

status to paid status because of documentation provided by households or because of households' failure to respond to the verification request.

The proposed rule would also require that the State agency report to FNS, not later than April 15th of each year, the results of each school food authority's verification activities, submitted in accordance with § 245.6a(c), and any ameliorative actions the State agency has taken or intends to take in those school food authorities with high numbers of applications changed due to verification activities. FNS intends to provide for the electronic submission of these data.

Additionally, the proposed rule included in 7 CFR Part 245 a definition of the term "FNS" which means "the Food and Nutrition Service of the Department of Agriculture". This definition was inadvertently not included in this Part in earlier editions and FNS proposed to add the definition at 7 CFR 245.2(b-2) for the sake of clarity and completeness.

#### **Has FNS Taken Other Actions To Address Over-Certification?**

FNS has taken several actions to address the issues associated with over-certification. On January 21, 2000, FNS published a notice in the **Federal Register** (65 FR 3409) soliciting States and school food authorities to participate in pilot projects to test alternate application, approval and verification procedures for free and reduced price eligibility determinations. Twenty-one school food authorities operated pilot projects. These pilot sites conducted alternative certification or verification processes for three consecutive school years, beginning in School Year 2000-2001. Preliminary data has shown the alternative methods have, to varying degrees, deterred and detected misreporting of eligibility information. FNS is currently conducting an in-depth analysis of the administrative data presented, to date, from the pilot sites. While the information derived from the pilots is not nationally representative, pilot activities have provided FNS with insight on the efficacy of the existing application and verification processes and on alternatives to those processes. This final rule is intended to complement pilot activities by collecting information on verification activity nationwide.

#### **Discussion of Comments and Their Resolution**

##### *How Many Comments Were Received?*

During the 60 day comment period, 99 comment letters were received: 81 from State and local agencies administering the school programs; 12 from advocacy groups; 5 from the general public, and 1 from the food industry. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C 3507), the public was invited to send comments on the proposed information collection to the Office of Management and Budget (OMB). OMB received 12 comments on the information collection aspects of the proposed rule.

##### *What Did Commenters Say About the Proposed Rule?*

##### **Discussion of General Comments**

In general, the commenters were supportive of ensuring that free and reduced price meal benefits only go to eligible children and gave a number of suggestions outside the scope of the proposed rule to address this problem. Some examples of suggested ideas are: hold households accountable for the information submitted on their application; eliminate publication of income eligibility guidelines; have other programs/agencies take more responsibility in regards to free and reduced price benefit determinations; consider/research reasons why households are not responding to verification requests (*e.g.*, moved, limited English proficiency, undocumented immigrants, migrants, lack of understanding of the concept of verification); use the additional costs that the proposal would incur to provide universal free school meals to all children; and specify that the verification notification needs to be provided in a language that the families of participating children can understand. Additional studies of the issue of over-certification were also suggested.

A few commenters expressed concern that the proposed rule did not address the inadequacies of the verification process (such as non-respondents and language barriers). Several commenters recommended that FNS delay any changes to the verification requirements until completion of the pilot projects and the analysis of the results. As previously stated, the purpose of this regulation is to establish a method to obtain data about verification results as another step in the overall goal of improved program integrity. The requirements for the reporting of

verification activities contained in this rule will complement the pilot activities. The data collection is a tool for FNS to better analyze current verification procedures and results. The information, when reviewed and analyzed, may lead to other proposals in the future to further refine the entire certification and verification process. The ideas that were suggested will also be kept in mind for future rulemaking.

##### **Discussion of Comments on the Proposed Burden Under the Paperwork Reduction Act**

Over fifty commenters discussed the burden that the proposed requirements would place on school food authorities and State agencies. The general consensus is that the proposed reporting and recordkeeping requirements are too burdensome and the estimated annual reporting and recordkeeping burden hours under the Paperwork Reduction Act of 1995 are too low. We have reviewed the burden hours and have adjusted the estimate to account for the fact that there will be differences in the amount of time required to complete the report based on the size of the school food authority. Small school food authorities, which constitute the majority of participating school food authorities, may only have a small number of verified applications to summarize, while larger school food authorities will have numerous verified applications to summarize. However, larger districts may also have automated information systems that will provide some or all of the information to complete the report, thereby reducing their overall burden hours. We have taken these different circumstances into consideration and have adjusted the burden hours as follows: School food authorities average burden hours have been increased from 16,342 to 32,684, an average of 2 hours per school food authority. State agency average burden hours are increased per response from 8 to 24 hours. This results in an increase of annual burden hours from 432 to 1,296 for State agencies. We submitted the revised burden to OMB for approval.

A few commenters questioned the need for requiring additional data collection by school food authorities beyond the current requirements. Specifically, commenters stated that most school food authorities do not currently track data regarding the number of students whose benefits were terminated and who were then reinstated (due to submission of required documentation or a change in household circumstances) for free or reduced price meals by February 15. The Department is concerned about the