures for the approval of accreditation organizations to inspect and certify embryo laboratories. The procedures shall require an application to the Secretary by an accreditation organization for approval. An accreditation organization which has received such an approval—

(1) may be used by States in the certification program under section 263a–2 of this title to inspect and certify embryo laboratories, or

(2) may certify embryo laboratories in States which have not adopted such a certification program.

(b) Criteria and procedures

The criteria and procedures promulgated under subsection (a) of this section shall include—

(1) requirements for submission of such reports and the maintenance of such records as the Secretary or a State may require, and

(2) requirements for the conduct of inspections under section 263a–2(h)[1] of this title.

(c) Evaluations

The Secretary shall evaluate annually the performance of each accreditation organization approved by the Secretary by—

(1) inspecting under section 263a–2(i)[2] of this title a sufficient number of embryo laboratories accredited by such an organization to allow a reasonable estimate of the performance of such organization, and

(2) such other means as the Secretary determines to be appropriate.

[3] So in original. Probably should be ''deficiencies,''.

[4] So in original. Probably should be subsection ''(g)(2)''.

[1] So in original. Probably should be section ''263a–2(g)''.

[2] So in original. Probably should be section ''263a–2(h)''.

(d) Transition

If the Secretary revokes approval under section 263a–2(i)(3)(D)[3] of this title of an accreditation organization after an evaluation under subsection (c) of this section, the certification of any embryo laboratory accredited by the organization shall continue in effect for 60 days after the laboratory is notified by the Secretary of the withdrawal of approval, except that the Secretary may extend the period during which the certification shall remain in effect if the Secretary determines that the laboratory submitted an application to another approved accreditation organization for certification after receipt of such notice in a timely manner.

(Pub. L. 102–493, § 4, Oct. 24, 1992, 106 Stat. 3150.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

§ 263a–4. Certification revocation and suspension

(a) In general

A certification issued by a State or an accreditation organization for an embryo laboratory shall be revoked or suspended if the State or organization finds, on the basis of inspections and after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that the owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the certification,

(2) has failed to comply with any standards under section 263a–2 of this title applicable to the certification, or

(3) has refused a request of the State or accreditation organization for permission to inspect the laboratory, its operations, and records.

(b) Effect

If the certification of an embryo laboratory is revoked or suspended, the certification of the laboratory shall continue in effect for 60 days after the laboratory receives notice of the revocation or suspension. If the certification of an embryo laboratory is revoked or suspended, the laboratory may apply for recertification after one year after the date of the revocation or suspension.

(Pub. L. 102–493, § 5, Oct. 24, 1992, 106 Stat. 3150.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

§ 263a–5. Publication

The Secretary, through the Centers for Disease Control, shall not later than 3 years after October 24, 1992, and annually thereafter publish and distribute to the States and the public—

(1)(A)[1] pregnancy success rates reported to the Secretary under section 263a–1(a)(1) of this title and, in the case of an assisted reproductive technology program which failed to report one or more success rates as required under such section, the name of each such program and each pregnancy success rate which the program failed to report, and

(B) from information reported under section 263a–1(a)(2) of this title—

(i) the identity of each embryo laboratory in a State which has adopted the certification program under such program and whether such laboratory is certified under section 263a–2 of this title,

(ii) the identity of each embryo laboratory in a State which has not adopted such certification program and which has been certified by an accreditation organization approved by the Secretary under section 263a–3 of this title, and

(iii) in the case of an embryo laboratory which is not certified under section 263a–2 of this title or certified by an accreditation organization approved by the Secretary under section 263a–3 of this title, whether the laboratory applied for certification.

(Pub. L. 102–493, § 6, Oct. 24, 1992, 106 Stat. 3151.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

§ 263a–6. Fees

The Secretary may require the payment of fees for the purpose of, and in an amount sufficient to cover the cost of, administering sections 263a–1 to 263a–7 of this title. A State operating a program under section 263a–2 of this title may require the payment of fees for the purpose of, and in an amount sufficient to cover the costs of, administering its program.

(Pub. L. 102–493, § 7, Oct. 24, 1992, 106 Stat. 3151.)

REFERENCES IN TEXT

Sections 263a–1 to 263a–7 of this title, referred to in text, was in the original ''this Act'', meaning Pub. L.

[3] So in original. Probably should be section ''263a–2(h)(3)(D)''.

[1] So in original. No par. (2) has been enacted.

102–493, Oct. 24, 1992, 106 Stat. 3146, known as the Fertility Clinic Success Rate and Certification Act of 1992, which enacted sections 263a–1 to 263a–7 of this title and provisions set out as notes under sections 201 and 263a–1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

§ 263a–7. Definitions

For purposes of sections 263a–1 to 263a–7 of this title:

(1) Assisted reproductive technology

The term ''assisted reproductive technology'' means all treatments or procedures which include the handling of human oocytes or embryos, including in vitro fertilization, gamete intrafallopian transfer, zygote intrafallopian transfer, and such other specific technologies as the Secretary may include in this definition, after making public any proposed definition in such manner as to facilitate comment from any person (including any Federal or other public agency).

(2) Embryo laboratory

The term ''embryo laboratory'' means a facility in which human oocytes are subject to assisted reproductive technology treatment or procedures based on manipulation of oocytes or embryos which are subject to implantation.

(3) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(Pub. L. 102–493, § 8, Oct. 24, 1992, 106 Stat. 3151.)

REFERENCES IN TEXT

Sections 263a–1 to 263a–7 of this title, referred to in text, was in the original ''this Act'', meaning Pub. L. 102–493, Oct. 24, 1992, 106 Stat. 3146, known as the Fertility Clinic Success Rate and Certification Act of 1992, which enacted sections 263a–1 to 263a–7 of this title and provisions set out as notes under sections 201 and 263a–1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

SUBPART 3—MAMMOGRAPHY FACILITIES

PRIOR PROVISIONS

A prior subpart 3 of part F of title III of the Public Health Service Act, comprising this subpart, was renumbered subchapter C of chapter V of the Federal Food, Drug, and Cosmetic Act, by Pub. L. 101–629, § 19(a)(4), Nov. 28, 1990, 104 Stat. 4530, as amended by Pub. L. 103–80, § 4(a)(2), Aug. 13, 1993, 107 Stat. 779, and is classified to part C (§ 360hh et seq.) of subchapter V of chapter 9 of Title 21, Food and Drugs.

§ 263b. Certification of mammography facilities

(a) Definitions

As used in this section:

(1) Accreditation body

The term ''accreditation body'' means a body that has been approved by the Secretary under subsection (e)(1)(A) of this section to accredit mammography facilities.

(2) Certificate

The term ''certificate'' means the certificate described in subsection (b)(1) of this section.

(3) Facility

(A) In general

The term ''facility'' means a hospital, outpatient department, clinic, radiology practice, or mobile unit, an office of a physician, or other facility as determined by the Secretary, that conducts breast cancer screening or diagnosis through mammography activities. Such term does not include a facility of the Department of Veterans Affairs.

(B) Activities

For the purposes of this section, the activities of a facility include the operation of equipment to produce the mammogram, the processing of the film, the initial interpretation of the mammogram and the viewing conditions for that interpretation. Where procedures such as the film processing, or the interpretation of the mammogram are performed in a location different from where the mammogram is performed, the facility performing the mammogram shall be responsible for meeting the quality standards described in subsection (f) of this section.

(4) Inspection

The term ''inspection'' means an onsite evaluation of the facility by the Secretary, or State or local agency on behalf of the Secretary.

(5) Mammogram

The term ''mammogram'' means a radiographic image produced through mammography.

(6) Mammography

The term ''mammography'' means radiography of the breast.

(7) Survey

The term ''survey'' means an onsite physics consultation and evaluation performed by a medical physicist as described in subsection (f)(1)(E) of this section.

(8) Review physician

The term ''review physician'' means a physician as prescribed by the Secretary under subsection (f)(1)(D) of this section who meets such additional requirements as may be established by an accreditation body under subsection (e)