

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 226

RIN 0584-AD56

#### Child and Adult Care Food Program: Age Limits for Children Receiving Meals in Emergency Shelters

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

**ACTION:** Interim rule.

**SUMMARY:** This interim rule amends the Child and Adult Care Food Program (CACFP) regulations to implement a provision of the Child Nutrition and WIC Reauthorization Act of 2004, which raised the age limit for residents of emergency shelters who are eligible to receive CACFP meals to include children through age 18. This rule also extends eligibility for participation to emergency shelters that primarily serve children through age 18 who are homeless and seeking shelter without their families. These changes are expected to increase the number of emergency shelters that will be eligible to participate in CACFP as well as the number of homeless children that will have access to free, nutritious meals.

**DATES:** *Effective Date:* February 2, 2006.

*Comment Date:* To be assured of consideration, comments must be postmarked on or before March 6, 2006.

**ADDRESSES:** The Food and Nutrition Service invites interested persons to submit comments on this interim rule. Comments may be submitted by any of the following methods:

- Mail: Send comments to Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Room 640, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302-1594. All submissions will be available for public

inspection at this location Monday through Friday, 8:30 a.m.–5 p.m.

- Fax: Submit comments by facsimile transmission to: (703) 305-2879. Please address your comments to Mr. Eadie and identify your comments as “CACFP: Age Limits for Children in Emergency Shelters”.

- E-Mail: Send comments to [CNDProposal@fns.usda.gov](mailto:CNDProposal@fns.usda.gov). Please identify your comments as “CACFP: Age Limits for Children in Emergency Shelters”.

- Hand Delivery or Courier: Deliver comments to 3101 Park Center Drive, Room 634, Alexandria, Virginia 22301-1594, during normal business hours of 8:30 a.m.–5 p.m.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Keith Churchill, at telephone number (703) 305-2590.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

*How Does the Child and Adult Care Food Program (CACFP) Help Children Who Are Homeless?*

Homeless children residing in eligible emergency shelters have been able to receive free meals and snacks through the CACFP since July 1, 1999, when a provision of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336) became effective. Under Public Law 105-336, the CACFP benefit was limited to children age 12 and younger, migrant workers' children age 15 and younger, and disabled children.

*How Do Emergency Shelters Participate in CACFP?*

Public Law 105-336 established requirements for emergency shelters by adding a new section 17(t) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1766(t). Emergency shelters approved under these provisions must:

- Meet the definition of emergency shelter contained in the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351);
- Comply with applicable State or local health and safety codes;
- Serve meals that meet the USDA's nutritional standards; and

- Claim reimbursement only for meals served to eligible residential children.

*What Types of Emergency Shelters Are Eligible to Participate in CACFP?*

The Food and Nutrition Service (FNS) issued guidance on March 30, 1999 requiring that to participate in CACFP emergency shelters must either:

- Provide temporary residence to families with children; or
- Sponsor a temporary residential site for children and their parents or guardians.

This policy has targeted CACFP benefits to shelters that support at-risk homeless children as part of a family unit. Examples of eligible emergency shelters include family shelters and shelters for battered women. On March 14, 2000, FNS provided additional guidance clarifying that residential child care institutions (RCCIs) may also participate in CACFP if they operate a separate program for homeless families with children.

In 2002, FNS added a definition of *Emergency shelter* to § 226.2 of the CACFP regulations. This definition was included in an interim rule entitled, “Implementing Legislative Reforms to Strengthen Program Integrity”, published in the **Federal Register** on June 27, 2002 (67 FR 43448). Based on this definition, a public or private nonprofit organization qualifies as an emergency shelter for purposes of Program participation if its primary purpose is to provide temporary housing and food services to homeless families with children. No comments were received on this definition.

*What Did the Most Recent Legislation Change About the Age Limits for Children Residing in Emergency Shelters?*

A provision of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108-265) extended the age limit, from 12 to 18, for residents of emergency shelters to be eligible to receive CACFP meals. Specifically, section 119(g) of Public Law 108-265 amended section 17(t)(5)(A) of the NSLA to remove the age limitations on residents of emergency shelters (15 years for children of migrant workers and 12 years for all other children) and extend the age limit for all children not more than 18 years. This provision was effective on October 1, 2004, pursuant to

section 502(b)(2) of Public Law 108–265.

*What Guidance Has USDA Provided on This Change?*

FNS notified CACFP State agencies of the change in writing on August 10, 2004. We explained to State agencies that the recent legislation raised the age limit, from 12 to 18, for residents of emergency shelters who would be eligible to receive CACFP meals.

*How Does This Rule Implement the Change in Age Limits?*

This interim rule revises the definition of *Children* in § 226.2 of the CACFP regulations to specify that eligible participants in emergency shelters includes residents through age 18 and residents of any age with disabilities as defined by the State agency.

*Does This Rule Make Changes to the Types of Emergency Shelters That May Participate in the CACFP?*

Yes. This interim rule revises the definition of *Emergency shelter* at § 226.2 of the CACFP regulations to:

- Extend eligibility to emergency shelters that provide temporary shelter and food services to unaccompanied children through age 18 by removing the reference to homeless families;
- Remove the condition that the primary purpose of the emergency shelter must be the provision of temporary shelter and food services;
- Clarify that the sites of otherwise eligible public or private nonprofit organizations may participate as emergency shelters if the sites provide temporary shelter and food services to homeless children; and
- Specify that a RCCI may participate in CACFP as an emergency shelter only if it serves a distinct group of homeless children who are not enrolled in the RCCI's regular program.

Under this revised definition, an otherwise eligible public or private nonprofit organization or its site may participate as an emergency shelter if it provides temporary housing and food services to homeless children, with or without their families. A RCCI may participate if it provides temporary shelter and food services to homeless children who are not enrolled in its regular program.

*Why is USDA Making These Changes?*

We are extending program eligibility to emergency shelters that serve unaccompanied children to ensure that CACFP meal benefits are available to children, including adolescents who may be alone and seeking shelter. The

extension of CACFP meal benefits to residents through age 18 in emergency shelters by Public Law 108–265 focuses attention on homeless youth between 13 and 18 years old. In contrast to younger children, older youth are more likely to seek temporary shelter without their families. Also, we recognize that there may be emergency shelters serving children and youth that have multiple purposes. We have removed, therefore, the requirement that the primary purpose of an eligible emergency shelter must be the provision of temporary shelter and food services.

The addition of the word “site” revises the current definition of emergency shelter to clarify the eligibility of emergency shelter sites, as mandated by section 17(t)(1)(B) of the NSLA (42 U.S.C.1766(t)(1)(B)). This revision codifies current policy. Sites of emergency shelters meeting the definition of the McKinney-Vento Homeless Assistance Act as codified at 42 U.S.C. 11351, have been eligible to participate in CACFP since 1999. Within current CACFP requirements, the private, nonprofit organization that is sponsoring an emergency shelter site must apply to participate in the CACFP as a sponsoring organization, subject to all of the provisions governing the participation of sponsoring organizations described throughout the CACFP regulations, especially in §§ 226.15 and 226.16. An example of this type of arrangement would be a multi-purpose private nonprofit organization, like The Salvation Army, which provides many community services including the sponsorship of an emergency shelter for homeless children. In this situation, The Salvation Army would need to apply to participate as a sponsoring organization of the emergency shelter facility.

Finally, we stipulate that a RCCI may participate as an emergency shelter if it serves a distinct group of children who are homeless and are not enrolled in its regular program. Our intention in making this revision to the definition is to codify CACFP policy on RCCI participation that was first outlined in our March 14, 2000 guidance.

*Why is RCCI Participation in CACFP Restricted?*

RCCIs provide residential care and other services for children with specific needs, often on a long-term basis. RCCIs are designated as schools in section 12(d)(5) of the NSLA (42 U.S.C. 1760(d)(5)). For this reason, meal benefits for RCCI residents are provided through the school nutrition programs if the RCCI meets the definition of *School* in § 210.2 of the National School Lunch

Program (NSLP) regulations. Examples of RCCIs that may participate in the NSLP include homes for the mentally, emotionally or physically impaired, homes for unmarried mothers and their infants, halfway houses, orphanages, temporary shelters for abused and runaway children, long-term care facilities for chronically ill children, and juvenile detention centers.

Some of these RCCIs may also be eligible to participate in CACFP if they meet the definition of *Emergency shelter* in this interim rule. Given the purpose and structure of most RCCIs, it is unlikely that many will qualify for CACFP participation as emergency shelters based on their regular program and curriculum. However, RCCIs that operate emergency shelter sites for homeless children may be eligible, provided that the sites, including sites that are co-located within the RCCI facility, serve a distinct group of children who are not enrolled in the RCCI's regular program.

Due to the variety of services offered by organizations providing residential or short-term care for children in need, we are interested in receiving comments from the public on the revised definition of *Emergency shelter*.

*Are Shelters for Runaways Eligible to Participate in CACFP?*

Yes, provided that runaway shelters meet the revised definition for *Emergency shelter* contained in this rule, as determined by the CACFP State agency, they may participate in CACFP. An eligible shelter or its site for runaway youth must provide temporary housing and food services to children 18 years of age and younger. A shelter that provides a program of structured care on a long-term basis would be classified as a RCCI and would generally be eligible to participate in the school nutrition programs; a runaway shelter of this type could participate in CACFP only if, in addition to its other activities, it provides temporary housing and food services to a distinct group of children who are not part of its regular program of care.

*How Will These Changes Affect Emergency Shelters?*

Participating emergency shelters will benefit from the increased level of reimbursement received for meals served to children from ages 13 through 18. This change should help to make their operation of CACFP more efficient, while allowing them to serve more meals that would be eligible for reimbursement. In addition, emergency shelters and sites providing temporary shelter and food services to

unaccompanied homeless children will now be eligible to participate in CACFP.

Emergency shelters must ensure that they claim reimbursement only for meals that meet the requirements for meals in § 226.20, including the meal patterns for children and adult participants. To improve the nutrition and satisfy the hunger of adolescent boys and girls, emergency shelters may need to serve additional foods and larger portions to children ages 13 through 18. The CACFP reimbursement received by emergency shelters for these meals must be used exclusively to support the nonprofit food service programs operated for children.

#### *How Will These Changes Affect State Agencies?*

The impact of these changes on State agencies administering CACFP should be minimal. State agencies have already provided information to emergency shelters about claiming meals for children age 13 through age 18. The revised definition of *Emergency shelter* may encourage organizations that provide services to unaccompanied homeless youth, such as shelters for runaways, to apply for Program participation. As a result, State agencies may experience an increase in workload associated with approving applications, providing technical assistance, and conducting monitoring of newly eligible emergency shelters.

#### *Does This Rule Make Any Other Changes to the CACFP Regulations?*

Yes. This rule updates the CACFP regulations to add emergency shelters to the definitions of *Center*, *Child care facility*, *Free meal*, *Independent center*, and *Sponsoring organization*. The rule also makes a number of technical revisions to the regulations to ensure that emergency shelters are included and/or excluded in program requirements, as appropriate. These revisions include:

- In § 226.4, a new paragraph specifies that emergency shelters must be reimbursed at the free rates for meals and snacks served;

- In § 226.6, paragraph (d) is revised to specify that emergency shelters are exempt from licensing or approval requirements for child care centers but must meet applicable State or local health and safety requirements (note: the exemption from licensing/approval and compliance with health and safety standards are mandated by the NSLA, 42 U.S.C. 1766(t)(3) and (4));

- In §§ 226.7 and 226.9, emergency shelters and sponsoring organizations of emergency shelters are excluded from the requirement to submit information

about participants' income or eligibility for free, reduced price, or paid meals that the State agency uses to assign reimbursement rates to centers;

- In § 226.11, emergency shelters are included in the requirement that State agencies may only reimburse centers for meal types specified in the program agreement;

- In § 226.15, emergency shelters are excluded from the requirements to submit enrollment information of participants and from the requirements of determining their eligibility for free, reduced price, or paid meals and snacks;

- In § 226.16, emergency shelters are added to the list of facilities that may be subject to a separate agreement and are included in the list of centers that must receive program payments from the sponsoring organization within five working days of receipt; and

- In § 226.23, revisions are made to clarify that institutions that elect not to charge separately for meals, such as emergency shelters and sponsoring organizations of emergency shelters, do not have to include the income eligibility guidelines in media releases advertising free Program meals.

## **II. Procedural Matters**

### *Executive Order 12866*

This rule has been determined to be not significant and therefore was not reviewed by the Office of Management and Budget under Executive Order 12866.

### *Regulatory Flexibility Act*

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Roberto Salazar, FNS Administrator, has certified that this rule does not have a significant impact on a substantial number of small entities. It affects public and private nonprofit organizations or their sites that provide temporary housing and food services to children by allowing them to claim reimbursement for the meals and snacks they serve to all resident children, birth through age 18. FNS does not anticipate any significant negative fiscal impact resulting from the implementation of this rule.

### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. Under section 202 of the UMRA, FNS generally prepares a

written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or 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 FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

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

### *Executive Order 12372*

The 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 part 3015, Subpart V, and related Notice (48 FR 29115, June 24, 1983), this program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

### *Executive Order 13132*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. This interim rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary impact statement is not required.

### *Executive Order 12988*

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have a preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions, or which otherwise impede its full implementation. This rule does not have retroactive effect unless so

specified in the DATES section of this preamble. Prior to any judicial challenge to the provisions of this interim rule or the application of the provisions, all applicable administrative procedures must be exhausted. In CACFP, the administrative procedures are set forth at 7 CFR 226.6(k), which establishes appeal procedures; and 7 CFR 226.22 and 7 CFR 3016 and 3019, which address administrative appeal procedures for disputes involving procurement by State agencies and institutions.

Civil Rights Impact Analysis

FNS has reviewed this interim rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis" to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that there is no negative effect on these groups. All data available to FNS indicate that protected individuals have the same opportunity to participate in CACFP as non-protected individuals. Regulations at § 226.6(b)(4) require that CACFP institutions agree to operate the program in compliance with applicable Federal civil rights laws, including Title VI of the Civil Rights Act of 1964, Title IX of the Education amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and USDA's nondiscrimination regulations under 7 CFR parts 15, 15a, and 15b. At 7 CFR 226.6(m)(1), State agencies are required to monitor CACFP institution compliance with these laws and regulations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

Government Paperwork Elimination Act

FNS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Public Participation

This action is being finalized without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(A) and (B). This rule implements through amendments to current program regulations a nondiscretionary provision mandated by the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108-265). Additional regulatory changes complement these legislatively-driven amendments. For that reason, we seek public comment on all of the changes made pursuant to this interim rule. Thus, the Department has determined in accordance with 5 U.S.C. 553(b) that Notice of Proposed Rulemaking and Opportunity for Public Comments is unnecessary and contrary to the public interest and, in accordance with 5 U.S.C. 553(d), finds that good cause exists for making this action effective without prior public comment.

List of Subjects in 7 CFR Part 226

Accounting, Aged, Day care, Food Assistance programs, Grant programs, Grant programs—health, American 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, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.2:

- a. Amend the definition of "CACFP child care standards" by removing the words "§ 226.6(d)(2) and (3)" and adding in their place the words "§ 226.6(d)(3) and (4)";
b. Revise the definitions of "Center", "Children", and "Emergency shelter";
c. Amend the definition of "Child care facility" by adding the words "emergency shelter," after the words "day care home,";
d. Amend the definition of "Free meal" by adding in the first sentence the phrase "or to a child who is receiving temporary housing and meal services from an approved emergency shelter;" after the phrase, "a child who is a Head Start participant;"; and
e. Amend the definition of "Independent center" by adding the words "emergency shelter," after the words "child care center,".

f. Revise the first sentence of the definition of "Sponsoring organization"; The revisions read as follows:

§ 226.2 Definitions.

Center means a child care center, an adult day care center, an emergency shelter, or an outside-school-hours care center.

Children means:

- (a) Persons age 12 and under;
(b) Persons age 15 and under who are children of migrant workers;
(c) Persons age 18 and under who are residents of emergency shelters; and
(d) Persons with mental or physical handicaps, as defined by the State, which are enrolled in an institution or a child care facility or residing in an emergency shelter serving a majority of persons 18 years of age and under.

Emergency shelter means a public or private nonprofit organization or its site that provides temporary shelter and food services to homeless children, including a residential child care institution (RCCI) that serves a distinct group of homeless children who are not enrolled in the RCCI's regular program.

Sponsoring organization means a public or nonprofit private organization that is entirely responsible for the administration of the food program in: (a) One or more day care homes; (b) a child care center, emergency shelter, outside-school-hours care center, or adult day care center which is a legally distinct entity from the sponsoring organization; (c) two or more child care centers, emergency shelters, outside-school-hours care centers, or adult day care centers; or (d) any combination of child care centers, emergency shelters, adult day care centers, day care homes, and outside-school-hours care centers.

3. In § 226.4:

- a. Revise paragraph (a);
b. Redesignate paragraphs (c) through (j) as paragraphs (d) through (k), respectively, and add a new paragraph (c); and
c. Revise the first sentence of newly redesignated paragraph (h)(2).

The revisions and addition read as follows:

§ 226.4 Payments to States and use of funds.

(a) Availability of funds. For each fiscal year based on funds provided to the Department, FNS must make funds available to each State agency to

reimburse institutions for their costs in connection with food service operations, including administrative expenses, under this part. Funds must be made available in an amount no less than the sum of the totals obtained under paragraphs (b), (c), (d), (e), (f), and (i) of this section. However, in any fiscal year, the aggregate amount of assistance provided to a State under this part must not exceed the sum of the Federal funds provided by the State to participating institutions within the State for that fiscal year and any funds used by the State under paragraphs (i) and (k) of this section.

(c) *Emergency shelter funds.* For meals and snacks served to children in emergency shelters, funds will be made available to each State agency in an amount equal to the total calculated by multiplying the number of meals and snacks served in the Program within the State to such children by the national average payment rate for free meals and free snacks under section 11 of the National School Lunch Act.

- (h) \* \* \*
- (1) \* \* \*

(2) The rates for meals, including snacks, served in child care centers, emergency shelters, adult day care centers, and outside-school-hours care centers will be adjusted annually, on July 1, on the basis of changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Department of Labor. \* \* \*

- 4. In § 226.6:
  - a. Revise the heading of paragraph (d) and add a new second sentence to the introductory text;
  - b. Redesignate paragraphs (d)(2) and (d)(3) as paragraphs (d)(3) and (d)(4), respectively, and add a new paragraph (d)(2); and
  - c. Amend newly redesignated (d)(3)(i) by removing the reference “(d)(3)” and adding in its place the reference “(d)(4)”.

The revision and additions read as follows:

**§ 226.6 State agency administrative responsibilities.**

(d) *Licensing/approval for institutions or facilities providing child care.* \* \* \* Emergency shelters are exempt from licensing/approval requirements contained in this section but must meet the requirements of paragraph (d)(2) to

be eligible to participate in the Program. \* \* \*  
 \* \* \* \* \*  
 (2) *Health and safety requirements for emergency shelters.* To be eligible to participate in the Program, emergency shelters must meet applicable State or local health and safety standards.

- 5. In § 226.7, revise paragraph (f) to read as follows:

**§ 226.7 State agency responsibilities for financial management.**

(f) *Rate assignment.* Each State agency must require institutions (other than emergency shelters and sponsoring organizations of emergency shelters or day care homes) to submit, not less frequently than annually, information necessary to assign rates of reimbursement as outlined in § 226.9.

**§ 226.8 [Amended]**

- 6. In § 226.8, remove the reference “§ 226.4(h)” in the first sentence of paragraph (b), the first sentence of paragraph (c), and the first and second sentences of paragraph (d), and add in its place the reference “§ 226.4(i)”.

- 7. In § 226.9:
  - a. Add a new second sentence in paragraph (a);
  - b. Revise paragraph (b) introductory text; and
  - c. Revise paragraph (b)(2).

The addition and revisions read as follows:

**§ 226.9 Assignment of rates of reimbursement for centers.**

(a) \* \* \* However, only free rates for meals and snacks as described in § 226.4(i)(2) must be assigned for emergency shelters. \* \* \*

(b) Except for emergency shelters, the State agency shall either:

(2) Establish claiming percentages, not less frequently than annually, for each institution on the basis of the number of enrolled participants eligible for free, reduced price, and paid meals. Children who only participate in emergency shelters must not be considered to be enrolled participants for the purpose of establishing claiming percentages; or

**§ 226.11 [Amended]**

- 8. In § 226.11, amend the first sentence of paragraph (a) by adding the words “, emergency shelters,” after the words “adult day care centers”.

- 9. In § 226.15, revise the first two sentences of paragraph (e)(2) to read as follows:

**§ 226.15 Institution provisions.**

(e) \* \* \*  
 (2) Documentation of the enrollment of each participant at centers (except for outside-school-hours care centers and emergency shelters). All types of centers, except for emergency shelters, must maintain information used to determine eligibility for free or reduced price meals in accordance with § 226.23(e)(1). \* \* \*

**§ 226.16 [Amended]**

- 10. In § 226.16:
  - a. Amend paragraph (f) by adding the words “emergency shelters,” after the words “adult day care centers,”; and
  - b. Amend the first sentence of paragraph (h) by adding the words “, emergency shelters,” after the words “adult day care centers”.

- 11. In § 226.23:
  - a. Revise the second sentence of paragraph (d); and
  - b. Amend the first sentence of paragraph (e)(1)(i) by adding the words “(other than emergency shelters)” after the word “institutions”.

The revision reads as follows:

**§ 226.23 Free and reduced-price meals.**

(d) \* \* \* All media releases issued by institutions, except for sponsoring organizations of day care homes, emergency shelters, and other institutions that elect not to charge separately for meals, shall include the Secretary’s Income Eligibility Guidelines for Free and Reduced-Price Meals. \* \* \*

Dated: December 23, 2005.

**Roberto Salazar,**  
*Administrator, Food and Nutrition Service.*  
 [FR Doc. 05–24683 Filed 12–30–05; 8:45 am]

BILLING CODE 3410–30–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 558**

**New Animal Drugs; Monensin**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal