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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

RIN 0584—AD20

Determining Eligibility for Free and Reduced Price Meals in Schools—Verification Reporting and Recordkeeping Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the reporting and recordkeeping requirements under the National School Lunch Program (NSLP) and School Breakfast Program (SBP) relating to the verification of applications for free and reduced price meal benefits under the NSLP and the SBP. In spite of the efforts of school food authorities and State agencies to ensure the accuracy of free and reduced price applications, data indicate that the number of children certified as eligible to receive free meals exceeds the number of children who are eligible to receive those meals, given other poverty indicators. This rule requires school food authorities to report verification activity and results to their respective State agencies and requires State agencies to analyze and act on these data and to report school food authority level data to the Food and Nutrition Service (FNS) beginning with the school year which starts on July 1, 2004. School food authorities and State agencies are encouraged to begin to collect and report verification data prior to the required implementation date. Recordkeeping requirements will be revised consistent with the reporting requirements. Submission of these data on a school food authority basis will enable State agencies and FNS to improve and target oversight activities.

DATES: *Effective date:* This rule is effective October 14, 2003. However, the reporting requirements contained in 7 CFR 245.11 will not be in effect until approved by OMB under the Paperwork Reduction Act. FNS will publish a notice upon approval of those requirements to establish the effective date.

Implementation dates: Beginning in School Year 2004–2005, each school food authority and State agency must collect and report data elements designated by FNS to their State agency and FNS, respectively.

Contingent upon new funding to support this purpose, beginning in School Year 2005–2006, FNS will also require each school food authority and State agency to collect and report to their State agency and FNS, respectively, additional data concerning the reinstatement of students who have been terminated as a result of verification.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

What Was Proposed?

On August 9, 2002, FNS published a proposed rule in the **Federal Register** (67 FR 51779) proposing to amend 7 CFR § 245.6a(c) to require school food authorities to report verification activity and results to their respective State agencies in support of State agency and FNS oversight activities. Specifically, the document proposed amending § 245.6a(c) to require school food authorities to report certain verification information to the State agency by March 1 annually. The information would be reported on a form designated by FNS. The information requested on the form would address, but not be limited to, the characteristics of the verification sample and the results of verification activity. The preamble to the proposal provided the following examples of information to be collected: the number of children approved for free and reduced price meal benefits based on direct certification, income applications, and categorically eligible

applications; the method of verification sample selection; the number of applications selected for verification; the number of students on selected applications; the number of students approved for free meal benefits and reduced price meal benefits whose eligibility for benefits were reduced or terminated as the result of verification activities; of those terminated, the number of non-respondents; and the number of students reinstated for free or reduced price meal benefits, as of February 15th of each year.

In addition, the document proposed that § 245.6a(c) would require school food authorities to retain copies of the information reported to the State agency and all supporting documents. The proposed rule also restated the existing requirements that verified applications and information submitted by households must be readily retrievable by schools and that school food authorities must retain all documents submitted by households to confirm eligibility, reproductions of those documents, or annotations made by the determining official that indicate which documents were submitted by households and the dates of submission. The existing requirement that relevant correspondence between the households selected for verification and the school or school food authority must be retained was also restated.

FNS also proposed to add a new § 245.11(i) to require each State agency to collect the annual verification data from each school food authority in accordance with guidance provided by FNS. To facilitate the reporting of these data, FNS would provide a data collection instrument in electronic format. In addition, the proposed rule required that each State agency analyze these data, determine if there are potential problems, and formulate corrective actions and technical assistance activities to support the objective of certifying only those children eligible for free or reduced price meals. The availability and review of this information at the State level is designed to assist State agencies in targeting more rigorous oversight and technical assistance activities on school food authorities when their verification activities result in a high termination rate. A high termination rate may be due to a number of applications either being changed from free or reduced price