

■ For the reasons set forth in the preamble, CMS is amending 42 CFR chapter IV as set forth below:
 ■ A. Part 483 is amended as follows:

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

Subpart B—Requirements for Long Term Care Facilities

■ 1. The authority citation for part 483 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

■ 2. In § 483.35, the introductory text is republished, paragraph (h) is redesignated as paragraph (i), and a new paragraph (h) is added to read as follows:

§ 483.35 Dietary services.

The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

* * * * *

(h) *Paid feeding assistants*—(1) *State-approved training course*. A facility may use a paid feeding assistant, as defined in § 488.301 of this chapter, if—

(i) The feeding assistant has successfully completed a State-approved training course that meets the requirements of § 483.160 before feeding residents; and

(ii) The use of feeding assistants is consistent with State law.

(2) *Supervision*. (i) A feeding assistant must work under the supervision of a registered nurse (RN) or licensed practical nurse (LPN).

(ii) In an emergency, a feeding assistant must call a supervisory nurse for help on the resident call system.

(3) *Resident selection criteria*.

(i) A facility must ensure that a feeding assistant feeds only residents who have no complicated feeding problems.

(ii) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings.

(iii) The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care.

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§ 483.7 [Amended]

■ 3. Section 483.7 is amended as follows:

■ a. In paragraph (e)(1), the definition of "Nurse aide" is amended by adding a sentence to the end of the definition;

■ b. A new paragraph (q) is added. The additions read as follows:

§ 483.75 Administration.

* * * * *

(e) * * * (1) * * *

(1) * * * Nurse aides do not include those individuals who furnish services to residents only as paid feeding assistants as defined in § 488.301 of this chapter.

* * * * *

(q) *Required training of feeding assistants*. A facility must not use any individual working in the facility as a paid feeding assistant unless that individual has successfully completed a State-approved training program for feeding assistants, as specified in § 483.160 of this part.

Subpart D—Requirements That Must Be Met by States and State Agencies: Nurse Aide Training and Competency Evaluation; and Paid Feeding Assistants

■ 4. The heading of subpart D is revised to read as set forth above.

■ 5. A new § 483.160 is added to read as follows:

§ 483.160 Requirements for training of paid feeding assistants.

(a) Minimum training course contents. A State-approved training course for paid feeding assistants must include, at a minimum, 8 hours of training in the following:

- (1) Feeding techniques.
- (2) Assistance with feeding and hydration.
- (3) Communication and interpersonal skills.
- (4) Appropriate responses to resident behavior.
- (5) Safety and emergency procedures, including the Heimlich maneuver.
- (6) Infection control.
- (7) Resident rights.
- (8) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

(b) Maintenance of records. A facility must maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed the training course for paid feeding assistants.

■ B. Part 488, subpart E is amended as follows:

PART 488—SURVEY, CERTIFICATION, AND ENFORCEMENT PROCEDURES

Subpart E—Survey and Certification of Long Term Care Facilities

■ 1. The authority citation for part 488 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1895hh).

■ 2. Section 488.301 is amended by adding a new definition of "Paid feeding assistant" in alphabetical order to read as follows:

§ 488.301 Definitions.

As used in this subpart—

* * * * *

Paid feeding assistant means an individual who meets the requirements specified in § 483.35(h)(2) of this chapter and who is paid to feed residents by a facility, or who is used under an arrangement with another agency or organization.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 22, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: June 24, 2003.

Tommy G. Thompson,

Secretary.

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LEGAL SERVICES CORPORATION

45 CFR Part 1626

Alien Eligibility for Representation by LSC Programs

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation ("Corporation") is revising the appendix to its regulations on restrictions on legal assistance to aliens. This appendix sets forth a listing of documents upon which recipients may rely to verify the eligibility of non-U.S. citizens' applicants for legal assistance from LSC-funded programs.

EFFECTIVE DATE: This rule is effective as of September 26, 2003.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007–3522; (202) 295–1624; *mcondray@lsc.gov*.

SUPPLEMENTARY INFORMATION: Recipients of Legal Services Corporation ("Corporation") funds are permitted by law to provide legal assistance only to U.S. citizens and certain legal aliens. Recipients are required to verify the

eligibility of non-U.S. citizen applicants for legal assistance by seeing documentary proof of the applicant's status. This appendix sets forth a listing of documents upon which recipients may rely to verify the eligibility of non-U.S. citizens applicants for legal assistance from LSC-funded programs.

List of Subjects for 45 CFR 1626

Aliens, Grant programs—law, Individuals with disabilities, Legal services.

■ For reasons set forth above, 45 CFR 1626 is amended as follows:

PART 1626—RESTRICTIONS on LEGAL ASSISTANCE TO ALIENS

■ 1. The authority citation for Part 1626 continues to read as follows:

Authority: Pub. L. 104–208, 110 Stat. 1321; Pub. L. 104–134, 110 Stat. 3008.

■ 2. The Appendix to Part 1626 is revised to read as follows:

Appendix to Part 1626

ALIEN ELIGIBILITY FOR REPRESENTATION BY LSC PROGRAMS

Alien category	Immigration Act (INA)	LSC regs: 45 CFR § 1626	Examples of acceptable documents
LAWFUL PERMANENT RESIDENT ...	INA § 101(a)(20); 8 USC § 1101(a)(20).	§ 1626.5(a)	I-551 or I-151 or I-181 (Memorandum of Creation of Record of Lawful Permanent Residence), with approval stamp; or passport bearing immigrant visa or stamp indicating admission for lawful permanent residence; or order granting registry, suspension of deportation, cancellation of removal, or adjustment of status from the INS, an immigration judge, the BIA, or a federal court; or I-327 Reentry Permit; or I-94 with stamp indicating admission for lawful permanent residence; or any verification from INS or other authoritative document.
ALIEN WHO IS —married to U.S. citizen, or. —parent of U.S. citizen, or— unmarried child under 21 of U.S. citizen and —has filed an application for adjustment of status to permanent residency.	INA §§ 208, 210, 244 (replaced by INA § 240A(b) for aliens in proceedings initiated on or after 4/1/97), 245, 245A, 249; 8 USC §§ 1158, 1160, 1254 (replaced by 1229b(b) for aliens in proceedings initiated on or after 4/1/97), 1255, 1255a, 1259.	§ 1626.5(b)	Proof of relationship to U.S. citizen* and proof of filing.** I-485 (application for adjustment of status based on family-based visa, registry, or various special adjustment laws) or I-256A or EOIR-40 (application for suspension of deportation) or EOIR-42 (application for cancellation of removal) or I-817 (application for Family Unity) or I-881 (application for NACARA suspension or special rule cancellation and adjustment) or OF-230 (application at consulate for visa) or I-129F (Petition for Alien Fiancé(e) (for spouses and children of USC's applying for K-status) or I-130 (family-based immigrant visa petition) or I-360 (self-petition for widow(er) or abused spouse or child) or I-539 indicating application for V status or I-589 (application for asylum) or I-698 (application to adjust from temporary to permanent residence) or I-730 (refugee/asylee relative petition) or any verification from INS or other authoritative document. *Proof of relationship may include: copy of marriage certificate accompanied by proof of spouse's U.S. citizenship; copy of birth certificate, religious archival document such as baptismal certificate, adoption decree or other documents demonstrating parentage of a U.S. citizen; copy of birth certificate, baptismal certificate, adoption decree, or other documents demonstrating alien is a child under age 21, accompanied by proof parent is a U.S. citizen; or in lieu of the above, a copy of INS Form I-130 (visa petition) or I-360 (self-petition) containing information demonstrating alien is related to such a U.S. citizen, accompanied by proof of filing.

ALIEN ELIGIBILITY FOR REPRESENTATION BY LSC PROGRAMS—Continued

Alien category	Immigration Act (INA)	LSC regs; 45 CFR § 1626	Examples of acceptable documents
REFUGEE	INA § 207, 8 USC § 1157.	§ 1626.5(c)	<p>**Proof of filing may include a fee receipt or cancelled check showing that the application was filed with the INS or the immigration court; a filing stamp showing that the application was filed; or a copy of the application accompanied by a declaration or attestation signed by the immigrant, or the immigrant's attorney or legal representative for the application, that such form was filed. Proof of filing is also established by: a letter or Form I-797 from INS or the immigration court acknowledging receipt of or approval of one of the above-listed forms;</p> <p>or Form I-94 (arrival/departure record) or I-512 (advance parole) indicating entry to pursue an above-listed application;</p> <p>or I-688B or I-766 (employment authorization document) coded 8 CFR § 274a. 12(c)(9) (applicant for adjustment), (c)(10) (applicant for suspension or cancellation), (c)(16) (applicant for registry), (c)(21) (S-visa principal or dependent), (c)(20) or (22) (legalization applicant), (c)(24) (LIFE Act legalization applicant), (a)(9) (K-status), (a)(13)(Family Unity), (a)(14) (LIFE Act Family Unity), (a)(15) (V-status), (a)(16) or (c)(25) (T-status) or (c)(8) (asylum applicant).</p> <p>I-94 or passport stamped "refugee" or "§ 207"</p>
ASYLEE	INA § 208, 8 USC § 1158.	§ 1626.5(c)	<p>or I-688B or I-766 coded 8 CFR § 274a.12(a)(3)(refugee) or § 274a.12(a)(4)(paroled as refugee)</p> <p>or I-571 refugee travel document</p> <p>or any verification from INS or other authoritative document.</p> <p>I-94 or passport stamped "asylee" or "§ 208"</p>
GRANTED WITHHOLDING OR DEFERRAL OF DEPORTATION OR REMOVAL.	INA § 241(b)(3) or former INA § 243(h), 8 USC § 1251(b)(3) or former 8 USC § 1253(H).	§ 1626.5(e)	<p>or an order granting asylum from INS, immigration judge, BIA, or federal court</p> <p>or I-571 refugee travel document</p> <p>or I-688B coded 8 CFR § 274a. 12(a)(5)(asylee)</p> <p>or any verification from INS or other authoritative document.</p> <p>I-94 stamped "§ 243(h)" or "241(b)(3)" or an order granting withholding or deferral of deportation or removal from INS, immigration judge, BIA, or federal court</p> <p><i>Also acceptable</i></p> <p>I-688B coded 8 CFR § 274a.12(a)(10)(granted withholding of deportation or removal)</p> <p>or any verification from INS or other authoritative document.</p>
CONDITIONAL ENTRANT	INA § 203(a)(7), 8 USC § 1153(a)(7).	§ 1626.5(d)	<p>I-94 or passport stamped "conditional entrant"</p> <p>or any verification from INS or other authoritative document.</p>
H-2A AGRICULTURAL WORKER	INA § 101 (a)(15)(H)(ii); 8 USC § 1101 (a)(15)(ii).	§ 1626.11	<p>I-94 or passport stamped "H-2"</p> <p>or any verification from INS or other authoritative document.</p>
SPECIAL AGRICULTURAL WORKER TEMPORARY RESIDENT.	INA § 210 8 USC § 1160	§ 1626.10(d)	<p>I-688, 688A, 688B, or 766 indicating issuance under § 210 (or under 8 CFR § 274a. 12(a)(2), with other evidence indicating eligibility under INA § 210)</p> <p>or any verification from INS or other authoritative document.</p>

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107 and 180

[Docket No. RSPA-03-10373 (HM-220D)]

RIN 2137-AD86

Hazardous Materials: Approval Program for Certain Persons Performing Visual Requalification of DOT Specification Cylinders; Extension of Compliance Date

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Interim final rule; extension of compliance date and request for comments.

SUMMARY: RSPA is extending the compliance date of the regulations contained in 49 CFR 107.805(f) and 180.209(g) of the Hazardous Materials Regulations that require persons who perform visual requalification of DOT specification cylinders to obtain approval from RSPA and to mark the requalifier identification number assigned by RSPA on cylinders successfully requalified after September 30, 2003. This September 30, 2003 date is extended to May 31, 2004.

DATES: *Effective Date.* This rule is effective September 26, 2003.

Compliance Date: Delayed compliance with certain requirements is as specified in the regulatory text.

Comments Date: Comments must be received by October 27, 2003.

ADDRESSES: You may submit comments identified by the docket number RSPA-01-10373 (HM-220D) by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

• Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001. If sent by mail, comments are to be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard.

• Hand Delivery: Docket Management System; Room PL-401 on the plaza level

of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. All comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477-78), or you may visit <http://dms.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to the Docket Management System (*see ADDRESSES*).

FOR FURTHER INFORMATION CONTACT: Linda Cooper, (202) 366-4512, Office of Hazardous Materials Approvals and Exemptions, or Sandra Webb, (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On August 8, 2002, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket No. RSPA-01-10373 (HM-220D) (67 FR 51625) amending the requirements of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. The revisions were made to simplify the regulations, respond to petitions for rulemaking, address recommendations of the National Transportation Safety Board, and enhance the safe transportation of hazardous materials in cylinders. The effective date of the final rule was October 1, 2002.

The August 8, 2002 final rule extended current approval requirements for persons who requalify DOT specification cylinders to persons who requalify certain cylinders by performing a complete external visual inspection. The rule requires each person who performs a visual inspection in accordance with § 180.209(g) to obtain an approval from us and to mark the requalifier identification number assigned by RSPA on a cylinder that successfully passes a visual requalification after September 30, 2003. The approval requirements are

contained in § 107.805(f). The approval requirements do not apply to a person who does prefill cylinder inspections such as prescribed in § 173.301(a)(2) or annual inspection of self-contained breathing apparatus (SCUBA) cylinders and who does no visual requalifications under § 180.209(g). After publication of the final rule, we received more than 2,300 applications and many telephone calls from persons asking about the approval requirements.

Because of the number of applications that we continue to receive, we are not able to complete processing and assigning requalifier identification numbers by the October 1, 2003 compliance date and we are concerned that many affected persons may not get their applications in by that date. Therefore, in this interim final rule, we are extending the compliance date after which persons who perform visual cylinder requalifications under § 180.209(g) must obtain approval from us and mark their assigned requalifier identification number on cylinders that have been successfully requalified to May 31, 2004.

II. Comments on This Interim Final Rule

Because October 1, 2003 is the mandatory compliance date currently prescribed in the HMR for marking cylinders with a requalifier identification number, we are issuing this interim final rule without prior notice and public comments. For this same reason, we are making these amendments effective without the customary 30-day delay following publication. Although an opportunity for public comment has not been provided prior to the issuance of this interim final rule, we are seeking public comments to this action. We may further amend the compliance date if warranted, based on the merits of comments.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This interim final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. The interim final rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

This interim final rule amends an August 8, 2002 final rule that made revisions to requirements applicable to the maintenance, requalification, repair and use of DOT specification cylinders.