



SEP 30 2005

Dear Tribal Leader:

Infectious, or communicable, diseases do not recognize borders. In this age of expanding air travel and international trade, infectious microbes are transported across borders every day, carried by infected people, animals, animal products, insects, and food. The Centers for Disease Control and Prevention (CDC), a sister agency of the Indian Health Service (IHS) within the Department of Health and Human Services (HHS), is committed to protecting the health and safety of the American public by preventing the introduction of infectious agents into, or interstate spread within, the United States. The best strategy for controlling the introduction or spread of communicable diseases is a combination of disease surveillance, early detection, and rapid response. The CDC proposes to update existing interstate and foreign quarantine regulations to ensure that this successful strategy maximally benefits all Americans, as well as our global neighbors. As we prepare for potential threats such as avian influenza, CDC's statutory quarantine authority will be one of the important disease control tools available at the Federal level. Your participation in and support of our efforts to revise Federal quarantine regulations are critical.

The Federal regulations that implement CDC's statutory authorities for communicable disease control are in the Code of Federal Regulations. These regulations implement CDC's existing statutory authority to detain and/or quarantine people suspected of carrying certain communicable diseases that pose a threat to the public's health. The CDC's authority to quarantine persons extends *only* to the communicable diseases listed in an Executive Order of the President; these diseases include cholera, diphtheria, tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, severe acute respiratory syndrome, and influenza caused by novel or reemergent influenza viruses that are causing or have the potential to cause a pandemic.

Current Federal law (42 United States Code [U.S.C.] 243, 264) gives the HHS Secretary the authority to implement disease control measures in situations that could impact interstate commerce, including the quarantine of people suspected of carrying certain communicable diseases who are (1) traveling from one State to another or (2) likely to infect others traveling from one State to another. The Secretary has delegated this statutory authority to the CDC Director. Under current law (25 U.S.C. 198, 231 and 42 U.S.C. 2001), the Secretary, acting through the IHS Director, also has the authority to implement disease control measures, such as a quarantine, in Indian Country, if necessary. There are currently no Federal regulations that implement the IHS Director's statutory authority to quarantine people with communicable diseases.

The current regulations have not been comprehensively updated in many years and contain no explicit provisions that apply to Indian Country. The CDC intends to revise these regulations to ensure that the most modern quarantine approaches to disease control are available for use during public health emergencies caused by the communicable diseases listed above. Revisions will also help to clarify the roles and responsibilities of public health agencies at the Federal, State, and Tribal levels. Some of the key provisions in the proposed regulations include (1) explicit due-process protections, such as written orders for provisional quarantine and quarantine, access to legal counsel, and administrative review of quarantine orders; (2) expanded reporting of ill passengers onboard foreign and interstate airlines; and (3) clarification of the Federal quarantine role with respect to Indian Country and on Federal property.

In Indian Country, revisions to the existing regulations would help to improve the coordination of communicable disease control among Tribal Leaders, IHS, CDC, and States. One important goal of these revisions is to affirm that Tribal Governments, like States, are sovereign entities with police power authority to enact their own quarantine regulations. As such, Tribal Governments are able to enforce any Tribal quarantine law to the extent that such laws exist. Revisions to existing Federal regulations would not preempt the enactment of Tribal quarantine rules and regulations to the extent that such Tribal laws do not conflict with the exercise of Federal quarantine authority. Another goal would be to establish a process whereby Tribes and Alaska Native villages may request Federal assistance in carrying out their own quarantines and other health measures in response to public health emergencies affecting Indian Country.

Because existing statutory authorities for quarantine and communicable disease control in Indian Country are governed by two separate sets of Federal statutes (42 U.S.C. 243, 264, 2001; 25 U.S.C. 198, 231), revisions to current regulations will clarify how these Federal authorities would be exercised in Indian Country. Based upon CDC's existing statutory authorities under 42 U.S.C. 243, 264, revised regulations would clearly identify the CDC Director's authority to implement a broad range of disease control measures, including quarantine, in instances where people infected with, or exposed to, one of the diseases listed in the President's Executive Order are traveling between States or are likely to infect others traveling between States. In addition, in the event that measures taken by State, local or Tribal health authorities are insufficient to prevent the interstate spread of communicable diseases, the CDC Director may act to prevent the spread of disease by using measures such as inspection, fumigation, disinfection, sanitation, pest extermination, and the destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings. The CDC Director may also request assistance from State, Tribal, and local authorities in the enforcement of quarantine and communicable disease control measures.

Other actions, such as those taken under 25 U.S.C. 198 and 231, would require concurrence with the Director of IHS after consultation with the affected Tribe or Tribes. Such actions could include provisional quarantine, medical examination, and monitoring of a person, or group of people, who are in the qualifying stage of a quarantinable disease (that time period when the disease is, or could soon be, transmissible to other people). Actions taken under these sections

would not require a finding that such a person or group of people is moving or about to move from one State to another or is a probable source of infection to people who will be moving from one State to another State.

During the recent 2005 HHS Regional Tribal Consultation Sessions and National Tribal Budget Consultation Session, CDC's Senior Tribal Liaisons met with Tribal Leaders to inform them that revisions to Federal quarantine regulations were under consideration. They also provided an overview of this process, highlighted the anticipated revisions, and outlined a plan for Tribal consultation about this proposed regulatory change. This letter, the next step in that consultation process, serves to inform you of our intent to publish the proposed changes in the Federal Register as a Notice of Proposed Rulemaking (NPRM). We anticipate publication of the NPRM in early October 2005. Concurrent with the 60-day public comment period following publication, we would like to solicit your comments regarding the implications of the proposed changes in Indian Country. The CDC invites Tribal Leaders to submit written comments about the proposed revisions to CAPT Ralph T. Bryan, M.D., Senior Tribal Liaison for Science and Public Health, c/o The Division of Epidemiology/IHS, 5300 Homestead Road., N.E., Albuquerque, New Mexico 87110 or electronically to rrb2@cdc.gov.

We look forward to working with you as we develop and implement these important revisions. If you have any questions or concerns about this process, please contact Dr. Bryan (rrb2@cdc.gov; (505) 248-4226), CAPT Mike Snedrud (pws8@cdc.gov; (404) 498-2343), or Ms. Jennifer Brooks (jlc9@cdc.gov; (404) 498-1616).

Sincerely yours,


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