DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Criteria for Vaccination Requirements for U.S. Immigration Purposes

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking public comment on a set of proposed criteria to be used in determining which vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for the general United States population should be required for immigrants seeking admission into the United States or seeking adjustment of status to that of an alien lawfully admitted for permanent residence.

Under section 212 of the Immigration and Nationality Act (INA) (8 U.S.C. 1182), an alien who seeks admission as an immigrant, or who seeks adjustment of status to one lawfully admitted for permanent residence, must present documentation for having received vaccination for “vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, Haemophilus influenzae type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee on Immunization Practices.” Because the INA explicitly requires vaccinations for some vaccine-preventable diseases (mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, Haemophilus influenzae type B and hepatitis B), CDC will continue to require those vaccinations for immigrants seeking admission into the United States or seeking to adjust their status to that of legal permanent resident. CDC has developed specific criteria to determine which other vaccinations recommended by ACIP for the general population will be required for such immigrants. Through this notice, CDC proposes to begin use of the following criteria:

1. The vaccine must be an age-appropriate vaccine as recommended by ACIP for the general U.S. population, and
2. At least one of the following:
   a. The vaccine must protect against a disease that has the potential to cause an outbreak. ¹
   b. The vaccine must protect against a disease that has been eliminated in the United States, or is in the process for elimination in the United States.

The evolution of vaccine development has progressed to include those targeting specific groups and chronic morbidity and mortality. Therefore, CDC is now developing specific criteria to be applied against each vaccine in lieu of requiring all ACIP recommended vaccines for immigration purposes. CDC has taken a scientific, evidence-based, public health approach in developing these criteria, and has considered the unique characteristics of the time and place of the medical screening process for U.S. immigration purposes.

Using specific scientific-based criteria to determine the relevant vaccines required for U.S. immigration purposes will ensure CDC decision-making regarding vaccination requirements is grounded in public health necessity and need in light of a growing list of vaccines for infectious and non-infectious diseases.

After receiving comments through this notice, as well as those received during an ACIP meeting held at CDC February 25–26, 2009, CDC will publish a notice regarding implementation of the final criteria for determining which vaccines recommended by ACIP for the U.S. population will be required for immigrants in accordance with section 212(a)(1)(A)(i) of the Immigration and Nationality Act, Section 212 (8 U.S.C. 1182(a)(1)(A)(i)).

CDC will continue to work closely with the Department of Homeland Security and the Department of State in the implementation of the vaccination requirements for U.S. immigration purposes.

DATES: Written comments must be received on or before May 8, 2009. Comments received after April 8, 2009 will be considered to the extent possible.

¹ For purposes of this Notice, “potential to cause an outbreak” means the occurrence of more than one case of a disease that could be anticipated in a given area or among a specific group of people over a particular period of time. In general, and as observed through previous experience, an outbreak is associated with a public health response.

ADDRESSES: You may submit written comments to the following address: Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Attn: Immigration Vaccination Requirements, 1600 Clifton Road, NE., MS E–03, Atlanta, Georgia, 30333.

You may also submit written comments via e-mail to DGMQpubliccomments@cdc.gov.

FOR FURTHER INFORMATION CONTACT:
David M. McAdam, Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, 1600 Clifton Road, NE., MS E–03, Atlanta, Georgia 30333; telephone 404–498–1600.

SUPPLEMENTARY INFORMATION:

Background

Medical examinations for immigration purposes are authorized under section 232 of the Immigration and Nationality Act (INA) (8 U.S.C. 1222) Under sections 212(a)(1) and 232 of the INA (8 U.S.C. 1182(a)(1) and 1222), and section 325 of the Public Health Service Act (42 U.S.C. 252), the Department of Health and Human Services (HHS) establishes requirements for the medical examination. The Secretary of HHS has delegated this authority to the Centers for Disease Control and Prevention (CDC), and it is administered by CDC’s Division of Global Migration and Quarantine (DGMQ). These requirements are codified in 42 CFR part 34, Medical Examination of Aliens. Panel physicians and civil surgeons, through contractual agreements and by designations with the Department of State and the Department of Homeland Security, respectively, conduct the medical examinations in accordance with these regulations and as provided for in Technical Instructions (TIs) issued by CDC/DGMQ. The vaccination requirements for U.S. immigration purposes are listed in the Technical Instructions (see http://www.cdc.gov/nicidod/dq/technica.htm).

Under section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)), an alien who seeks admission as an immigrant, or who seeks adjustment of status to one lawfully admitted for permanent residence, must present documentation for having received vaccination for “vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, Haemophilus influenzae type B and hepatitis B, and any other
vaccinations against vaccine-preventable diseases recommended by
the Advisory Committee on Immunization Practices [(ACIP)].”’ The
ACIP is a committee chartered under the Federal Advisory Committee Act
(FACA). The ACIP makes vaccine recommendations for the U.S.
population to the CDC Director, who, in accordance with FACA, is ultimately
responsible for accepting, rejecting, or modifying those recommendations. Any
immigrant or applicant applying for adjustment of status in the U.S., who is
unable to present proof of vaccination, is inadmissible into the United States
unlesss the immigrant or applicant receives the required vaccines or applies for
and receives a statutory waiver. Such waivers may be issued if, for example,
during the medical examination, the examiner determines that a vaccination
is not medically appropriate.

Since 1996, when the vaccination requirement was added to the INA, all
vaccinations routinely recommended by ACIP for the U.S. population have been
required for immigrants subject to the INA vaccination requirement. Although
this vaccination requirement has been in effect since 1996, the continued
evolution of vaccine development has led CDC to reassess the appropriateness
for each recommended vaccine in the context of U.S. immigration in the
interest of public health.

Implementation of Specific Vaccination Criteria

The ACIP recommendations regarding vaccines are extremely important for
optimizing individual health status, protecting the public health of the Nation, and providing technical
guidance for State-based mandates for school, child care, employment and
other settings. However, to date, the ACIP recommendations have been
applied to persons undergoing medical examination for U.S. immigration
without consideration for the unique characteristics of such screening, which
include the urgency of time in which the vaccination is required and the
location of the individual immigrant, or group of immigrants, at the time of the
medical examination. While the ACIP vaccination recommendations are
appropriate for the general U.S. population, CDC is proposing specific
criteria to determine which ACIP-recommended vaccines are appropriate
as a requirement at the time and place of medical examination for immigration.
For example, within these criteria,
vaccinations will be administered to applicants who will be considered to be
“age-appropriate” as recommended by ACIP for the general U.S. population
(i.e. the applicant is within the ACIP-recommended age groups of the vaccine
at the time of the examination). Once it is determined that a vaccine is age-
appropriate, the vaccine will only be administered if it is determined to be
appropriate in the immigration setting due to the potential of diseases to cause
outbreaks and/or to be introduced into the United States, where they have been
eliminated or are in the process of elimination. In contrast, all other ACIP
recommended vaccines should be administered once the applicant is
admitted to the United States according to CDC immunization schedule and
State-based vaccination mandates.

Therefore, CDC is proposing to implement the vaccination requirements
provided for in section 212(a)(1)(A)(ii) of the INA as follows: Because section
212(a)(1)(A)(ii) explicitly requires vaccinations for listed vaccine-
preventable diseases (mumps, measles, rubella, polio, tetanus and diphtheria
toxoids, pertussis, Haemophilus influenzae type B and hepatitis B), CDC
will continue to require those vaccinations for immigrants seeking admission into the United States or
seeking to adjust their status to the status of legal permanent resident. CDC
can use the criteria below for determining which additional vaccines
recommended by ACIP for the general population will be required for such
immigrants. All vaccines will remain subject to statutory waivers, if applicable. In addition, CDC will review
the list of vaccines recommended by ACIP for the general U.S. population on
a regular basis and apply the specific criteria to determine which additional vaccines will be required for U.S.
immigration purposes.

CDC proposes to use the following criteria:

1. The vaccine must be an age-
appropriate vaccine as recommended by
ACIP for the general U.S. population,
and
2. At least one of the following:
   a. The vaccine must protect against a
disease that has the potential to cause
   an outbreak.
   b. The vaccine must protect against a
disease that has been eliminated in the
   United States, or is in the process for
   elimination in the United States.

Through the issuance of revised Technical Instructions and other
standard operating procedures, CDC

For purposes of this Notice, “potential to cause an outbreak” means the occurrence of more cases of
disease than could be anticipated in a given area or among a specific group of people over a
particular period of time. In general, and as observed through previous experience, an outbreak
is associated with a public health response.