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Division of Global Migration and Quarantine
Centers for Disease Control and Prevention
U.S. Department of Health and Human Services
Attn: Part 34 NPRM Comments,
1600 Clifton Road, N.E.,
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Also submitted electronically: http://regulations.gov
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Docket ID: CDC-2008-0001
Docket Title: Medical Examination of Aliens – Removal of Human Immunodeficiency Virus (HIV) Infection from Definition of Communicable Disease of Public Health Significance
RIN: 0920-AA26

We support the proposed rule that would lift the immigration ban on visitors and immigrants living with HIV, stop unfair mandatory HIV testing of immigrants and remove references to HIV from the scope of examinations in its regulations. This change will restore the U.S. as a leader in the areas of human rights, equal treatment under the law and public health.

NO/AIDS Task Force respectfully submits these comments on the proposed rule by the U.S. Department of Health and Human Services to revise the Part 34 regulation to remove "Human Immunodeficiency Virus" (HIV) infection from the definition of "communicable diseases of public health significance" and to remove references to "HIV" from the scope of examinations in its regulations.

The rationale for our support is as follows:

1. There is no scientific or public health justification for HIV-related restrictions on entry, stay, and residence. HIV is transmitted through bodily fluids, is not airborne and is not transmitted through casual contact.

2. Restrictions on entry, stay and residence based on HIV status are discriminatory. Since there is no evidence that a travel ban based on HIV status is an effective public health strategy, the differential treatment based on HIV status is discriminatory and not justified.

Among other harms, this regrettable policy prevents or hinders people living with HIV from entering the United States and participating in critical meetings that shape global HIV policy and research. Just recently, up to 60 Canadians living with HIV were barred from traveling to Washington, D.C., to attend the North American Housing and HIV/AIDS Research Summit, an interdisciplinary research and policy meeting co-sponsored by the U.S. National AIDS Housing

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Coalition and the Canadian Ontario HIV Treatment Network.

3. The enforcement of HIV-related restrictions on entry, stay and residence can, and does, violate other human rights. The implementation of HIV-related restrictions on entry, stay, and residence can also interfere with the rights to life, privacy, liberty, work and as CDC mentions even within their own justification for this rule, the right to protect the unity of the family.

4. HIV-related restrictions on entry, stay and residence can impede effective responses to HIV. The Joint United Nations Programme on HIV/AIDS (UNAIDS) established an international task team on HIV-related travel restrictions and found that HIV-related restrictions on entry, stay and residence might be harmful to the public health of both citizens and travelers because they:

- Misdirect resources into intimidating screening and enforcement activities versus using these resources to expand voluntary HIV counseling and testing, prevention, treatment and care;
- Drive HIV prevention and care issues, as well as those *living* with HIV, underground, with negative outcomes for both individual and public health.

5. The costs to the United States taxpayer would not be as high as suggested in the proposed rule. First, significant proportions of these estimated costs would be paid for by other payers outside of the U.S. government such as private insurance and contributions by the individual or by his or her sponsor or family. Second, the costs of treating immigrants with other significant health concerns, e.g., heart disease, renal disease, diabetes, are not considered in determining immigration policy for individuals with these conditions and should not be a factor in setting immigration policy for people with HIV.

Finally, we explicitly support the approach to remove HIV testing from the routine medical examination of lawful permanent resident applicants. People living with HIV should be allowed to enter the U.S. or adjust to permanent resident status if they meet all other conditions of admissibility. There are clear and important benefits to be accrued from HIV testing. Such testing, however, should not be mandated as part of the routine medical examination for entry into the United States.

For these reasons, we fully support the removal of HIV from the definition of "communicable diseases of public health significance" as well as to remove references to "HIV" from the scope of examinations in its regulations.

Thank you,

NO/AIDS Task Force