



**U.S. Customs and
Border Protection**

JAN 02 2013

MEMORANDUM FOR: Directors, Field Operations
Director, Preclearance Operations
Office of Field Operations

Director, Field Operations Academy
Director, Advanced Training Center
Office of Training (b) (6), (b) (7)(C)

FROM: Executive Director
Admissibility and [REDACTED]

SUBJECT: Inadmissible Aliens – Public Health Grounds

The purpose of this memorandum is to reinforce existing Customs and Border Protection (CBP) procedures to use when processing nonimmigrant aliens that appear to be inadmissible under Section 212(a)(1) of the Immigration and Nationality Act (INA). The Enforcement Programs Division (EPD) conducts periodic reviews of the processing of admissibility secondary inspection cases. The reviews have found that some travelers have been incorrectly charged with being in violation of Public Health Grounds of Inadmissibility found in §212(a)(1) of the INA. The most common error found is charging an alien with being inadmissible under §212(a)(1) of the INA without a “Class A” medical certification.

The inadmissibility charges for aliens under health related grounds are:

- Communicable disease of public health significance as defined by the Secretary of Health and Human Services (HHS) regulations is §212(a)(1)(A)(i) of the INA.
 - This list of diseases is found in 42 CFR 34.2(b).
- Has or had a physical or mental disorder is §212(a)(1)(A)(iii) of the INA.
- Drug abuser or addict is §212(a)(1)(iv) of INA, in accordance with regulations prescribed by the Secretary of HHS.
- Inadmissibility for public health grounds cannot be determined by a CBP Officer. Section 232(b) of the INA, in part states:

“...The physical and mental examination of arriving aliens...shall be made by medical officers of the United States Public Health Service, who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the immigration judges, any physical and mental defect or disease observed by such medical officers in any such alien.”

(b) (7)(E)

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Please ensure that this memorandum and muster are disseminated to all ports of entry within your jurisdiction. Should you have any questions or require additional information, please contact (b) (6), (b) (7)(C) Director, Enforcement Programs at (b) (6), (b) (7)(C)

Attachments

Weekly Muster

Week of: When Received
Topic: Inadmissible Aliens – Public Health Grounds
References: Sections 101, 212, 232, and 235 of the Immigration and Nationality Act (INA); 42 CFR 34
Headquarters POC: (b) (6), (b) (7)(C)
Office: Admissibility and Passenger Programs

- Although CBP officers may suspect that an alien may be inadmissible under §212(a)(1) of the INA, CBP officers cannot find the alien inadmissible under §212(a)(1) without a “Class A” medical certification.
 - Section 232 of the INA contains specific direction that the medical examination is done by Public Health Service (PHS) officers (or civil surgeons – or, in the consular context, panel physicians).
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 - This list of diseases is found in 42 CFR 34.2(b).
 - Has or had a physical or mental disorder is §212(a)(1)(A)(iii) of the INA.
 - Drug abuser or addict is §212(a)(1)(iv) of INA, in accordance with regulations prescribed by the Secretary of HHS.

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CBP Procedure

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