

U.S. Rules Are Set Barring Aliens Who Test Positive for AIDS Virus

The New York Times

August 29, 1987, Saturday, Late City Final Edition

Copyright 1987 The New York Times Company

Section: Section 1; Page 32, Column 1; National Desk

Length: 855 words

Byline: By Kenneth B. Noble, Special to the New York Times

Dateline: WASHINGTON, Aug. 28

Body

The Reagan Administration today issued final rules that bar aliens who test positive for infection with the AIDS virus from immigrating to the United States. But it left unresolved some details on how illegal aliens and refugees who are already here will be treated.

If illegal aliens and refugees already living in the United States are found to test positive for the acquired immune deficiency syndrome virus, they can be excluded from permanent legal status in the United States, unless they are granted a waiver from the Attorney General.

Such waivers are granted on three grounds: for humanitarian purposes, to assure family unity, and when it is "otherwise in the public interest." But the new rules left unresolved the grounds for determining whether a waiver shall be granted.

Rules Sharply Denounced

The rules, which were developed by the United States Public Health Service and outlined in the Federal Register, were immediately denounced by civil libertarians and advocates for the rights of homosexuals. They said the testing would be ineffective in curbing the spread of AIDS by driving some who have been exposed to the virus underground where they would continue to spread infection.

"The Attorney General should make it clear in advance that the waiver will be applied in a generous and across-the-board fashion so that people will not be deterred from seeking the medical counseling that is critical in combatting the disease," said Lucas Guttentag, head of the American Civil Liberty Union's Immigration Task Force.

The effective date for the new rules is Dec. 1, but those who have applied for amnesty under the new immigration law, about 560,000 to date, will be required to undergo AIDS testing before they can become permanent residents. According to the procedure established under the the immigration law, persons seeking amnesty must first become temporary residents, and 18 months later, can apply for permanent residence.

The new rules would not apply to tourists or visitors, nor would they be used to deny a temporary visa to a foreigner. Plans for the rules were announced in June by Attorney General Edwin Meese 3d.

Mandatory Examinations

Aliens seeking immigrant visas abroad and aliens applying for permanent residence in the United States, like those seeking amnesty under the new law, already undergo mandatory examinations to determine if they are drug addicts, chronic alcoholics or victims of a "dangerous contagious disease" such as infectious leprosy and active tuberculosis. If they test positive, they are excluded.

U.S. Rules Are Set Barring Aliens Who Test Positive for AIDS Virus

Medical experts estimate that 20 percent to 30 percent of people infected with the **AIDS virus** will develop symptoms of the deadly disease within five years.

While an illegal **alien** who **tests positive** will be ineligible for legal status or amnesty, he cannot be deported on the basis of such data because all information obtained in connection with an application for amnesty must be kept confidential under the new immigration law.

AIDS cripples the body's immune system, leaving victims susceptible to serious infections and cancers. It is caused by a **virus** that spreads through sexual intercourse with an infected partner or exchanges of blood, such as in shared hypodermic needles.

The **test** detects antibodies to the **AIDS** virus. Antibodies are substances the body produces to defend against invading microorganisms. People can be infected with the **AIDS virus** and not become ill for many years.

Elaborating on the new **rules**, the Federal Register report said that the Government does not "anticipate false **positive testing** to be a particular problem."

False **Testing** Seen as Rare

"False **positive** are extremely rare if two screening **tests** and a confirming supplemental **test** are performed and all are **positive**," the report said. It added that "while this regulation does not specify what **test** will be used, the Centers for Disease Control prepares and distributes medical screening manuals to examining physicians that will address the issue."

The report acknowledges, however, that in requiring that **aliens** applying for legal status take the **tests** before coming to the **United States** "a **positive** result could have other consequences in the country of **testing**."

"Confidentiality will be safeguarded to the extent possible," the report said. "However, in a worldwide **testing** program, the **United States** Government can neither guarantee confidentiality of all HIV **test** results nor assume responsibility for any possible consequences of a **positive test** result."

The report said that in the event of a **positive test**, persons applying for legal status overseas "will be counseled."

As for critics who contend that illegal **aliens** already living in the **United States** might find the new **testing** requirements a deterrent to seeking help, the report said, "Although some applicants who have reason to believe that they are infected may go underground and not apply for legalization, such individuals will still be able to seek counseling and **testing** anonymously." The report, however, did not say how this can be accomplished.

Classification

Language: ENGLISH

Subject: **AIDS** & HIV (91%); INFECTIOUS DISEASE (90%); REFUGEES (90%); PASSPORTS & VISAS (89%); IMMIGRATION (89%); ILLEGAL IMMIGRANTS (89%); DISEASES & DISORDERS (89%); **VIRUSES** (89%); IMMIGRATION LAW (89%); LAWYERS (89%); AGENCY RULEMAKING (89%); AMNESTY (88%); PUBLIC HEALTH (78%); **AIDS** & HIV **TESTING** (78%); **AIDS** & HIV POLICY (78%); ATTORNEYS GENERAL (75%); DEPORTATION (73%); LEGISLATION (73%); TUBERCULOSIS (73%); GAYS & LESBIANS (73%); HUMAN RIGHTS & CIVIL LIBERTIES LAW (72%); PUBLIC HEALTH ADMINISTRATION (69%); SUBSTANCE ABUSE (60%); ALCOHOL ABUSE & ADDICTION (50%)

Company: PUBLIC HEALTH SERVICE (56%); PUBLIC HEALTH SERVICE (56%); AMERICAN CIVIL LIBERTIES UNION (54%); AMERICAN CIVIL LIBERTIES UNION (54%)

U.S. Rules Are Set Barring Aliens Who Test Positive for AIDS Virus

Organization: PUBLIC HEALTH SERVICE (56%); PUBLIC HEALTH SERVICE (56%); AMERICAN CIVIL LIBERTIES UNION (54%); AMERICAN CIVIL LIBERTIES UNION (54%); PUBLIC HEALTH SERVICE (56%); PUBLIC HEALTH SERVICE (56%); AMERICAN CIVIL LIBERTIES UNION (54%); AMERICAN CIVIL LIBERTIES UNION (54%)

Industry: LAWYERS (89%); AIDS & HIV POLICY (78%)

Geographic: UNITED STATES (95%)

End of Document