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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Adult Meal Pattern for the Child and Adult Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts without change the meal pattern proposed by the Department on August 27, 1990 (55 FR 34935) for individuals participating in adult day care centers in the Child and Adult Care Food Program (CACFP). In doing so, it establishes for the first time a meal pattern developed to meet the specific needs of those individuals.

DATES: This rule is effective August 13, 1993.

FOR FURTHER INFORMATION CONTACT: Cynthia Ford, Chief, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, room 607, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305-2556.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 by the Assistant Secretary for Food and Consumer Services and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of \$100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment,

productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant adverse economic impact on a substantial number of small entities.

This Program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultations with State and local officials (7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements included in this rule have been approved by the Office of Management and Budget under clearance 0584-0055.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, 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 "DATES" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Child and Adult Care Food Program, the administrative procedures are set forth under the following regulations: (1) Institution appeal procedures in 7 CFR 226.6(k); and (2) disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR 226.22 and 7 CFR part 3015.

Background

On August 27, 1990, the Department published a proposed rule in the *Federal Register* (55 FR 34935) to provide for a meal pattern developed specifically to meet the needs of adults attending adult day care centers participating in CACFP. As stated in the

preamble to that rule, the proposed meal pattern is intended to replace one which was published in an interim rule on December 28, 1988 at 53 FR 52584 and which essentially adapted to adults the existing Program meal pattern for children 12 years of age and older. Adaptation of that pattern permitted implementation of Program eligibility for adult day care centers in a more timely manner. The 60-day comment period for this proposal ended on October 26, 1990.

For the information of the reader, the following is a restatement of the basis upon which the proposed meal pattern was developed, as well as a discussion of the comments received.

Review of Nutritional Need

Various resources and criteria were used in the development of the final full day pattern for the adult day care component of the CACFP. These included the 1989 Recommended Dietary Allowances (RDA) for adults 51+ years of age, the 1977-78 U.S. Department of Agriculture (USDA) National Food Consumption Survey (NFCS), a 1985-86 survey conducted by the National Institute of Adult Day Care (NIAD) of the National Council on Aging, and the 1990 Edition of the Dietary Guidelines for Americans. These resources provided the best information available to develop a pattern to meet the nutritional requirements of participants in adult day care centers. Since data on the relationship between elderly nutrient requirements, elderly health status, and the aging process is limited, further amendments to the pattern may be necessary as future information becomes available.

Because adult day care centers had not previously participated in the CACFP and actual data on food served and consumed in adult day care centers was unavailable, results from the 1977-78 NFCS were used to estimate the typical eating practices of the elderly. The type and frequency of foods consumed from each of the four meal components traditionally used as a framework for all child nutrition meal patterns (meat/meat alternate, bread/bread alternate, fruit/vegetable, and fluid milk) were analyzed, and composites of estimated nutrient and caloric contributions of each component were developed. Meal components were combined into appropriate breakfast,

lunch, supper and snack patterns based on their nutrient contributions and on the typical eating habits of the elderly. The meals and snacks were then combined into a full day's pattern which meets approximately 100 percent of the RDA for 51+ year old adults.

The estimated caloric level of the proposed full day adult pattern was 1934 kilocalories. The 1989 Recommended Energy Allowance for individuals 51+ years of age ranges from 1900 to 2300 kilocalories and assumes a light-to-moderate level of activity. In general, caloric needs of the elderly decrease with age. Lean body mass decreases and body fat content increases, causing a decrease in the basal metabolic rate (BMR). Activity levels also tend to decrease with age—less energy expenditure requires less caloric intake. An important consideration in implementing elderly nutrition programs is meeting the nutrient requirements while staying within lowered caloric needs. The results of the 1985–86 NIAD survey indicate that the participants in the National Council on Aging, Nutrition Program for the Elderly are relatively sedentary and predominantly female. It is anticipated that participants in the adult component of the Child and Adult Care Food Program will come from a similar population group. Therefore, the calorie level of the proposed pattern was determined to be appropriate for the majority of the participants. In addition, implementation of offer versus serve, discussed below, was thought to provide calorie range flexibility for those participants whose calorie needs may be less than the proposed level.

In addition to the foregoing, section 105(b)(3) of Public Law 101-147, the Child Nutrition and WIC Reauthorization Act of 1989, enacted on November 10, 1989, amended section 17(o) of the National School Lunch Act (42 U.S.C. 1766(o)) to require that lunches served by each adult day care center receiving CACFP reimbursement provide, on the average, approximately one-third of the daily RDA. This meal pattern has been developed to meet that requirement.

Overview of Comments Received

During the 60-day comment period on the proposed rule, the Department received 78 comments. The majority of these comments (31) were from adult day care centers and sponsors. Twenty-seven (27) comments were received from State and local government agencies. Another 14 comments were received from concerned citizens (comprised of individuals with backgrounds in nutrition/home

economics). Four (4) comments were received from social service agencies and two (2) from food industry groups. Most of the comments responded to specific components of the proposed rule and did not address support or non-support for the overall proposal.

Nutritional Adequacy

Several comments concerned the nutritional adequacy of the meal pattern when compared to the RDAs. The proposed meal pattern was based on the 1989 RDA and places emphasis on the U.S. Department of Agriculture/Department of Health and Human Services publication, *Dietary Guidelines for Americans*. The meal pattern, calculated using the types and frequency of foods consumed by the elderly in the 1977–78 NFCS, meets more than 100 percent of the RDA for all nutrients, with the exception of vitamin E and zinc. For vitamin E and zinc, the meal pattern meets 77 and 86 percent of the RDA, respectively. A major source of vitamin E in the diets of Americans is fats and oils. The meal pattern assumed modest amounts of fats and oils. Vitamin E is not considered to be a problem, since deficiencies occur only in two classes of subjects: (1) Premature, very low birthweight infants and (2) patients who do not absorb fat normally (Recommended Dietary Allowances, 10th Edition, Food and Nutrition Board, National Research Council, 1989). Additional quantities of fats and oils would be required in the meal pattern to achieve a level of vitamin E which meets the RDA. The amount of fat provided by the meal pattern is based on information provided in the Dietary Guidelines for Americans, and increases are not considered to be beneficial. The meal pattern is also slightly below the RDA for zinc, a nutrient which tends to be consumed in lower than recommended levels for the population as a whole. However, levels of zinc in the meal pattern are higher than reported intakes in the general population.

The meal pattern is based on a full day's intake including a morning meal, a midday meal, an evening meal, and two supplements (snacks). Reimbursement is allowed for up to three (3) meal services a day—that is, two (2) meals and one (1) snack, or one (1) meal and two (2) snacks per day for each participant. The lunch meal is required to meet, on the average, approximately one-third of the RDA as mandated in section 105(b)(3) of Public Law 101-147, the Child Nutrition and WIC Reauthorization Act of 1989. Again, this goal is met with the exception of vitamin E and zinc.

While Dietary Guidelines for Americans recommends choosing a diet low in fat, saturated fat, and cholesterol, and using salt and sodium in moderation, some items from this group are included for palatability. The proposed meal pattern assumed a modest amount of fat and sugar—one (1) teaspoon each for breakfast and two (2) teaspoons fat and one (1) teaspoon sugar for lunch and supper. Additional sources of sugar may be that which is added to food at the table or foods which contain sugar. Additional fat is contributed by salad dressings, spreads, and cooking oils.

Uniformity With Other Feeding Programs

Eight (8) comments expressed a need for consistency in the meal requirements between the CACFP and the Nutrition Program for the Elderly. The Nutrition Program for the Elderly was established by the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.) (most recently amended by Public Law 102-375; signed on October 2, 1992) and is administered through the Department of Health and Human Services, Administration on Aging. Nutritional requirements for the Nutrition Program for the Elderly are limited to a statement that each meal provide a minimum of one-third of the daily Recommended Dietary Allowances as established by the Food and Nutrition Board of the National Academy of Sciences—National Research Council. Thus, no standard meal pattern is required. States establish their own guidelines for meal patterns. For example, some States require that a 3-ounce portion of meat be served at lunch. Other State programs include meal components such as soup and dessert.

Establishment of the adult meal pattern in the CACFP is consistent with the practice in place for more than forty years of using meal patterns in the Child Nutrition Programs. The Department designed the proposed pattern so that it includes meals and snacks for a full day and is consistent with nationally recognized guidelines, including the 1989 RDAs and the Dietary Guidelines for Americans. Therefore, the Department believes that the proposed meal pattern is a better vehicle, both from a nutritional and administrative standpoint, for ensuring that meals served under the CACFP meet the nutritional needs of Program beneficiaries.

Contribution of Milk to the Meal Pattern

Eleven (11) comments recommended the inclusion of milk in the supper meal

pattern. The proposed meal pattern includes milk at breakfast and lunch, and milk as a possibility at both supplemental meals. The basis of offering milk at breakfast is the popularity of cereal with milk as breakfast menu items. Milk is included in the lunch meal pattern in order to meet the requirement of one-third of the RDA for calcium. It is included in both supplemental meal patterns because milk is a popular accompaniment to crackers and other supplemental meal components. Even without including milk in the supper meal pattern, there is a possibility of four (4) milk servings per day. The total meal pattern, based on three servings of milk per day, provides 161 percent of the RDA for calcium. Given the limited number of calories in the total day's meal pattern, if milk were required at the supper meal in addition to breakfast, lunch and snacks, there would be a potential imbalance of milk nutrients.

Accordingly, this final rule retains milk as a component of all meals, except supper.

Servings of Breads/Cereals and Vegetables/Fruits

Eleven (11) commenters objected to the increased number of bread servings in the proposed pattern. Their concerns are that the number of servings would be excessive for this age group and would increase the cost of preplated meals. The bread/bread alternate servings found in the meal pattern are consistent with the Dietary Guidelines for Americans, contributing both dietary fiber and complex carbohydrates. Moreover, these foods are generally low in fat and, therefore, their inclusion in the meal pattern also serves to limit the caloric contribution of fat. Since the proposed regulation requires that a serving of bread or bread alternate be made from whole-grain or enriched meal or flour, this dietary component also provides essential micronutrients to the diet.

Accordingly, the final meal pattern makes no changes to the number of bread servings found in the proposal.

Seven (7) commenters addressed the portion size and number of servings of vegetables and fruits in the meal pattern. Three provided general comments in support of the vegetable/fruit requirement, while four objected to the increase in serving size from the requirement found in the proposed rule when compared to the interim pattern. In this regard, the proposed patterns are also consistent with the Dietary Guidelines for Americans. These foods serve as an important part of a varied diet, providing dietary fiber, complex

carbohydrates, vitamins and other nutrients that promote good health. In addition, fruits and vegetables are generally low in fat, and the portion size and number of servings of these foods in the meal pattern serves to limit the caloric contribution of fat.

Accordingly, this final rule contains the same portion size and number of servings of fruits and vegetables found in the proposal.

Caloric Needs

Seven (7) commenters maintained that the estimated caloric level of the full day adult meal pattern (1934 kilocalories) is excessive for the intended population. These comments recommended alternative caloric intakes, ranging from 1500 to 1900 kilocalories per day. The estimated caloric level of the proposed full day pattern is based on the 1989 Recommended Energy Allowances for individuals 51+ years of age at 1900 and 2300 kilocalories per day, for females and males, respectively. The proposed caloric level of 1934 kilocalories per day, therefore, is at the lower range for male requirements, and approximately equals the recommended level for average female requirements. The implementation of the offer versus serve provision will provide adequate caloric flexibility for participants whose caloric need may be less than the proposed level.

Offer Versus Serve

Fifty-four (54) commenters addressed the "offer versus serve" (OVS) provision contained in the proposed rule in § 226.20(p). 23 commenters supported the provision, stressing that adults have established eating habits and should be allowed to choose what they eat. Several commenters went on to state that allowing participants choices helps to foster a sense of independence. Two commenters supported the provision with conditions—one supported it only if the participants were allowed to substitute an equal number of foods for those declined and the one favored it since it potentially limits food waste, but was against it since they felt that the staff should be aware of food preferences before it was offered.

Twenty-nine commenters opposed the proposal. In most cases, these commenters have misinterpreted the provision's intent, or misunderstood all or parts of the provision. OVS is proposed as a provision to be implemented at the discretion of the day care center. It is not required that any center implement the provision.

One commenter stated that they were against the provision without

explanation. Seventeen comments conveyed a concern that, due to debilitating neurological disorders, participants may not be capable of selecting foods which constitute a balanced diet or a diet containing adequate amounts of calcium rich foods.

One commenter felt that participants may not get enough food at home and may need all the foods provided in the pattern. These are legitimate concerns. Again, however, it is not required that a center implement OVS or that the participants refuse food items if OVS is available. Centers need not implement OVS if center officials feel that their clients are not capable of selecting food and individuals need not refuse food items even if OVS is available.

Six commenters stated that the provision would be too costly for the centers to pay for food which would not be consumed. The concept of OVS is that, through time, centers be able to reduce the amount of food which they purchase by observing their clients' food preferences. OVS should save money and prevent waste, not increase cost or waste.

Four commenters stated that, for centers which use preplated food delivery systems, implementation of OVS would be irrelevant and would not decrease costs, since a preplated delivery system does not allow the option of declining or taking a small portion of any one or two of the required food items. Again, OVS is an option provided to the center. Centers which use preplated meals need not implement the provision. In addition, centers that use a preplate system may offer any item (such as a carton of fluid milk or individually wrapped bread, rolls or crackers) which is not part of the preplated unit for OVS.

The offer versus serve provision has been used successfully in school feeding programs since its implementation under Public Law 94-105, enacted October 7, 1975. It is a provision under which participating centers must offer all required servings of the food components set forth in the adult meal pattern, but participants may decline a certain number of servings. The intent of OVS implementation is to reduce plate waste by allowing participants to choose only those foods they wish to consume.

In spite of the concerns of those who oppose OVS, the Department believes that, on balance, it is in the best interest of the Program, as well as participating centers and individuals, to make it available in the adult day care portion of the CACFP. We believe that opposition to OVS is based, in general, on the misunderstanding that OVS—

both the provision itself and the refusal of food items—will be required for all program participants. Once it is understood that the provision is an option for each individual center, and that participants are not, by any means, required to refuse food items, the objections to OVS became invalid. With regard to specific concerns cited above, centers should make every effort to provide well-balanced meals by surveying and observing food preferences and, where necessary, offer assistance in meal component selection.

Accordingly, this final rule retains the OVS provision as proposed.

USDA Food Grouping System

Some comments and questions addressed the USDA Food Grouping/Crediting System. They pointed out that other recognized food grouping systems such as the one established by the American Diabetic Association in conjunction with the American Dietetic Association categorize foods according to different criteria.

All of the feeding programs administered by the Department of Agriculture which use meal patterns follow the same system of meal pattern food grouping. The Child Nutrition Labeling Program is based on USDA crediting. Products labeled under this program are used throughout USDA feeding programs. Many providers of adult day care meals also supply meals to schools and child care centers. To avoid confusion, simplify recordkeeping, and streamline procurement, it is important that each of these programs follow the same food grouping/crediting system. The basis for this system is the use of conventional foods served in traditional meals.

Accordingly, the Department is making no change to the food grouping/crediting provisions in this final rule.

Essential Nutrients

Some comments recommended that foods containing certain nutrients (iron and vitamins A and C) be required in the meal pattern a minimum number of times per week. While the Department agrees that these nutrients are important dietary requirements, the full day adult meal pattern is intended to include an appropriate variety of foods that will provide all of the vitamins, minerals, amino acids, and fatty acids that are essential for good health. The proposed regulation establishes an estimated caloric level and requires a variety of foods in order to assure that the total diet supplies all of the required

nutrients. However, it is not the intention of the Department to unnecessarily limit the flexibility of program providers in their menu planning activities.

Need for Further Research

Three (3) commenters called for research on the caloric needs of specific age groups in the over 51 year age range. Some commenters also maintained that differences in the nutritional needs of the elderly should be addressed. The Department agrees that information on the dietary needs of the elderly is limited and incomplete. Although nutrition research is beyond the scope of the Food and Nutrition Service, we support the concept of increased research in this area. As research findings become available, changes in the adult meal pattern will be proposed where warranted.

Meal Substitutions

Several commenters suggested that the Department should provide additional reimbursement for special meals or liquid supplements. They point out that these special meals frequently cost considerably more than traditional meals. Program regulations at 7 CFR 226.20(h) allow for food substitutions for medical or other special dietary needs when supported by a statement from a recognized medical authority. Program policy found in FNS Instruction 783-2 (Rev. 1) requires that the special dietary needs of handicapped individuals be met by institutions participating in the CACFP. However, Program reimbursement rates are set forth in law and amounts cannot be changed at the discretion of the Department.

Summary

The proposed adult meal pattern, published in the *Federal Register* on August 27, 1990, at 55 FR 34935-34939, is adopted as a final rule without change.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 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 § 226.20:

a. Paragraph (a) is amended by removing the words "A serving of", "a serving of", "an equivalent serving of" and "an equivalent quantity of" wherever they appear.

b. Paragraph (a)(2) is amended by removing the words "Both lunch and supper" from the introductory text and adding the word "Lunch" in its place.

c. Paragraph (a)(3) is redesignated as paragraph (a)(4) and a new paragraph (a)(3) is added.

d. Newly redesignated paragraph (a)(4)(iii) is amended by removing the word "Juice" from the second sentence and adding the words "For children, juice" in its place.

e. The table in paragraph (c)(1) is amended by removing footnotes 6 and 7 and by revising the adult participants column of the meal pattern table.

f. The center heading to paragraph (c)(2) is amended by removing the words "OR SUPPER".

g. The introductory text of paragraph (c)(2) is amended by removing the words "or supper", and the table is amended by removing footnotes 9 and 10 and by revising the adult participants column.

h. Paragraph (c)(3) is redesignated as paragraph (c)(4) and a new paragraph (c)(3) is added.

i. The introductory text of newly redesignated paragraph (c)(4) is amended by removing the reference "paragraph (a)(3)" and adding the reference "paragraph (a)(4)" in its place and by removing the word "Juice" and adding the words "For children, juice" in its place; the table is amended by removing footnotes 8 and 9 and by revising the adult participants column.

j. Paragraph (p) is revised.

The addition and revisions specified above read as follows:

§ 226.20 Requirements for meals.

(a) * * *

(3) Supper shall contain the food components and servings listed for lunch in § 226.20(a)(2), except that, for adult participants in adult day care centers, it does not require a serving of fluid milk.

* * * * *

(c) * * *

(1) * * *

BREAKFAST

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12 ¹	Adult participants
MILK				
Milk, fluid	***	***	***	1 cup. ²
VEGETABLE AND FRUITS				
Vegetable(s) and/or fruits	***	***	***	½ cup.
or Full-strength vegetable or fruit juice or an equivalent of any combination of vegetable(s), fruit(s) and juice.	***	***	***	½ cup.
BREAD AND BREAD ALTERNATES³				
Bread	***	***	***	2 slices (servings).
or Combread, biscuits, rolls, muffins, etc. ⁴	***	***	***	2 servings.
or Cold dry cereal ⁵	***	***	***	1½ cups or 2 oz.
or Cooked cereal	***	***	***	1 cup.
or Cooked pasta or noodle product	***	***	***	1 cup.
or Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	***	***	***	1 cup.

* * * * *

(2) * * *

LUNCH

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12 ¹	Adult participants
MILK				
Milk, fluid	***	***	***	1 cup. ²
VEGETABLE AND FRUITS³				
Vegetable(s) and/or fruits	***	***	***	1 cup total.
BREAD AND BREAD ALTERNATE⁴				
Bread	***	***	***	2 slices (servings).
or Combread, biscuits, rolls, muffins, etc. ⁵	***	***	***	2 servings.
or Cooked pasta or noodle products	***	***	***	1 cup.
or Cooked cereal or grains or an equivalent quantity of any combination of bread/bread alternate.	***	***	***	1 cup.
MEAT AND MEAT ALTERNATE				
Lean meat or poultry or fish ⁶	***	***	***	2 oz.
or Cheese	***	***	***	2 oz.
or Eggs	***	***	***	1 egg.
or Cooked dry beans or peas	***	***	***	½ cup.
or Peanut butter or soynut butter or other nut or seed butters .	***	***	***	4 tbsp.
or Peanuts or soynuts or tree nuts or seeds ⁷	***	***	***	1 oz=50 percent.
or An equivalent quantity of any combination of the above meat/meat alternate.				

* * * * *

(3) The minimum amounts of food components to be served as supper as

set forth in paragraph (a)(3) of this section are as follows:

SUPPER

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12 ¹	Adult participants
MILK				
Milk, fluid	½ cup ²	¾ cup	1 cup	None.
VEGETABLES AND FRUITS³				
Vegetable(s) and/or fruit(s)	¼ cup total	½ cup total	¾ cup total	1 cup total.
BREAD AND BREAD ALTERNATES⁴				
Bread	½ slice	½ slice	1 slice	2 slices (servings).
or				
Combread, biscuits, rolls, muffins, etc. ⁵	½ serving	½ serving	1 serving	2 servings.
or				
Cooked cereal or grains or an equivalent quantity of any combination of bread/bread alternates.	¼ cup	¼ cup	½ cup	1 cup.
MEAT AND MEAT ALTERNATES				
Lean meat or poultry or fish ⁶	1 oz	1 ½ oz	2 oz	2 oz.
or				
Cheese	1 oz	1 ½ oz	2 oz	2 oz.
or				
Eggs	1 egg	1 egg	1 egg	1 egg.
or				
Cooked dry beans or peas	¼ cup	¾ cup	½ cup	½ cup.
or				
Peanut butter or soy nut butter or other nut or seed butters.	2 tbsp	3 tbsp	4 tbsp	4 tbsp.
or				
Peanuts or soy nuts or tree nuts or seeds ⁷	½ oz=50 percent. ⁸	¾ oz=50 percent. ⁸	1 oz=50 percent. ⁸	1 oz=50 percent. ⁸
or				
An equivalent quantity of any combination of the above meat/meat alternates.				

* * * * *

(4) * * *

SUPPLEMENTAL FOOD

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12 ¹	Adult participants
MILK				
Milk, fluid	* * *	* * *	* * *	1 cup. ²
VEGETABLES AND/OR FRUITS				
Vegetable(s) and/or fruit(s)	* * *	* * *	* * *	½ cup.
or				
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	* * *	* * *	* * *	½ cup.
BREAD AND BREAD ALTERNATES⁽³⁾				
Bread	* * *	* * *	* * *	1 slice (serving).
or				
Combread, biscuits, rolls, muffins, etc. ⁽⁴⁾	* * *	* * *	* * *	1 serving.
or				
Cold dry cereal ⁽⁵⁾	* * *	* * *	* * *	¾ cup or 1 oz.
or				
Cooked cereal	* * *	* * *	* * *	½ cup.
or				
Cooked pasta or noodle product	* * *	* * *	* * *	½ cup.
or				
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	* * *	* * *	* * *	½ cup.
MEAT AND MEAT ALTERNATIVES				
Lean meat or poultry or fish ⁽⁶⁾	* * *	* * *	* * *	1 oz.
or				
Cheese	* * *	* * *	* * *	1 oz.
or				
Eggs	* * *	* * *	* * *	1 egg.
or				
Cooked dry beans or peas	* * *	* * *	* * *	¼ cup.

SUPPLEMENTAL FOOD—Continued

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12 ¹	Adult participants
or Peanut butter or soy nut butter or other nut or seed butters.	***	***	***	2 tbsp.
or Peanuts or soy nuts or tree nuts or seeds ⁷	***	***	***	1 oz.
or Yogurt, plain or sweetened and flavored	***	***	***	4 oz or ½ cup.
or An equivalent quantity of any combination of the above meat/meat alternates.				

* * * * *

(p) *Offer versus serve.* (1) Each adult day care center shall offer its adult participants all of the required food servings as set forth in paragraph (c)(1), (c)(2) and (c)(3) of this section. However, at the discretion of the adult day care center, adult participants may be permitted to decline:

(i) *One of the four food items* (one serving of milk, one serving of vegetable and/or fruit, and two servings of bread or bread alternate) required at breakfast;

(ii) *Two of the six food items* (one serving of milk, two servings of vegetable and/or fruit, two servings of bread or bread alternate, and one serving of meat or meat alternate) required at lunch;

(iii) *Two of the five food items* (two servings of vegetables and/or fruit, two servings of bread or bread alternate, and one serving of meat or meat alternate) required at supper.

(2) The price of a reimbursable meal shall not be affected if an adult participant declines a food item.

Dated: July 2, 1993.

Ellen Haas,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 93-16591 Filed 7-13-93; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

[T.D. 93-52]

Examination of Wool and Hair

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule without change proposed amendments to the Customs Regulations to remove references to estimation of clean yield of wool or hair by non-

laboratory method and to eliminate Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair. The amendments conform the regulations to current Customs procedures which no longer include informally estimating the clean yield of wool or hair and notifying the importer of that estimate. Determination of the clean yield of wool or hair will thus be made on a case-by-case basis only through analysis performed in a Customs or commercial laboratory.

EFFECTIVE DATE: August 13, 1993.

FOR FURTHER INFORMATION CONTACT: Ira Reese, Office of Laboratories and Scientific Services (202-927-1060).

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1992, Customs published a notice in the *Federal Register* (57 FR 37917) proposing to amend various sections within subpart E of part 151, Customs Regulations (19 CFR part 151), which covers examination and testing procedures applicable to imported wool and hair for tariff purposes. The proposed amendments were intended specifically to ensure that the regulations reflect current requirements and procedures regarding the determination of clean yield: If a clean yield content report is needed for Customs purposes, Customs samples and analyses the crude wool for clean yield content in a Customs laboratory specializing in wool analysis and, when a Laboratory Report is issued on Customs Form 6415, a copy thereof is sent by Customs to the importer of record. The specific amendments proposed in the notice involved (1) removal of § 151.72 which provides for estimation of clean yield by non-laboratory method and specifies use of Customs Form 6451 as the means for notification to the importer, and (2) conforming changes to other sections of the regulations involving removal of all references: To Customs Form 6451; § 151.72; an examination or estimation

procedure (which in the regulatory texts has reference only to a non-laboratory procedure); and importer notification of the results of an examination or estimation procedure. As a consequence of the proposed amendments, the present regulatory provisions regarding laboratory sampling and analysis (which also provide for analysis by a commercial laboratory under certain circumstances) would become the sole means under the regulations for determination of clean yield content.

One comment was received from the public in response to the notice. This commenter supported the proposed amendments and further suggested that the Customs Commercial Laboratory Program should be expanded to include accreditation for wool testing so as to eliminate the need for retesting. Customs does not believe that any action should be taken in response to this comment because (1) the comment is outside the scope of the proposed amendments, and (2) based on the relatively small number of wool analyses performed each year in Customs laboratories and based on the absence of any requests for retesting of wool samples over the last several years, the accreditation of commercial laboratories to perform wool testing is neither necessary nor appropriate.

Based on the above, Customs believes that the proposed amendments should be adopted as a final rule without change.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), it is certified that the regulations amendments will not have a significant economic impact on a substantial number of small entities. The amendments merely conform the regulations to present administrative practice and thus will not result in any increased economic impact. Accordingly, these amendments are not subject to the regulatory analysis or

other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 151

Customs duties and inspection, Imports, Examination, sampling and testing, Wool.

Amendments to the Regulations

Accordingly, part 151, Customs Regulations (19 CFR part 151), is amended as set forth below:

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The authority citation for part 151 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 8 and 9, Harmonized Tariff Schedule of the United States), 1624. * * * Subpart E also issued under Additional U.S. Note 2(f) to Chapter 51, HTSUS. * * *

2. Section 151.64 is revised to read as follows:

§ 151.64 Extra copy of entry summary.

One extra copy of the entry summary covering wool or hair subject to duty at a rate per clean kilogram shall be filed in addition to the copies otherwise required.

3. Section 151.70, first sentence, is amended by removing at the end the words ", in which case the clean yield of the wool or hair in such sampling unit shall be estimated as provided for in § 151.72".

4. Section 151.71 is amended by revising paragraphs (a) and (b) to read as follows:

§ 151.71 Laboratory testing for clean yield.

(a) **Test and report by Customs laboratory.** The clean yield of all general samples taken in accordance with § 151.70 shall be determined by test in a Customs laboratory, unless it is found that it is not feasible to test such a sample and obtain a proper finding of percentage clean yield. A report of the percentage clean yield of each general sample as established by the test, or a statement of the reason for not testing a

general sample, shall be forwarded to the district director.

(b) **Notification to importer.** Where samples of wool or hair have been tested in a Customs laboratory and the district director has received a copy of the Laboratory Report, Customs Form 6415, the district director shall promptly provide notice of the test results by mailing a copy of that report to the importer.

5. Section 151.72 is removed.
6. Section 151.73 is amended by removing from paragraph (a) the words "or a reestimation of clean yield made in accordance with § 151.72(c)".
7. Section 151.73 is further amended by removing from paragraph (b) the words "or reexamination".

8. Section 151.75 is amended by removing the words "and examinations".

George J. Weise,

Commissioner of Customs.

Approved: June 25, 1993.

Ronald K. Noble,

Assistant Secretary of the Treasury.

[FR Doc. 93-16662 Filed 7-13-93; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 86F-0328]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of phosphorous acid, cyclic neopentetetrayl bis(2,4-di-tert-butylphenyl) ester as an antioxidant for use in olefin polymers intended for food-contact use. This action is in response to a petition filed by General Electric Co. (formerly Borg-Warner Chemicals, Inc.).

DATES: Effective July 14, 1993; written objections and requests for a hearing by August 13, 1993.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety

and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 22, 1986 (51 FR 30128), FDA announced that a food additive petition (FAP 6B3944) had been filed by Borg-Warner Chemicals, Inc., Washington, WV 26181. The petition proposed that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of phosphorous acid, cyclic neopentetetrayl bis(2,4-di-tert-butylphenyl) ester as an antioxidant for use in olefin polymers intended for food-contact use.

Since the notice published, this division of Borg-Warner Chemicals, Inc., was purchased by the General Electric Co., Parkersburg Center, Fifth and Avery Sts., Parkersburg, WV 26102.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the food additive is safe and that § 178.2010(b) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before August 13, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing

is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen

in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.
Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 is revised to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) for the entry "Phosphorous acid, cyclic neopentanedetrayl bis(2,4-di-tert-butylphenyl)ester" by numerically adding new entry "3." under the heading "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *
(b) * * *

Substances

Limitations

Phosphorous acid, cyclic neopentanedetrayl bis(2,4-di-tert-butylphenyl)ester (CAS Reg. No. 26741-53-7).

For use only:

* * *
3. At levels not to exceed 0.05 percent by weight in olefin polymers complying with § 177.1520(c) of this chapter, item 3.1, that contain more than 50 weight percent of polymer units derived from ethylene and whose density is less than 0.94 gram per cubic centimeter. The average thickness of such polymers intended for use in contact with food types V and VII-A described in Table 1 of § 176.170(c) of this chapter shall not exceed 80 micrometers (0.003 inch).

Dated: July 1, 1993.

Janice F. Oliver,
Acting Director, Center for Food Safety and Applied Nutrition.
[FR Doc. 93-16595 Filed 7-13-93; 8:45 am]
BILLING CODE 4180-01-F

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name for a new animal drug application (NADA) from Lyphomed, Division of Fujisawa USA, Inc., to Fujisawa USA, Inc.

EFFECTIVE DATE: July 14, 1993.

FOR FURTHER INFORMATION CONTACT: Judy M. O'Haro, Center for Veterinary Medicine (HFV-238), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8737.

SUPPLEMENTARY INFORMATION:

Lyphomed, Division of Fujisawa USA, Inc., Deerfield, IL 60015-2548, has informed FDA of a change of sponsor name from Lyphomed, Division of Fujisawa USA, Inc., to Fujisawa USA, Inc. Accordingly, FDA is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry "Lyphomed, Division of Fujisawa USA, Inc." and by alphabetically adding a new entry for "Fujisawa USA, Inc., Deerfield, IL 60015-2548.....000469"; and in the table in paragraph (c)(2) in the entry for "000469" by removing the sponsor name "Lyphomed, Division of Fujisawa USA, Inc." and adding in its place "Fujisawa USA, Inc."

Dated: July 7, 1993.
Richard E. Geyer,
Deputy Director, Office of Surveillance and Compliance, Center for Veterinary Medicine.
[FR Doc. 93-16594 Filed 7-13-93; 8:45 am]

BILLING CODE 4180-01-F