

issued under 5 U.S.C. 552a; § 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105-174, 112 Stat. 58, as amended by section 651 of Pub. L. 106-58, 113 Stat. 430; § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; § 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105-274, 112 Stat. 2419; § 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; § 831.204 also issued under section 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by section 153 of Pub. L. 104-134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964-1965 Comp. P. 317; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103-66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99-251, 100 Stat. 23; subpart L also issued under 5 U.S.C. 8337; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100-203, 101 Stat. 1330-275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388-328.

#### Subpart A—Administration and General Provisions

##### § 831.114 [Amended]

2. In § 831.114, paragraph (i) is removed.

#### PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

3. The authority citation for part 842 is revised to read as follows:

**Authority:** 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.104 also issued under sections 3 and 7(c) of Pub. L. 105-274, 112 Stat. 2419; § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 102(e) of Pub. L. 104-8, 109 Stat. 102, as amended by section 153 of Pub. L. 104-134, 110 Stat. 1321; § 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105-33, 111 Stat. 251; § 842.107 also issued under section 7(b) of Pub. L. 105-274, 112 Stat. 2419; § 842.108 also issued under section 7(e) of Pub. L. 105-274, 112 Stat. 2419; § 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105-174, 112 Stat. 58, as amended by section 651 of Pub. L. 106-58, 113 Stat. 430; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section

7001(a)(4) of Pub. L. 101-508, 104 Stat. 1388; § 842.707 also issued under section 6001 of Pub. L. 100-203, 101 Stat. 1300; § 842.708 also issued under section 4005 of Pub. L. 101-239, 103 Stat. 2106 and section 7001 of Pub. L. 101-508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104.

#### Subpart B—Eligibility

##### § 842.213 [Amended]

4. In § 842.213, paragraph (i) is removed.

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 226

RIN 0584-AB19

#### Child and Adult Care Food Program: Overclaim Authority and Technical Changes to the Meal Pattern Requirements

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Child and Adult Care Food Program (CACFP) regulations to explicitly authorize the Department and State agencies to assess overclaims against institutions that fail to abide by CACFP recordkeeping requirements. This authority has been successfully challenged in past judicial rulings on the grounds that such authority was not specifically established in program regulations. This rule affirms the Department's authority to assess overclaims for recordkeeping infractions, and clarifies any regulatory ambiguities or inconsistencies regarding overclaims authority. In addition, this rule makes minor changes to the meal pattern requirements. These changes include a technical correction to the supper meal pattern for adults; a modification to the egg and meat/meat alternate equivalencies in the meal patterns to conform to the standards used in the National School Lunch Program and the School Breakfast Program; and a correction to the infant meal pattern to remove an erroneous footnote for breakfast for infants 8 through 11 months.

**EFFECTIVE DATE:** The amendment to § 226.20(b)(4) is effective December 15,

1999. The remaining provisions are effective January 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Eadie or Ms. Melissa Rothstein, 703-305-2620.

#### SUPPLEMENTARY INFORMATION:

##### Background

The CACFP is authorized by section 17 of the National School Lunch Act (42 U.S.C. 1766). As discussed in the preamble to the proposed rule published in the **Federal Register** on December 5, 1995 (60 FR 62227), section 17(m) of that Act stipulates that "States and institutions participating in the program under this section shall keep accounts and records as may be necessary to enable the Secretary (of Agriculture) to determine whether there has been compliance with the requirements of this section."

Furthermore, the current CACFP regulations at 7 CFR Part 226 include a number of requirements relating to recordkeeping; § 226.7(m) requires State agencies to establish standards for institutional recordkeeping; § 226.15(e) prescribes the minimum recordkeeping requirements for institutions in the CACFP; § 226.10(c) requires institutions to certify that records are available to support reimbursement claims; and § 226.10(d) establishes timeframes for record retention. In addition, § 226.6(f)(1) requires that the Program agreement between the State agency and each institution stipulate that the institution must agree to comply with all regulatory requirements, including these recordkeeping requirements. Finally, the importance with which the Department views an institution's recordkeeping responsibilities is found in § 226.6(c)(4), where failure to maintain adequate records is specifically listed as a serious deficiency for which termination of an institution's participation may be appropriate.

The December 5, 1995, rulemaking proposed to amend various sections of the CACFP regulations to clarify that failure to adhere to CACFP recordkeeping requirements may be used as a basis for State agencies to assess overclaims against institutions. The Department received a total of 12 comments from the public on the proposed rule. Eleven comments were from State administering agencies; one

was from a sponsoring organization of Head Start centers that participate in the CACFP. Four State agencies provided comments supporting the proposal without changes. The remaining commenters were generally in support of the proposal with minor recommended changes. These comments and the Department's responses to them are discussed in further detail in this preamble.

### Response to Comments on Proposed Rule

The December 5, 1995, rulemaking proposed to amend § 226.15(e) to require that "Each institution shall establish procedures to collect and maintain all necessary program records." One commenter suggested that the phrase be changed to "\* \* \* all necessary program and financial records" in order to alleviate uncertainties as to the type of records required. Another commenter indicated that the use of the word "necessary" is subjective and open to interpretation by program participants, State agencies, appeals officers and the courts, and recommended clarifying language to minimize the need for interpretation of what records are needed.

In response to these comments, we are adding language to the regulation to clarify that necessary Program records include all records required under Part 226, as well as any additional records required by the State agency. This would include financial records.

Proposed § 226.15(e) further stated that, "Failure to maintain such records shall be grounds for denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records." One State agency expressed concern that use of the word "shall" in this section, and similarly in §§ 226.16(e), 226.17(c), 226.19(c) and 226.19a(c), would require a State agency to recover funds for missing documents, such as training documentation, that do not directly influence a claim for reimbursement. The commenter recommended that the word "may" be substituted for the word "shall" in the proposed sections mentioned. Our intent in using the word "shall" in the proposed language was to provide State agencies with very clear authority to assess an overclaim when an institution's records do not support its claim for reimbursement. We believe that a State agency's authority to assess overclaims could be diminished if these suggested changes are made. Therefore, this final rule retains the proposed

language in §§ 226.16(e), 226.17(c), 226.19(c) and 226.19a(c).

In addition, proposed § 226.14(a) stated that "State agencies may consider claims for reimbursement not properly payable if an institution does not comply with the recordkeeping requirements contained in this part." This proposed revision was intended to provide State agencies with the needed flexibility to determine the grounds for assessing an overclaim against an institution. Taken together, this proposed revision and the proposed revisions to §§ 226.16(e), 226.17(c), 226.19(c) and 226.19a(c) discussed above were meant to provide State agencies with both the authority and the flexibility to assess overclaims against institutions when they determine it is appropriate to do so. Nevertheless, we believe that the proposed language in § 226.14(a) may not provide enough specificity with regard to situations in which State agencies must assess overclaims. Therefore, this final rule adds a sentence to § 226.14(a) to require State agencies to assess overclaims in situations in which institutions fail to comply with recordkeeping requirements for records that pertain to records directly supporting claims for reimbursement. These records include, but are not limited to, daily meal counts, documentation of compliance with meal patterns, and enrollment and attendance records.

The December 5 rulemaking proposed to amend § 226.15(e) by adding new paragraphs (e)(10) and (e)(12) to the list of the minimum records that must be collected and maintained by institutions. These paragraphs were previously located in § 226.16(e)(1) and (2), "Sponsoring Organization Provisions." One commenter questioned the proposed language for paragraph (e)(10), which states that institutions must collect and maintain "Information concerning the dates and amounts of disbursement to each child care facility or adult day care facility with which it has a program agreement." The commenter correctly pointed out that current regulations do not explicitly require sponsoring organizations to enter into program agreements with the day care centers that they sponsor, though many do. Rather, only sponsoring organizations of day care homes, in accordance with § 226.18(b), must enter into these program agreements. To correct this oversight, this final rule amends § 226.15(e)(10) by clarifying that the information must be collected and maintained by the institution for "each child care facility or adult day care facility under its auspices."

Another commenter pointed out that proposed paragraphs (e)(10) and (e)(12) of § 226.15 do not pertain to all institutions, but only to sponsoring organizations. To provide the necessary clarification, this final rule adds the words "If applicable" before each of these paragraphs.

Accordingly, § 226.15(e) is amended in this final rule as discussed above.

Proposed § 226.16(e) stated that, "Each sponsoring organization shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e) and any recordkeeping requirements established by the State agency \* \* \*" One commenter indicated that the proposed language is not strong enough to establish the authority of a State agency to set definitive and enforceable recordkeeping requirements. The commenter suggested clarifying this section to emphasize in § 226.16(e) that all of the additional recordkeeping requirements established by a State agency as part of its financial management responsibilities are covered under this section. However, an amendment to § 226.16(e) is unnecessary since authority for a State agency to establish additional recordkeeping requirements that exceed the minimum requirements in Part 226 already exists in current regulations under § 226.25(b). Therefore, no change is being made to § 226.16(e) in this final rule.

Proposed § 226.18(g) indicated that day care homes "shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e), and the recordkeeping requirements contained in this section." One commenter correctly pointed out that day care homes are not subject to the requirements of § 226.15, "Institution provisions," since day care homes do not meet the definition of an "institution." Rather, sponsoring organizations of day care homes are "institutions" which are subject to the requirements of § 226.15. As suggested by the commenter, the intent of the proposed change, to ensure that the regulations underscore State agencies' authority to assess overclaims against day care homes that do not comply with all recordkeeping requirements, is still accomplished by deleting reference to this section. Accordingly, this final rule removes the inappropriate reference to § 226.15(e) in § 226.18(g), but retains the remainder of the paragraph as proposed.

Similarly, proposed §§ 226.17, 226.19 and 226.19a contain language requiring that child care centers, outside-school-hours care centers, and adult day care centers comply with the recordkeeping

requirements of § 226.15(e). However, the requirements of § 226.15, "Institution provisions," would not be applicable to those centers operating under the auspices of a sponsoring organization. Accordingly, this final rule amends §§ 226.17(c), 226.19(c), and 226.19a(c) to add the words "if applicable" to the requirement to comply with § 226.15(e). As a general comment, a State agency commenter recommended that, in addition to requiring maintenance of records, the regulations be further amended to require institutions to make records available upon request. This change is unnecessary since § 226.10(d) of current regulations already requires that "All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. General Accounting Office for audit or review, at a reasonable time and place."

Proposed § 226.14(a) indicates that a claim for reimbursement can be considered "not properly payable" if an institution does not comply with program recordkeeping requirements. Similarly, proposed §§ 226.15(e), 226.16(e), 226.17(c), 226.18(g), 226.19(c), and 226.19a(c) indicate that "Failure to maintain such records shall be grounds for the denial of reimbursement \* \* \*" For clarification, one commenter recommended amending the proposed language of § 226.14(a) to include after the words "not properly payable," the words "or assessed as an overclaim." The commenter also recommended adding similar language to the end of each of the sections listed above. We believe the proposed regulations are sufficiently clear and that the suggested rewording is unnecessary. Therefore, we are not making the suggested change in this final rule.

One commenter was opposed to State agencies having the authority to assess overclaims for meals already served to income-eligible children. We want to point out, however, that the service of meals to eligible children cannot be demonstrated unless institutions and facilities maintain the records necessary to document such service.

Finally, a commenter remarked that State agencies would benefit from the authority to recover funds for undocumented, allowable costs claimed and reimbursed. This authority already exists, and is contained in 7 CFR Part 3015 and OMB Circulars A-87 and A-122, which require all costs claimed be properly documented.

### Other Comments on the Proposed Rule

The Department also received several comments which are generally related to recordkeeping, but that fall outside the scope of this rulemaking. For example, one commenter recommended that, in addition to assessment of an overclaim, another possible consequence of insufficient recordkeeping should be denial of application renewal. Another commenter suggested that CACFP should have an overpayment disregard amount consistent with the National School Lunch Program, and that meal production records should be required of institutions and facilities to enable monitoring of food quantities as well as components. We cannot address these issues as part of this final rule. However, a forthcoming proposed rule on Improving Management and Program Integrity in CACFP may address them.

### Technical Corrections to the Adult Meal Pattern

This rule amends § 226.20(c)(3) to restore 8 footnotes under the supper meal pattern chart that were inadvertently eliminated in a previous final rulemaking on the CACFP adult meal pattern requirements.

We published a proposed rule on August 27, 1990 (55 FR 34935) that introduced separate meal patterns for lunch and for supper for adults. The proposed meal pattern requirements were developed based on the Department's evaluation of the nutritional requirements specific to adults attending adult day care centers participating in CACFP. The proposed meal pattern requirements were to replace those that had been established in an earlier interim rulemaking.

The final rule published on July 14, 1993 (58 FR 37847) adopted without change the adult meal patterns from the 1990 proposed rule. (We encourage readers to consult the July 14, 1993, publication for a complete discussion on the comments received concerning the proposed adult meal.) Unfortunately, the final rule inadvertently eliminated all footnotes for the supper meal pattern due to a technical error in the amendatory language. This final rule restores the eight footnotes for the supper meal pattern as set forth in the 1990 proposed rule.

### Changes to the Meal Patterns for Egg and Meat/Meat Alternate Equivalencies

Finally, minor adjustments are made in this rulemaking to the equivalencies for eggs and meat/meat alternates in the lunch, supper, and supplemental meal pattern requirements in § 226.20(c), and

to the additional food allowed to be served at breakfast, described in § 226.20(d).

These changes are made to reduce confusion and establish consistency among the meal pattern requirements for the Child Nutrition Programs. As currently provided in the regulations for the National School Lunch Program (NSLP) at § 210.10(k)(2), and the School Breakfast Program (SBP) regulations at § 220.8(g)(iii)(B)(2), the equivalencies for egg and meat/meat alternates for the CACFP will be: one large egg meets the requirement for 2 ounces of meat/meat alternate; one-half large egg meets the requirement for 1 ounce or less of meat/meat alternate. In addition to the changes made to the equivalency amounts, the size of the egg (large) as specified in the NSLP and SBP regulations will also be specified in the CACFP meal patterns. Similar conforming changes will also be made to the Summer Food Service Program in the near future. We believe that this change, though minor in scope, increases consistency in the standards across Child Nutrition Programs. It should also eliminate any confusion that variable equivalencies among the Child Nutrition Programs may have caused.

### Correction to the Infant Meal Pattern

This final rule also amends the CACFP infant meal pattern at § 226.20(b)(4) to correct an error that occurred in the interim rule, "National School Lunch Program, School Breakfast Program and Child and Adult Care Food Program: Amendments to the Infant Meal Pattern," published in the **Federal Register** on November 15, 1999 (64 FR 61770). The table that appeared in the **Federal Register** erroneously included a footnote which indicated that infant cereal is an optional component for breakfast for infants 8 through 11 months. This final rule removes this erroneous footnote to ensure that there is no confusion regarding the requirement that infant cereal be included as a component for breakfast for infants 8 through 11 months. We want to emphasize that no change was made in the interim rule to § 226.20(b)(3)(i), where the requirement to serve infant cereal to these children is established.

### Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

**Regulatory Flexibility Act**

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). Samuel Chambers, Jr., Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. There will be no significant impact because this rule represents only a clarification of current procedures, or only minor changes or corrections in the case of the technical amendments to the meal pattern requirements.

**Executive Order 12372**

CACFP is listed in the Catalog of Federal Domestic Assistance under No. 10.558. For the reasons set forth in the final rule in 7 CFR 3015, Subpart V, and related Notice (48 FR 29115), this Program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

**Paperwork Reduction Act**

This final rule contains no new information collection requirements. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), current reporting and recordkeeping requirements for Part 226 were approved by the Office of Management and Budget under Control Number 0584-0055.

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the EFFECTIVE DATE section. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments. In the CACFP, the administrative procedures are set forth at: (1) 7 CFR 226.6(k), which establishes institution appeal procedures; and (2) 7 CFR 226.22 and 7 CFR 3015, which address administrative appeal procedures for disputes involving procurement by State agencies and institutions.

**Public Law 104-4**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub.L. 104-4, establishes requirements for

Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the Food and Nutrition Service generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Food and Nutrition Service to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of UMRA) for State, local, or tribal governments or the private sector of \$100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

**List of Subjects in 7 CFR Part 226**

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR part 226 is amended as follows:

**PART 226—CHILD AND ADULT CARE FOOD PROGRAM**

1. The authority citation for part 226 continues to read as follows:

**Authority:** Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.14, the introductory text of paragraph (a) is amended by adding three new sentences after the first sentence to read as follows:

**§ 226.14 Claims against institutions.**

(a) \* \* \* State agencies may consider claims for reimbursement not properly payable if an institution does not comply with the recordkeeping requirements contained in this part. In addition, except with approval from the appropriate FNSRO, State agencies shall consider claims for reimbursement not payable when an institution fails to comply with the recordkeeping requirements that pertain to records directly supporting claims for reimbursement. Records that directly

support claims for reimbursement include, but are not limited to, daily meal counts, menu records, and enrollment and attendance records, as required by § 226.15(e). \* \* \*

\* \* \* \* \*

- 3. In § 226.15:
  - a. The introductory text of paragraph (e) is revised;
  - b. Paragraphs (e)(10), (e)(11) and (e)(12) are redesignated as paragraphs (e)(11), (e)(13) and (e)(14), respectively;
  - c. New paragraphs (e)(10) and (e)(12) are added;
  - d. Newly redesignated paragraph (e)(11) is amended by removing the word "and" at the end of the paragraph;
  - e. Newly redesignated paragraph (e)(13) is amended by adding the word "and" after the semicolon at the end of the paragraph; and
  - f. Newly redesignated paragraph (e)(14) is amended by removing the words "Maintain documentation" and adding the word "Documentation" in their place.

The additions and revision specified above read as follows:

**§ 226.15 Institution provisions.**

\* \* \* \* \*

(e) *Recordkeeping.* Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained:

\* \* \* \* \*

(10) If applicable, information concerning the dates and amounts of disbursement to each child care facility or adult day care facility under its auspices;

\* \* \* \* \*

(12) If applicable, information concerning the location and dates of each child care or adult day care facility review, any problems noted, and the corrective action prescribed and effected;

\* \* \* \* \*

4. In § 226.16, paragraph (e) is revised to read as follows:

**§ 226.16 Sponsoring organization provisions.**

\* \* \* \* \*

(e) Each sponsoring organization shall comply with the recordkeeping requirements established in §§ 226.10(d) and 226.15(e) and any

recordkeeping requirements established by the State agency in order to justify the administrative payments made in accordance with § 226.12(a). Failure to maintain such records shall be grounds for the denial of reimbursement.

\* \* \* \* \*

5. In § 226.17, a new paragraph (c) is added to read as follows:

**§ 226.17 Child care center provisions.**

\* \* \* \* \*

(c) Each child care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to maintain such records shall be grounds for the denial of reimbursement.

6. In § 226.18, a new paragraph (g) is added to read as follows:

**§ 226.18 Day care home provisions.**

\* \* \* \* \*

(g) Each day care home shall comply with the recordkeeping requirements established in § 226.10(d) and in this

section. Failure to maintain such records shall be grounds for the denial of reimbursement.

7. In § 226.19, a new paragraph (c) is added to read as follows:

**§ 226.19 Outside-school-hours care center provisions.**

\* \* \* \* \*

(c) Each outside-school-hours care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to maintain such records shall be grounds for the denial of reimbursement.

8. In § 226.19a, a new paragraph (c) is added to read as follows:

**§ 226.19a Adult day care center provisions.**

\* \* \* \* \*

(c) Each adult day care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to

maintain such records shall be grounds for the denial of reimbursement.

9. In § 226.20:

a. The "Child Care Infant Meal Pattern" table in paragraph (b)(4) is revised.

b. The table in paragraph (c)(2) is amended by revising the entry for "Eggs";

c. The table in paragraph (c)(3) is amended by revising the headings and the entry for "Eggs", and by adding eight footnotes.

d. The table in paragraph (c)(4) is amended by revising the headings and the entry for "Eggs"; and

e. Paragraph (d)(1) is amended by removing the words "an egg" and adding in their place the words "one-half egg".

The revisions and additions read as follows:

**§ 226.20 Requirements for meals.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

**CHILD CARE INFANT MEAL PATTERN**

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast .....	4-6 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> .	4-8 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> ; 0-3 Tbsp. Infant cereal <sup>1,4</sup> .....	6-8 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> ; and 2-4 Tbsp. Infant cereal <sup>1</sup> ; and 1-4 Tbsp. Fruit and/or vegetable
Lunch or supper .....	4-6 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> .	4-8 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> ; 0-3 Tbsp. Infant cereal <sup>1,4</sup> ; .... 0-3 Tbsp. Fruit and/or vegetable <sup>4</sup> .	6-8 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> ; and 2-4 Tbsp. Infant cereal <sup>1</sup> ; and/or 1-4 Tbsp. Meat, fish, poultry, egg yolk, cooked dry beans, or peas; or 1/2-2 oz. Cheese; or 1-4 Tbsp. Cottage cheese, cheese food, or cheese spread; and 1-4 Tbsp. Fruit and/or vegetable
Supplement (snack) .....	4-6 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> .	4-6 fl.oz. formula <sup>1</sup> or breast milk <sup>2,3</sup> .	2-4 fl.oz. formula <sup>1</sup> , breast milk <sup>2,3</sup> , or fruit juice <sup>5</sup> ; 0-1/2 bread <sup>4,6</sup> or 0-2 crackers <sup>4,6</sup>

<sup>1</sup> Infant formula and dry infant cereal shall be iron-fortified.

<sup>2</sup> It is recommended that breast milk be served in place of formula from birth through 11 months.

<sup>3</sup> For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

<sup>4</sup> A serving of this component shall be optional.

<sup>5</sup> Fruit juice shall be full-strength.

<sup>6</sup> Bread and bread alternates shall be made from whole-grain or enriched meal or flour.

(c) \* \* \*

(2) \* \* \*

**LUNCH**

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 <sup>1</sup>	Adult participants
Eggs (large) .....	1/2 egg .....	3/4 egg .....	1 egg .....	1 egg

\* \* \* \* \*

(3) \* \* \*

**SUPPER**

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 <sup>1</sup>	Adult participants
Eggs (large) .....	1/2 egg .....	3/4 egg .....	1 egg .....	1 egg

<sup>1</sup> Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 through 12.  
<sup>2</sup> For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.  
<sup>3</sup> Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.  
<sup>4</sup> Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour.  
<sup>5</sup> Serving size equivalents to be published in guidance materials by FNS.  
<sup>6</sup> Edible portion as served.  
<sup>7</sup> Tree nuts and seeds that may be used as meat alternates are listed in program guidance.  
<sup>8</sup> No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For the purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry, or fish.

SUPPLEMENTAL FOOD

(4) \* \* \*

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 <sup>1</sup>	Adult participants
Eggs (large) .....	1/2 egg .....	1/2 egg .....	1/2 egg .....	1/2 egg

\* \* \* \* \*  
 Dated: December 16, 1999.  
**Samuel Chambers, Jr.,**  
*Administrator, Food and Nutrition Service.*  
 [FR Doc. 99-33180 Filed 12-23-99; 8:45 am]  
 BILLING CODE 3410-30-U

**DEPARTMENT OF AGRICULTURE**  
**Animal and Plant Health Inspection Service**  
**7 CFR Part 353**  
**[Docket No. 99-100-1]**  
**Export Certification; Heat Treatment of Solid Wood Packing Materials Exported to China**  
**AGENCY:** Animal and Plant Health Inspection Service, USDA.  
**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the export certification regulations to provide for the establishment of a program under which softwood (coniferous) packing materials used with goods exported from the United States may be certified as having been heat treated. This program is necessary because the Government of the People's Republic of China has established a requirement that coniferous packing materials exported to China must be accompanied

by such certification. This change will affect persons who use coniferous packing materials to export goods from the United States to the People's Republic of China.  
**DATES:** This interim rule is effective December 17, 1999. We invite you to comment on this docket. We will consider all comments that we receive by February 25, 2000.  
**ADDRESSES:** Please send your comment and three copies to: Docket No. 99-100-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.  
 Please state that your comment refers to Docket No. 99-100-1.  
 You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.  
 APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Russell Caplen, Economist/Policy Analyst, Policy and Program Development, APHIS, 4700 River Road Unit 119, Riverdale, MD 20737-1236; (301) 734-8537.  
**SUPPLEMENTARY INFORMATION:**  
**Background**  
 The export certification regulations contained in 7 CFR part 353 (referred to below as the regulations) set forth the procedures for obtaining certification for plants and plant products offered for export or reexport. Export certification is not required by the regulations; rather, it is provided by the Animal and Plant Health Inspection Service (APHIS) as a service to exporters who are shipping plants or plant products to countries that require phytosanitary certification as a condition of entry. After assessing the condition of the plants or plant products intended for export, relative to the receiving country's regulations, an inspector will issue an internationally recognized phytosanitary certificate (PPQ Form 577), a phytosanitary certificate for reexport (PPQ Form 579), or an export certificate for processed plant products (PPQ Form 578), if warranted.  
 Since 1975, APHIS has participated with State governments in the